

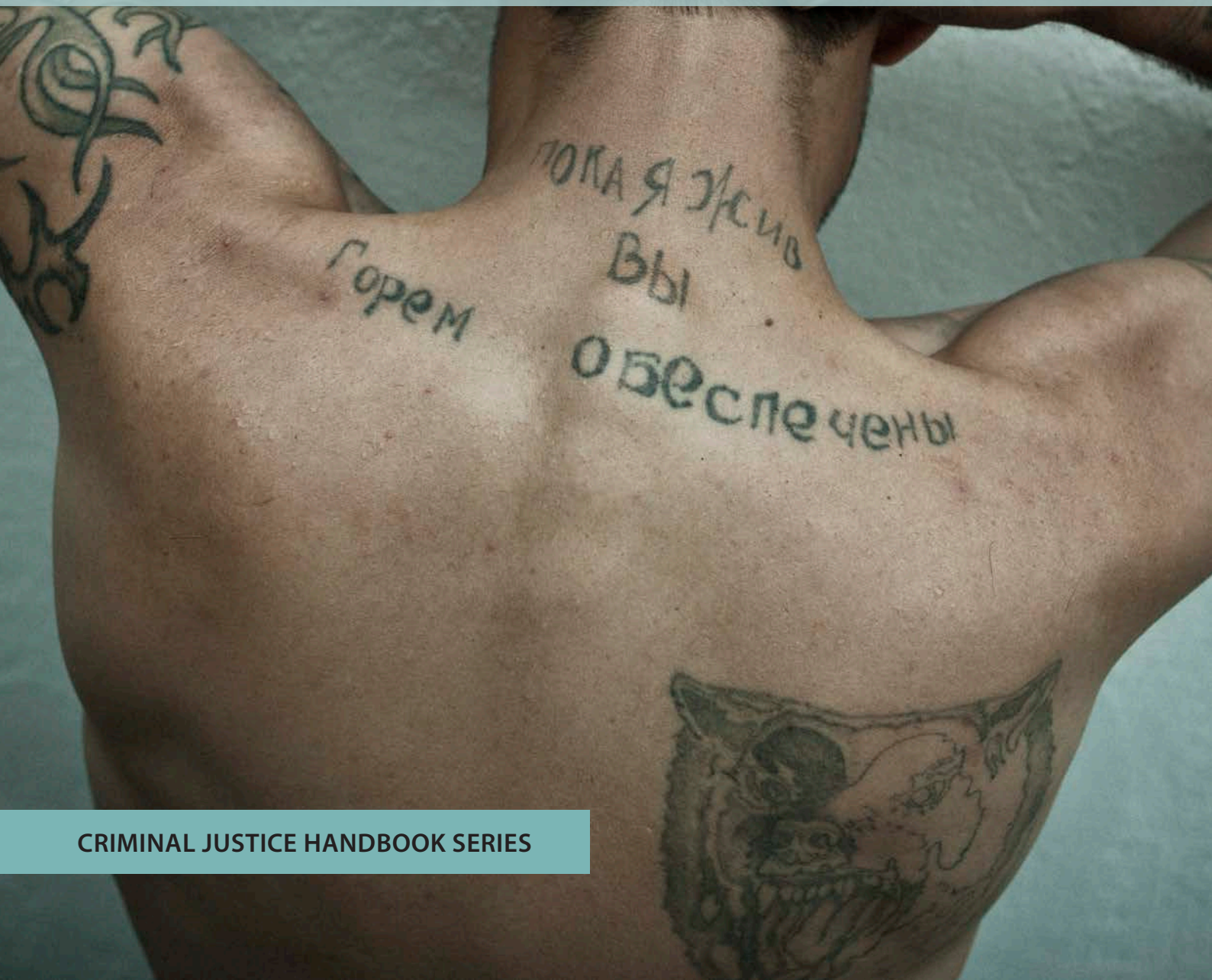


**UNODC**

United Nations Office on Drugs and Crime

Handbook on the

# Management of High-Risk Prisoners



CRIMINAL JUSTICE HANDBOOK SERIES

Cover photo:  
"As long as I am alive, you will surely be in grief."  
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UNITED NATIONS OFFICE ON DRUGS AND CRIME  
Vienna

# **Handbook on the Management of High-Risk Prisoners**

CRIMINAL JUSTICE HANDBOOK SERIES



UNITED NATIONS  
New York, 2016

UNITED NATIONS PUBLICATION

Sales No. xxx

ISBN xxx

eISBN xxxxx

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This publication has not been formally edited.

Publishing production: English, Publishing and Library Section, United Nations Office at Vienna.

## Acknowledgements

This Handbook was written for the United Nations Office on Drugs and Crime (UNODC) by Prof. Dr. Shane Bryans and Tomris Atabay, consultants on penal reform and criminal justice issues.

The Handbook was reviewed at an expert group meeting held in Rome on 10 and 11 March 2015. UNODC wishes to acknowledge with appreciation the contributions received from the following experts who participated in that meeting: Carla Ciavarella, Bill Cullen, Camila Dias, José Julio Díaz Moreno, Udom Ekpedeme, Federico Falzone, Alison Hannah, Jörg Jesse, Roberta Palmisano, Fabio Pinzari, Elena Nanni, Barbara Napelli, Nelson Rauda Portillo, María Noel Rodríguez, Guido Scuncio, Sharon Shalev, Laura Von Mandach, Michael Wiener, Veronique Wright and Vitolds Zahars.

Contributing throughout the development of the Handbook were Piera Barzanò (UNODC) and Philipp Meissner (UNODC), who also conducted the review of the final draft. Further valuable comments and feedback were provided by Joanne Jousif (UNICRI), Michael van Gelderen (OHCHR), Michael Langelaar (DPKO), Mary Murphy (ICRC) and Joaquin Zuckerberg (UNODC). Some of the material included in the Handbook is based on earlier work produced by Colin Allen, Christine Fisher and Danny McAllister.

UNODC also wishes to acknowledge the support provided by the Government of Italy, in particular the Department for Prison Administration of the Ministry of Justice, in hosting the Expert Group Meeting to review the draft Handbook.



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# Introduction

## Who the Handbook is for

This Handbook is one of a series of tools developed by UNODC to support countries in the implementation of the rule of law and the development of criminal justice reform. It is designed to be used by prison managers and prison staff, in particular, but will also be relevant for other actors involved in the criminal justice system, such as policymakers, legislators, and members of non-governmental organizations. It can be used in a variety of contexts, both as a reference document and as a training tool. While some elements of the Handbook may not be achievable immediately in some jurisdictions, particularly in post-conflict situations, the Handbook provides national authorities with guidelines for the development of policies and protocols that meet international standards and good practice.

## What the Handbook covers

The focus of this Handbook is the management of prisoners<sup>1</sup> who are assessed as being a high risk to society or other individuals. It does not cover children deprived of their liberty<sup>2</sup> or prisoners who present a risk to themselves (for example, through suicide or self-harm).<sup>3</sup> For the purpose of this Handbook, high-risk prisoners are defined as those prisoners assessed as posing a significant risk to:

- *Security* (i.e. risk of escape):  
Prisoners who require comprehensive security measures to keep them in custody.

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<sup>1</sup>The term “prisoner” is used to refer to all persons detained or imprisoned on the basis of, or allegation of, a criminal offence, including pretrial, under-trial detainees and convicted and sentenced prisoners.

<sup>2</sup>According to the Convention on the Rights of the Child (CRC), the institutionalization of children should be avoided to the maximum extent possible. When exceptionally deprived of their liberty, children maintain the right to be treated according to specific safeguards and procedures detailed in the CRC as well as international standards and norms, such as the United Nations Standard Minimum Rules for the Protection of Juveniles Deprived of their Liberty and the United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice.

<sup>3</sup>There may be instances where high-risk prisoners also present a risk to themselves. In such circumstances, prison authorities should take appropriate action to prevent the high-risk prisoner from committing suicide or self-harm. For guidance on managing prisoners who present a risk to themselves, see World Health Organization (2014): Prisons and Health.

- *Safety* (i.e. risk to the safety of others):  
Prisoners who show dangerous behaviour towards prison staff or other prisoners.
- *Stability* (i.e. risk to the order of the prison):  
Prisoners who require a range of control measures to ensure that their behaviour complies with the rules of the prison.
- *Society* (i.e. risk of conducting criminal activity outside the prison):  
Prisoners who direct activities related to organized crime, terrorism, drug trafficking, or the intimidation and corruption of witnesses, the judiciary, lawyers or jurors.

The restrictive policies and measures addressed in this Handbook are applicable only to those high-risk prisoners who have undergone a proper risk assessment process, and who have been found to require such measures strictly on the grounds of prison security, safety and order or to protect society. They do not apply to prisoners whose classification as high risk has been determined on the basis of their political beliefs (including the non-violent expression of their ideological views), and who may be imprisoned on the basis of their ethnicity or any other status. On the other hand, the safeguards contained in this Handbook apply to all prisoners, whether or not they have been through an appropriate assessment process.

The Handbook considers the prison management challenges that high-risk prisoners pose as well as actions that prison administrations should take to ensure prison security, safety and order and to protect society from criminal activity directed from within the prison. Each chapter provides extracts from relevant international standards relevant to high-risk prisoners; prison management guidelines; and case examples. At the end of the Handbook is a set of recommendations, primarily directed to prison authorities, which summarize the key principles and suggestions made in each chapter. These recommendations are also relevant to other actors involved in developing policies and legislation relating to the management of high-risk prisoners, including civil society organizations involved in prison monitoring or the delivery of constructive regime activities.

The intention of the Handbook is to complement existing publications of UNODC, the Department for Peacekeeping Operations (DPKO) and the Office of the High Commissioner for Human Rights (OHCHR), which provide detailed consideration of specific themes and prisoner groups.<sup>4</sup> The topic of post-release support for high-risk prisoners is outside the scope of this Handbook, but is covered in detail in the UNODC *Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*. It should be noted that high-risk prisoners, particularly those who have often spent many years in prison, face significant social adaptation issues, which can include family and community stigmatization and ostracism, and the ensuing negative impact on their ability to find jobs or housing, to return to formal education or to build or rebuild individual and social capital.

<sup>4</sup>See, for example, UNODC: *Handbook for Prison Leaders; Handbook on Prisoner File Management; Handbook on Prisoners with Special Needs; Handbook on Women and Imprisonment*, 2nd edition. DPKO: *Prison Incident Management Handbook*. OHCHR: *Human Rights and Prisons, Professional Training Series No. 11*. Also see International Centre for Prison Studies: *A Human Rights Approach to Prison Management*, 2nd edition, chapter 8 (Management of High-Security Prisoners).

## Why a Handbook?

With increasing numbers of offenders entering prison with extensive criminal gang and organized crime contacts, and the number of prisoners charged or convicted under anti-terror legislation predicted to increase, many jurisdictions around the world have adopted policies that result in a large number of prisoners being assessed and treated as high risk, as well as an increase in the restrictions placed on such prisoners. In many jurisdictions, the pressure of overcrowding has seen more and more people sucked into high-security prisons who do not require that level of security, simply because beds are unavailable elsewhere.<sup>5</sup> In reality, while the number of prisoners assessed as high risk in some jurisdictions is growing, often the perception of the increase in their numbers does not match reality. In most countries, such prisoners still comprise a small proportion of the prison population.

Penal and prison management policies that lead to an exaggerated response to the perceived high risk of a large number of offenders (for example, by changes in legislation that broaden the definition of a certain type of offence) lead to a waste of valuable resources and the violation of the right of prisoners to be held in the least restrictive setting necessary for their safe and secure custody, without delivering better safety and security.

High-security prisons can be places of contradiction in which meaning and hope are difficult to find, and yet rehabilitation and reform is expected. Creative and constructive activities that might permit psychological survival and growth are often prohibited on the grounds of security or control. There is a danger that risk-averse management exploits the concepts of security and punishment to the detriment of more civilized and humane forms of custody. The changing form and nature of high-security prisons also creates a danger that too much emphasis is placed on technology rather than on the relational attributes of the institution.

The gravity of offences associated with a high-risk status is unlikely to ever endear to the wider public those so sentenced or assessed. Yet at the same time, the very seriousness of the offence and the danger posed to the public that placement in the high-security prison implies should be the subject of management attention. What happens to those men and women in high-security prisons matters very much, as all but a few will eventually be released back into the community. Yet guidance provided in relevant international law and standards relating to the management of prisoners usually does not specifically focus on prisoners assessed as being high risk. The United Nations has developed recommendations for the management of life-sentenced prisoners,<sup>6</sup> but by no means do all such prisoners pose a high risk. The Council of Europe has been the most active regional body in this regard, having developed recommendations for the management of long-term and life-sentenced prisoners as well as, specifically, those prisoners defined as dangerous.<sup>7</sup>

It is clear that when developing policies to effectively manage the high-risk prisoner population in their countries, prison administrations need to refer to the international instruments,

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<sup>5</sup>For a detailed analysis of the consequences of prison overcrowding and recommendations to reduce the size of the prison population, see the UNODC *Handbook on Strategies to Reduce Overcrowding in Prisons*.

<sup>6</sup>United Nations Office at Vienna Crime Prevention and Criminal Justice Branch, *Life Imprisonment* (United Nations Document ST/CSDHA/24), 1994.

<sup>7</sup>See, for example, Resolution (76) 2 of the Council of Ministers on the Treatment of Long-term Prisoners; Recommendation Rec (82) 17 of the Committee of Ministers to member states concerning custody and treatment of dangerous prisoners; Recommendation Rec(2003)23 of the Committee of Ministers to member States on the management by prison administrations of life-sentence and other long-term prisoners; Recommendation CM/Rec (2014)3 of the Committee of Ministers to member states concerning dangerous offenders; and the Guidelines for prison and probation services regarding radicalisation and violent extremism (2016).

standards and norms that cover the treatment of prisoners in general, as these are applicable to the entire prison population. But often they also need specific guidance on how best to apply these principles to the effective management of high-risk prisoners, whose risks and needs pose particular and complex challenges. This Handbook aims to contribute to such guidance, informed by the provisions of international standards that relate to all prisoners, recommendations which have been developed for the treatment of long-term, life-sentenced and dangerous prisoners, and by practical experience acquired in the management of high-risk prisoners.

There are certain basic requirements that must be met if the State is to comply with its obligation to respect the prisoner's human rights and dignity and fulfil its duty of care. These include adequate provision of accommodation, hygienic conditions, clothing and bedding, food and drink, access to fresh air and exercise, meaningful human contact, contact with family and friends, constructive activities as well as legal advice and representation. When a judicial authority sends someone to prison, international standards clearly require that the punishment imposed should be solely the deprivation of liberty. Imprisonment must not include the risk of physical or emotional abuse by staff or by other prisoners. It must not include the risk of illness, deterioration in mental health, or even death due to the physical conditions or the lack of proper care. Prisoners must not be subjected to living conditions which are, in themselves, inhuman and degrading. Prisoners should also be given the opportunity to reform and rehabilitate themselves so that they can leave prisons with the ability to make a positive contribution to society. All of these fundamental principles equally apply to high-risk prisoners as they do to the rest of the prison population.

Some prisoners are assessed as being a threat to the security, safety or order of the prison system and are deemed to be a higher risk than the rest of the prisoner population. Tasked with the responsibility of managing such prisoners, prison administrations have to ensure that a proper balance is maintained between care and control, between their obligations to respect the human dignity and rights of these prisoners and their duty to protect society from crime. They also have a duty to work towards these prisoners' social reintegration, as far as possible, whatever offences they may have committed. This is perhaps one of the most challenging tasks with which any prison administration is faced, and a test of their professionalism.

The management of high-risk prisoners is costly, due to the additional staff resources required for the secure facilities in which they will need to be held (including additional staff training). There are also additional costs associated with technical security arrangements in jurisdictions using such technology. Treating an unjustifiably large number of prisoners as high risk leads to a waste of resources. In low-resource countries, where funds to meet the basic needs of all prisoners are likely to be insufficient, it is clear that such policies will put a particularly severe strain on the prison authorities' capability to fulfil their responsibilities in a humane and professional manner. The best investment all prison administrations can make is to develop an effective risk assessment system which ensures that only those offenders who genuinely pose a high risk are held in high-security conditions.

The pressure to place prisoners in higher security or control levels based on available space should be resisted and discontinued. Prisoners should be in a high-security estate purely because they have been identified as either dangerous or difficult to manage while in custody, or deemed dangerous if they should escape. Although there will always be anomalies of people on shorter sentences who require high security (for example, some individuals with gang connections), the population should essentially be a small and stable one of those

servicing longer-term sentences. Many new prisons are built to a high-security specification, without due consideration being given to the real capacity needed in the high-security estate. If prison administrations adopted a more systematic and rigorous assessment and categorization process, the need for high-security prisons would be less and the cost to the taxpayer reduced.

It is further worth remembering that, conceptually, there are differences between security risk problems and control risk problems, which have important implications for prison managers. Security risk is essentially based on factors external to the prison. Any individual's security risk rating will be determined to a great extent by: the nature of the crime; the likelihood that he or she would try (and have the resources) to engineer an escape; and the danger to the police, the public or the State should he or she be successful. Control risk problems, in contrast, are essentially internal to the prison and about the behaviour of the prisoner within the prison.

A small number of security risk prisoners are likely to remain high risk for their entire, or a very substantial part of their sentence. On the other hand, control risk prisoners may be defined as a control risk in some circumstances, and in some prisons but not in others. They may settle down with time, or with a change in location, or with a change in staff tactics, or with a change in prison policy. Most prisoners will be neither security risks nor control risks for their entire or most of their sentence. The security problem is always likely to be numerically smaller than the control problem and therefore capable of more discrete and parsimonious solutions. All of these prisoners need to be managed according to the type and level of risk they pose, with no more or no fewer restrictions than necessary.

There are certain groups of high-risk prisoners that, for various reasons, require additional management attention. They may have special needs or be particularly vulnerable due to their physical or mental health, gender, age or, length or type of sentence, or other reasons, including membership of specific minority groups. They may also be of such a small number that their needs are neglected. It is imperative, therefore, that prison management does not treat all high-risk prisoners in an identical manner, and does not assume that they all have the same needs and pose the same level and type of risk.<sup>8</sup>

In practice, there is a danger that high-security prisons become restrictive, repressive and brutal, based on a false view that there is no other way to securely hold high-risk prisoners. This Handbook provides commentary on how prisoners assessed as high risk can be managed securely and safely while at the same time meeting their right to opportunities for communication, social interaction and rehabilitation. It emphasizes that all prisoners should be provided opportunities for work with remuneration, study, and religious, cultural, sports and leisure activities. While it may be challenging for some of the guidelines and recommendations set out in this Handbook to be implemented in countries with scarce resources, in particular in post-conflict environments, the Handbook aims to set out the underlying principles that need to be adhered to in the management of high-risk prisoners, which are valid in all countries and which can be implemented without or with low additional costs. As such, the Handbook also allows prison authorities and other relevant stakeholders to develop their policies and strategies relating to the management of high-risk prisoners in the most cost-effective and appropriate manner.

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<sup>8</sup>The UNODC *Handbook on Prisoners with Special Needs* provides further information on action that should be taken by prison administrations with regard to prisoners with special needs. Detailed guidelines on the treatment of women prisoners are provided in the UNODC *Handbook on Women and Imprisonment*, 2nd edition.

The challenges of managing prisons holding high-risk prisoners, and the danger that the treatment of, and regimes for, these prisoners may become more restrictive than absolutely necessary, means that independent inspection and monitoring—which is essential in the case of all prisons—is of particular importance in the case of prisons where high-risk prisoners are held. At the international level, there are a number of bodies with the mandate of monitoring prison conditions, including:

- The *International Committee of the Red Cross (ICRC)*;
- The *Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment*, appointed by the Human Rights Council, who can consider individual complaints and undertake fact-finding country visits;
- The *Committee against Torture*, which was set up under article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) to monitor implementation of the International Convention on Civil and Political Rights (ICCPR); and
- The *Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment (SPT)* established under the Optional Protocol to the CAT.

At national levels, the Optional Protocol to the CAT requires State signatories to establish national preventive mechanisms for the prevention of torture at the domestic level, which also has a mandate to inspect places of detention.<sup>9</sup> Good practice is to facilitate monitoring visits by a range of national bodies to ensure that the treatment of high-risk prisoners complies with international and national instruments, rules and recommendations, including, inter alia, non-governmental organizations (NGOs), professional associations, religious and academic organizations, and the media.

While the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) as well as a number of region-specific instruments highlight the importance of monitoring and institutional inspections,<sup>10</sup> the scope of this Handbook does not extend to a detailed examination of this area. For further guidance, reference can be made to publications which specifically focus on prison monitoring.<sup>11</sup>

It should be emphasized that the contents of this Handbook are more easily adopted in countries that have well-equipped prison infrastructure; facilities for proper allocation and classification; an adequate, well-trained and motivated workforce to satisfy prisoner-staff ratios as well as to perform auxiliary duties; adequate and sufficient budgetary allocation to embark on necessary maintenance programmes and prison activities; and government commitment and support for the prison system.

Prison systems in low-resource, developing or post-conflict countries will find it more challenging to adopt the entirety of the contents of the Handbook, particularly where there is overcrowding; prolonged pretrial detention; low staff levels; low budgetary allocation; poorly equipped and inadequate prison structures; inadequately trained staff; and poor condition of

<sup>9</sup>See Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, A/RES/57/199, Arts. 17-23.

<sup>10</sup>See the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), hereinafter referred to as the “United Nations Standard Minimum Rules”, Rules 83-85; also see the Principles And Best Practices On The Protection Of Persons Deprived Of Liberty In The Americas, Principle XXIV; European Prison Rules, Rule 92-93.

<sup>11</sup>See, for example, Penal Reform International/Association for the Prevention of Torture (2013): Detention Monitoring Tool.

service/poorly motivated staff. National authorities confronted with such circumstances, which aspire to adopt and meet international standards and good practice, will nevertheless be able to rely on the Handbook for clear direction and guidelines when developing their policies, practices and protocols.





# 1.

## The management of high-risk prisoners: summary of key issues

The management of high-risk prisoners poses a particular challenge to prison administrations in ensuring that a proper balance is maintained between security measures and the treatment of prisoners in line with fundamental human rights. Prison administrations have a duty to support, as far as possible, the social reintegration prospects of all prisoners. This task is especially challenging in the case of high-risk prisoners, whose risk and need profiles are complex and diverse. This chapter provides a brief summary of the key issues and principles that underlie the management of high-risk prisoners. Each of the issues below is discussed in detail in the following chapters of this Handbook.

### 1.1 Humane treatment and dignity of the person

A fundamental principle set out in international law and all relevant international standards and norms related to the treatment of prisoners is that their treatment should be humane and respect the inherent dignity of the human person.<sup>12</sup> Torture, inhuman and degrading treatment is prohibited under international law with respect to all prisoners, including those who are considered to be high risk, and prison administrations may not invoke any circumstances whatsoever as a justification for torture or ill-treatment.<sup>13</sup> While this absolute prohibition is arguably the most fundamental aspect of the respect for the human dignity of prisoners, the principle of humane treatment encompasses many other aspects of prison management. In its basic principles, which are applicable to all prisoners, the United Nations Standard Minimum Rules for the Treatment of Prisoners provide that:

“[T]he prison system shall not, except as incidental to justifiable separation or the maintenance of discipline, aggravate the suffering inherent in such a situation.”

<sup>12</sup>International Covenant on Civil and Political Rights, Art. 10; United Nations Standard Minimum Rules, Rule 1; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 1 and 6; European Prison Rules, Rules 1 and 72.1; Principles and Best Practices on the Protection of People Deprived of Liberty in the Americas, Principle I; Kampala Declaration on Prison Conditions in Africa, Recommendations 1-3; Recommendation CM/Rec(2014)3 of the Committee of Ministers to member states concerning dangerous offenders, para. 3.

<sup>13</sup>Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT), Arts. 2 and 16; International Covenant on Civil and Political Rights, Art. 7; Universal Declaration of Human Rights, Art. 5; United Nations Standard Minimum Rules, Rule 1.

“The prison regime should seek to minimize any differences between prison life and life at liberty that tend to lessen the responsibility of the prisoners or the respect due to their dignity as human beings”.<sup>14</sup>

Measures to be taken under these principles would relate, at the very least, to the conditions of imprisonment, access to food, water and sanitation, to adequate health care, as well as to contact with the outside world, in particular with prisoners’ families. States are under a positive obligation to meet these basic standards without discrimination of any kind, and cannot claim that a lack of material resources and funding prevents them from doing so—a point reiterated by the Human Rights Committee in its General Comment to Article 10 of the International Covenant on Civil and Political Rights (ICCPR):

“Treating all persons deprived of their liberty with humanity and with respect for their dignity is a fundamental and universally applicable rule. Consequently, the application of this rule, as a minimum, cannot be dependent on the material resources available in the State party.

This rule must be applied without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”<sup>15</sup>

The nature of relations between staff and prisoners, as well as prison procedures and practices are also key in this regard. For example, the way in which prison staff address prisoners; how searches are carried out and their frequency; whether prisoners’ privacy is respected when they are required to remove clothing; whether restraints are used unnecessarily and in a way that is humiliating; whether privacy in toilets and showers is respected; whether prisoners are required to wear distinguishing uniforms; are all ways in which prisoners’ humanity and dignity may or may not be respected. Using disrespectful language, subjecting prisoners to humiliating routines or practices which have no security justification, constitute a breach of their fundamental right to be treated with the respect due to their dignity as human beings.

The above principles are fundamental to the effective management of a humane and just prison system, including in facilities where high-risk prisoners are held. Additional security measures required to ensure that such prisoners do not escape and that they do not cause harm to themselves or others should never amount to inhuman treatment.

It is important to note in this regard that treating prisoners with humanity does not hinder safeguarding security and order in prisons, but on the contrary, is fundamental to ensuring that prisons are secure and safe. Good practice in prison management has shown that when the human rights and dignity of prisoners are respected and they are treated fairly, they are much less likely to cause disruption and disorder, and more likely to accept the authority of prison staff. This fundamental underlying principle is reflected in the management practices recommended throughout this Handbook.

<sup>14</sup>United Nations Standard Minimum Rules, Rule 3 and 5(1).

<sup>15</sup>Human Rights Committee, General Comment 21, paragraph 4 (1992).

## 1.2 Minimal number of prisoners held in high-security conditions

The number of prisoners who present a genuine risk of escape or a risk to the safety of others is usually quite small and it is important that only those prisoners who have been assessed as belonging to this category are held in high-security conditions. This principle requires a proper risk assessment upon admission to prison in order to decide the most appropriate security level for each prisoner. It also requires regular reviews so that prisoners whose behaviour no longer represents a risk are re-allocated to less restrictive conditions.

Prisoners should not be placed in high-security conditions based merely on the length of their sentence, as is the case in some jurisdictions, leading to an excessive and unnecessary use of high-security facilities. Life-sentenced prisoners and prisoners under sentence of death, for example, are often automatically held in high-security conditions, sometimes in total isolation from other prisoners. In fact, as has often been noted by prison practitioners, a significant proportion of prisoners with long or life sentences are often those who are the least disruptive in prisons, and most do not represent a high escape risk.

When too many prisoners are held in high-security conditions, prisoners' perception of their fair treatment is undermined, leading to dissatisfaction and tension, while prison staff are less able to supervise them properly, increasing the risk of escape and disorder. The excessive use of high-security conditions also places an unnecessary burden on the State in terms of financial, human and technical resources, without any benefits in return.

 *For further detail, see the following chapters, in particular chapter 3.*

## 1.3 Individualized assessments

A fundamental requirement for the fulfilment of most other issues referred to in this chapter is a proper, evidence-based system of individualized assessments. Such a system further constitutes a precondition to adhere to the principle of individualization of sentences provided by the United Nations Standard Minimum Rules for the Treatment of Prisoners.<sup>16</sup>

The assessment of each prisoner should be undertaken upon admission to prison and repeated at regular intervals throughout a prisoner's sentence. The assessment should cover the escape risk of prisoners, the risks they would pose to the public should they escape, the risk they pose to good order and discipline in prison and the risk they may pose to the public while in prison (e.g. via associates in the community). The assessment should clearly differentiate between the different types of risk posed by prisoners and take this into account in their categorization and allocation. The assessment should also identify the rehabilitation needs of prisoners so that sentence plans include corresponding interventions that work towards the prisoners' social reintegration. Finally, the findings of health assessments, in particular as related to mental health and the risk of self-harm or suicide, should equally be taken into account in the allocation of prisoners and their sentence plans.

It is crucial to understand that a risk and needs assessment is a continuing, dynamic process. The assessment should be repeated at regular intervals to make sure that it is still relevant

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<sup>16</sup>United Nations Standard Minimum Rules, Rule 89 (1).

to the prisoner. Prison management should be responsive to any changes in assessment findings, whether this be an increased level of risk or a positive change which may warrant less restrictive conditions of detention.

 For further detail, see chapter 3.

## 1.4 Risk management

Risk and needs assessments should always be linked to the management of risks and needs. Risk management refers to the process of applying a range of measures in prison, and where applicable, in the post-release period with the aim of reducing the risk of (former) prisoners committing or instigating violent and disruptive acts while in prison and reoffending upon release. The risk management strategy of high-risk prisoners should, where appropriate, have the long-term aim of their return to society and should ensure that there is continuity between the period of imprisonment and the post-release period. In its recommendations on the management of dangerous offenders, the Council of Europe recommends that:

“All plans developed with this aim in mind should include: rehabilitative and restrictive measures to reduce the likelihood of reoffending in the longer term, while affording the necessary level of protection to others; measures to support the individual to address personal needs; contingency measures to respond promptly to indications of either deterioration or imminent offending; and appropriate mechanisms to respond to indications of positive changes.”<sup>17</sup>

Broadly speaking, risk management can be broken down into three components: prevention, monitoring and interventions. Each of these components must be informed and justified by the findings of the risk and needs assessment.

- *Prevention*: Prevention refers to security measures taken to minimize risk. These may include, for example, restrictions placed on the communication of prisoners (e.g. with former associates) and the separation of prisoners (e.g. violent extremist prisoners in leadership roles from others), among other prevention measures.
- *Monitoring*: This is the process by which a supervisor continually keeps a case under observation. Suitable interventions are undertaken when risks or needs signal for it. Monitoring can result in the prediction of certain risks arising. When this occurs, constructive interventions need to be undertaken to prevent their occurrence.
- *Interventions*: Interventions include restrictive measures taken to minimize risk in the short term and activities and programmes that aim to eliminate or reduce the underlying causes of the risks posed, with a view to achieve a longer-term positive outcome. Underlying causes are usually complex, but may include social, economic and educational factors, as well as one or more “criminogenic” factors, i.e. forms of behaviour which are likely to lead to criminal activity.

Offering prisoners a constructive prison regime which includes a range of activities and programmes to reduce the risks they pose and enable their eventual social reintegration is key to the management of high-risk prisoners. Such activities and programmes include

<sup>17</sup>Recommendation CM/Rec (2014)3 of the Committee of Ministers to member states concerning dangerous offenders, para. 35.

education, vocational training, work, sports, recreation, pastoral care, programmes that address criminogenic needs and those that help prepare prisoners for release. Post-release support, and often supervision, is also extremely important in the case of high-risk prisoners.

 *For further details, see the following chapters, in particular chapters 3, 5, 6 and 7.*

## 1.5 Least restrictive measures necessary

Another fundamental principle of good prison management is that prisoners should be subject to the least restrictive measures necessary for the protection of the public, other prisoners and prison staff.<sup>18</sup> Restrictions placed on prisoners' rights should be based on the individualized risk and needs assessment undertaken upon admission to prison, be reviewed regularly and modified as necessary.

Risk and needs assessments should always adhere to the following principles:

- *Legality*: All restrictive measures imposed upon a prisoner should be in accordance with international and national law, and have a legitimate objective.
- *Necessity*: The measures must be necessary, i.e. it should be clear that using less restrictive means would not fulfil the objective of ensuring safety and security.
- *Proportionality*: The restrictive measure should be proportional to the risk posed, with an appropriate balance between the protection of the fundamental rights of the prisoner and the State's lawful interference in the exercise of these rights. Such interference should be the least intrusive possible to fulfil the aim of ensuring security and order in prison, and be imposed for the shortest possible duration.
- *Accountability*: The decision-making process should be transparent and records should be kept of the assessment and decision-making process justifying the need for the restrictions imposed.
- *Non-discrimination*: Decisions should be objective and impartial, taking into account only the relevant factors. There should be no discrimination against certain groups of prisoners, based on race, colour, religion, ethnicity, nationality, gender, gender identity, sexual orientation, political views or any other factor.<sup>19</sup>

Implementation of the above principles ensures that only a small number of prisoners will need to be held in high-security conditions, thereby facilitating their effective supervision and management. It also ensures that human and financial resources are not wasted on holding large numbers of prisoners in conditions that are more restrictive than necessary.

 *For further details, see chapters 3 to 8.*

<sup>18</sup>United Nations Standard Minimum Rules, Rule 36; European Prison Rules, Rules 3 and 18.10; Recommendation CM/Rec (2014)3 of the Committee of Ministers to member states concerning dangerous offenders, para. 4.

<sup>19</sup>See CPT Standards, CPT/Inf/E (2002) 1—Rev. 2015, para. 55 for a discussion of the PLANN test (Proportionate, Lawful, Accountable, Necessary, Non-discriminatory) in relation to solitary confinement decisions. Also see the Explanatory Memorandum to Recommendation CM/Rec (2014) 3 of the Committee of Ministers to member states concerning dangerous offenders, paras. 52-54.

## 1.6 Maximum security conditions

A number of prisoners are likely to represent a particularly high security risk, and may therefore require detention in special maximum security conditions. If the assessment system is working effectively, the proportion of prisoners who need to be held in such special conditions should be very small. Such prisoners are usually accommodated away from other prisoners, either in special high-security prisons or in special units within prisons with different security levels. In many jurisdictions, severe restrictions are placed on the rights of such prisoners in addition to their highly restricted custodial setting. Such restrictions may apply to prisoners' access to exercise, activities, association with other prisoners, communication with the outside world, and the personal possessions allowed in cells, among others. In some countries, such prisoners will be shackled, handcuffed or body-belted routinely each time they leave their cells, including when taking outdoor exercise in a secure exercise yard.

The principles of legality, necessity, accountability, proportionality and non-discrimination outlined above must be equally applied to decisions on holding prisoners in special maximum security conditions. Such prisoners should, within the confines of their detention units, enjoy a relatively relaxed regime to compensate for the restrictions of their custodial setting. They should be able to associate with other prisoners in their unit, have access to a range of prison activities and have contact with the outside world. Prison staff should be able to maintain security and control by other means than prohibiting all types of activities. Although it may appear to be the easier option, it hinders the chances of prisoners' rehabilitation and is not in line with international standards. Any additional restrictions placed on such prisoners should be based on individualized risk assessments, which should be reviewed on a regular basis.

In some jurisdictions, prisoners deemed to be especially dangerous or high risk are held in solitary confinement for years and potentially for the whole duration of their sentence. This is contrary to the United Nations Standard Minimum Rules for the Treatment of Prisoners, which require that solitary confinement should only be used in exceptional cases for as short a time as possible, and which prohibit indefinite or prolonged (in excess of 15 days) solitary confinement altogether.<sup>20</sup>

 *For further details, see chapters 4 and 6.*

## 1.7 Security balance

In addition to an appropriate balance between the application of security measures and respect for the human dignity of prisoners, there also needs to be a balance between the types of security measures implemented. Security in prisons is ensured by (a) physical means, i.e. walls, bars on windows, locks and doors, alarm systems, etc.; (b) procedural means, i.e. procedures and rules related to prisoners' movement around the facility, the possessions they may keep, searches of prisoners and their accommodation, etc.; and (c) dynamic security, which requires an alert prison staff who interact with prisoners in a positive manner and engage them in constructive activities, allowing staff to anticipate and prevent problems before they arise.

<sup>20</sup> United Nations Standard Minimum Rules, Rule 43-45; also see the United Nations Basic Principles for the Treatment of Prisoners, Principle 7.

A proper balance should be maintained between the physical, procedural and dynamic dimensions of security in the case of all prisoners, including high-risk prisoners. The right balance to prevent escape and maintain order will depend on a number of factors, such as the condition of the prison facilities, the level of technology available, the number of staff and the type of prisoners being held in the prison. For example, where physical security is weak, as may be the case in low-resource and post-conflict environments, procedural and dynamic security become all the more important.

 *For further detail, see chapter 5.*

## 1.8 Staff recruitment and training

Staff should be properly selected and receive special training to work with high-risk prisoners, which is a responsibility that poses particular and diverse challenges. Where there is a shortage of such specialized staff, especially when accompanied by a high number of high-risk prisoners, staff may resort to using repressive and illegal methods to control prisoners, which in turn is likely to lead to tension and violence among prisoners. In such a situation, prison staff may also be more vulnerable to conditioning and manipulation by prisoners. Furthermore, serious challenges may be encountered in implementing rehabilitation activities, which can be particularly problematic in the case of certain groups of high-risk prisoners. Obviously, the risk of escape is much higher where prisoners are not assessed and supervised by specially trained staff.

A significant number of high-risk prisoners may present a complex and challenging range of risks and needs, including (the co-existence of) antisocial personality patterns or disorder (including psychopathy), substance dependence problems and other mental health-care needs. Next to tailored training of prison staff, the important role of specialists, including psychologists and psychiatrists, should be underlined in this context. On the other hand, prisoners often seek to control staff and to make them do things that are prohibited. There are numerous international examples of staff having been conditioned and manipulated in ways that have enabled prisoners to escape. Prisoners may also try to manipulate or bribe staff to acquire illegal articles such as mobile phones or drugs from outside prison or to be granted special privileges and powers in prison. Training of staff to recognize and resist manipulation, provision of appropriate levels of pay and working conditions, periodic rotation of staff and measures to ensure consistency in the management approach are all key to minimizing the risks of staff corruption and manipulation.

 *For further detail, see chapter 2.*

## 1.9 Special groups and mental health

Discrimination against any group or individual prisoners based on their gender, race, ethnicity, religion, nationality, sexual orientation, gender identity or any other status should be prohibited and prison management policies and strategies should include concrete measures to reduce and eliminate all kinds of discrimination in the management of high-risk prisoners. On the other hand, providing for the special needs of certain groups of prisoners should

never be regarded as discrimination.<sup>21</sup> For detailed guidance on the management of special groups of prisoners,<sup>22</sup> which goes beyond the scope of this Handbook, reference can be made to the UNODC *Handbook on Prisoners with Special Needs* and the UNODC *Handbook on Women and Imprisonment* (2nd edition).

While mental health-care needs are already over-represented in the general prison population,<sup>23</sup> high-risk prisoners are at even higher risk of mental health problems. Most high-risk prisoners will be serving long prison sentences, including life sentences. In some countries, they may be serving a life sentence without the possibility of early conditional release (or parole), in others they may be sentenced to death and face years in prison due to moratoria on the death penalty or lengthy appeals processes. The prolonged period of imprisonment, often coupled with a restricted custodial setting, can have a profound impact on the mental health of such high-risk prisoners. They are likely to suffer from the effects of increased social isolation and the consequent loss of personal responsibility and control over their environment, increasing dependency on the penal institution, and a potential loss of contact with families and friends. These factors may lead to profound feelings of loneliness, guilt, uncertainty regarding their release date (and in the case of those on death row, uncertainty as to their fate) and the loss of security due to proximity with other potentially violent prisoners, which arouses a sense of constant anxiety. As a result, long-term imprisonment can aggravate existing mental health problems and give rise to new ones.<sup>24</sup>

Prison management policies need to acknowledge the potentially harmful effects of long-term imprisonment and the additional security measures to which high-risk prisoners are subjected, and incorporate measures to protect and promote mental health in their prison management policies and strategies. Key components in this regard should include, at a minimum, individualized sentence plans, which facilitate a sense of responsibility and personal achievement among high-risk prisoners; constructive prison regimes; contact with the outside world; and mental health-related services, including psychosocial and psychiatric treatment for those prisoners diagnosed as needing such interventions.

 *For further detail, see chapters 3, 7 and 8.*

<sup>21</sup>International Covenant on Civil and Political Rights, Arts. 3 and 27; Convention on the Elimination of all Forms of Discrimination against Women, Art. 2; Convention on the Rights of Persons with Disabilities, Art. 4; The Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity, Principle 2; United Nations Standard Minimum Rules, Rule 2; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 5.2.

<sup>22</sup>These include, inter alia, pretrial detainees, children in conflict with the law, women prisoners, prisoners belonging to ethnic and racial minorities or indigenous peoples, foreign national prisoners, prisoners with disabilities, lesbian, gay, bisexual and transgender (LGBT) prisoners, and prisoners with mental health-care needs.

<sup>23</sup>The umbrella term “mental health-care needs” is used to include psychiatric disabilities. Psychiatric disabilities may be severe and enduring, e.g. schizophrenia and bipolar disorder; or more minor mental health problems, often referred to as common mental illness, e.g. mild anxiety disorders. Personality disorders can also be included in mental health-care needs, but they are behavioural disorders and lean more towards psychosocial intervention.

<sup>24</sup>Indeed, research in some countries has found that the rate of mental ill health among prisoners serving life sentences is higher than in the general prison population (see, for example, Mauer, M., King, Ryan S., Young and Malcolm C. (2004): *The Meaning of “Life”: Long Prison Sentences in Context; The Sentencing Project*, p. 15).



## 2.

# Prison staff

Prison work is demanding. It involves working with men and women who have been deprived of their liberty, many of whom have poor social and educational skills or come from marginalized groups in society. Some will be a threat to the public; some will be dangerous and aggressive; others will try very hard to escape. None of them wants to be in prison. The main task of the prison administration is to hold these men and women in secure, safe and humane conditions.

Prison staff are the people who carry out this important duty, and who are therefore the critical element in any prison system. The way in which prison officials deal with prisoners, who sometimes refuse to conform to legitimate expectations, can be one of the greatest challenges to the professionalism of prison staff. Given that staff are the most important element of any prison system, it is important that prison administrations recognize their importance and devote significant time and resources to their recruitment, selection and training. Ensuring that prisons have good quality and well-trained staff must therefore be a priority for all prison systems.

The first part of this chapter sets out general principles that should apply to all prison staff, including those who work with high-risk prisoners. The second part of the chapter goes on to highlight issues that relate particularly to staff who work with high-risk prisoners and the additional challenges that working with high-risk prisoners can bring.

## 2.1 Recruitment and selection of staff

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 74

1. The prison administration shall provide for the careful selection of every grade of the personnel, since it is on their integrity, humanity, professional capacity and personal suitability for the work that the proper administration of prisons depends.

3. To secure the foregoing ends, personnel shall be appointed on a full-time basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

#### Rule 75

1. All prison staff shall possess an adequate standard of education and shall be given the ability and means to carry out their duties in a professional manner.

#### Rule 78

1. So far as possible, prison staff shall include a sufficient number of specialists such as psychiatrists, psychologists, social workers, teachers and trade instructors.

2. The services of social workers, teachers and trade instructors shall be secured on a permanent basis, without thereby excluding part-time or voluntary workers.

### CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

#### Article 18

Governments and law enforcement agencies shall ensure that all law enforcement agents are selected by proper screening procedures, have appropriate moral, psychological and physical qualities for the effective exercise of their functions and receive continuous and thorough professional training. Their continued fitness to perform these functions should be subject to periodic review.

See also the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XX; European Prison Rules, Rule 77.

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Staff working in prisons have a very difficult job which can, at the same time, be lonely, frightening and boring. Staff should therefore possess the characteristics of maturity, intelligence, good judgment, and be physically capable of performing the rigorous duties required of them. They should be even-tempered, consistent, and capable of respecting diversity in the prisoner population. The difficulty of working day-to-day in an environment that is a mixture of repetitive routine, unscheduled incidents and physical and personal challenges requires that the staff be uniquely adaptable to working in an abnormal setting with persons who can present inordinate adjustment and management problems.

Much of the work of prison staff is taken for granted or regarded as common sense, and yet the special abilities of prison staff are much more than this. Working with prisoners

requires a unique combination of personal qualities and technical skills. Prison staff need personal qualities which enable them to deal with all prisoners, including the difficult and the dangerous in an even-handed, humane and just manner. The qualities of prison personnel fall into two basic categories: Capacity: qualities that enable personnel to fulfil the technical tasks of the prison's mandate; and Integrity: qualities that enable personnel to fulfil this mandate in accordance with fundamental human rights, professional and rule-of-law standards.

High personal and professional standards should be expected of all prison staff, and the prison administration should have a clear policy to encourage suitable individuals to apply to work in prisons. If the prison administration has already established its values and the ethical context within which it operates, it is important that these should be clearly articulated in any recruitment or selection process. This should clarify to anyone who wishes to apply what will be expected of him or her in terms of behaviour and attitude. It will also make clear that anyone with unacceptable personal views, for example regarding the treatment of ethnic or religious minorities or towards women or foreigners, should not apply for work in the prison system. Even when such a policy is in place to ensure applicants understand the nature of the work in prisons, not all of those who apply will be suitable.

Recruitment and selection procedures should be explicit, clear, scrupulously fair and non-discriminatory; based on the knowledge, skills, and abilities of applicants; and ensure that only persons with the right qualities are selected to work in prisons. In the first place, they should test the integrity of the applicants and how they are likely to respond in the difficult situations that they may face in the course of their daily work. This part of the procedure is the most important, since it covers qualities that are an essential requirement for work in prisons. Only when applicants have shown that they meet these requirements should the procedures go on to test such matters as their educational standards, physical capabilities, previous work records and their potential to learn new skills.

At a minimum, prison staff should be able to read, write and understand the prison regulations and procedures. Most jurisdictions set much higher requirements and some will only recruit prison staff who hold a relevant vocational qualification or diploma. Various methods can be used to test potential recruits, including assessment centres, role plays, testing reactions to scenarios, and psychometric testing. Where such methods are not feasible, in-depth interviews using structured questioning should be used to test the views and suitability of potential recruits. Whatever approach is deployed, it should be objective, evidence-based, assessed against objective criteria and undertaken by experienced prison staff. Those staff should be trained to conduct assessments in order to ensure that their own unconscious bias does not distort the assessment. It is also good practice to make use of independent assessors, alongside prison professionals, who are able to provide external challenges and a different perspective on the candidates. Some jurisdictions also involve psychologists in the assessment process, particularly where technical instruments (such as psychometric tests) are involved.

The vast majority of prisoners are men, and prison work has been traditionally regarded as a male preserve in many countries. There is no reason why this should be the case. Experience in a number of countries has shown that women can carry out the regular duties of prison staff just as well as men. Indeed, in situations of possible confrontation, the presence of women staff can often defuse potentially volatile incidents. There are a few situations, such as the supervision of sanitary areas and carrying out personal body searches, in which the member of staff involved should be of the same gender as the prisoner. Apart from these situations, women prison staff can be assigned to all duties in male prisons holding high-risk

prisoners. There should be clear policies in place to prevent discrimination against women staff, ensuring that they have equal access to training opportunities and promotion as male staff.<sup>25</sup>

Every effort should be made to recruit staff from ethnic and racial minorities and indigenous peoples overrepresented in prisons. This will help ensure a better understanding among staff about different cultures, establish a fairer attitude towards prisoners from minority groups and indigenous peoples, and help foster trust between prisoners and staff. Finally, particular attention needs to be paid to the recruitment of specialist staff. These are likely to be individuals who are already trained in a specific profession. They will include teachers, instructors and health-care staff. It should not be assumed that people who have had a professional training will automatically be suitable to work in a prison environment. They also need to be selected carefully and there needs to be clarity about the role they are expected to carry out in the prison administration.

## 2.2 Training and development of staff

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 75

2. Before entering on duty all prison staff shall be provided with training tailored to their general and specific duties, which shall be reflective of contemporary evidence-based best practice in penal sciences. Only those candidates who successfully pass the theoretical and practical tests at the end of such training shall be allowed to enter the prison service.

3. The prison administration shall ensure the continuous provision of in-service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

### UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (the Bangkok Rules)

#### Rule 29

Capacity-building for staff employed in women's prisons shall enable them to address the special social reintegration requirements of women prisoners and manage safe and rehabilitative facilities. Capacity-building measures for women staff shall also include access to senior positions with key responsibility for the development of policies and strategies relating to the treatment and care of women prisoners.

#### Rule 33

All staff assigned to work with women prisoners shall receive training relating to the gender-specific needs and human rights of women prisoners.

See also the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XX; European Prison Rules, Rule 81.

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<sup>25</sup>United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, Rules 29 and 32.

The better staff are trained, the better equipped they are to identify problems and dangers and take timely measures to reduce risks. The prison administration should acknowledge the importance of well-trained staff and give staff the opportunity of following training courses during working hours. Training should also be paid for by the administration.

## 2.2.1 Initial training

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 76

1. Training referred to in paragraph 2 of rule 75 [staff training before entering on duty] shall include, at a minimum, training on:

(a) Relevant national legislation, regulations and policies, as well as applicable international and regional instruments, the provisions of which must guide the work and interactions of prison staff with inmates;

(b) Rights and duties of prison staff in the exercise of their functions, including respecting the human dignity of all prisoners and the prohibition of certain conduct, in particular torture and other cruel, inhuman or degrading treatment or punishment;

(c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and mediation;

(d) First aid, the psychosocial needs of prisoners and the corresponding dynamics in prison settings, as well as social care and assistance, including early detection of medical health issues.

2. Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training with a corresponding focus.

See also the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XX; European Prison Rules, Rule 81.1/3.

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Once staff have been properly selected and recruited, they need to be given appropriate initial training prior to being deployed in a prison (pre-service). Most new staff will have little or no experience or knowledge of the prison world. The first requirement is to reinforce for all of them an appreciation of human rights and the ethical context within which prisons must be administered. It must be made clear that all technical skills which will subsequently be taught are underpinned by a belief in the dignity and humanity of everyone involved in prisons. These include all prisoners, whoever they may be and whatever crimes they may have been convicted of, and all staff and visitors. Staff need to be taught the basic skills required to deal with other human beings, some of whom may be very awkward and difficult, in a decent and humane manner. This is not simply a matter of theory.

The standard and length of training given to new recruits on prison work varies enormously from country to country. In some jurisdictions, front line staff undertake up to two years of training before beginning work as qualified prison staff. Prison systems in a number of

countries require new staff to undertake a mixture of classroom and practical training. However it is achieved, all new prison staff should, at a minimum, be given a clear set of principles about what their work involves and sufficient technical knowledge to carry out their basic work before they enter a prison. They should then work alongside experienced staff who have been identified by management as most likely to give the new members of staff the best example and instil in them confidence in their work. This is particularly important when working with high-risk prisoners, as they will be quick to identify less experienced staff and seek to exploit their inexperience and nervousness.

Staff should also be given the necessary technical training. They need to be aware of security requirements. This involves learning all about the use of security technology: keys, locks, surveillance equipment. They need to learn how to keep proper records and what sort of reports need to be written. Above all, they need to understand the importance of their direct dealings with prisoners. The security of the lock and the key must be supplemented by the kind of security that comes from knowing who their prisoners are and how they are likely to behave (see chapter 5.3 for details on dynamic security). Training should also support staff to address the special needs of certain groups of high-risk prisoners that, for various reasons, require additional attention or are particularly vulnerable, such as prisoners with mental health-care needs.

### 2.2.2 Continued (in-service) training

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 75

3. The prison administration shall ensure the continuous provisions of in service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.

See also the Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XX; European Prison Rules, Rule 81.2.

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Prisons are dynamic institutions, i.e. they continuously change and are influenced by expanding knowledge and external influences. Staff need to be given regular opportunities to bring their knowledge up to date and to sharpen their skills. Training and development is therefore not something to be done only at the beginning of a prison officer's career. Continued training should seek to enable staff to achieve continuous improvement and thereby promote increased professionalism. It should also take into account the need to retrain personnel when new legislation, policies and procedures are being implemented, which may affect the performance of their own responsibilities. There should be a regular series of opportunities for continuing development for staff of all ages and all ranks.

## 2.3 Conditions of service and staffing levels

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 74

3. [P]ersonnel shall be appointed on a full-time basis as professional prison staff and have civil service status with security of tenure subject only to good conduct, efficiency and physical fitness. Salaries shall be adequate to attract and retain suitable men and women; employment benefits and conditions of service shall be favourable in view of the exacting nature of the work.

See also the Kampala Declaration on Prison Conditions in Africa, recommendations 1 and 3 (prison staff); European Prison Rules, Rules 76, 78-80.

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**Conditions of service:** It is essential to have motivated staff who are well-trained and committed to the public service that they perform. It is not sufficient to recruit able persons, to imbue them with a sense of professionalism and to train them to a high standard. If they do not have appropriate status, levels of pay and conditions of employment, they will be unlikely to remain working in the prison system. Instead, they may benefit from the training that they are given and may then take these skills to another job that has better conditions of employment.

Prison work is one of the most complex of public services—a fact which should be recognized in the level of salary paid to prison staff at all levels. Whatever comparative group is used, governments should recognize that prison staff are entitled to a proper remuneration for their difficult and sometimes dangerous work. It goes without saying that a job as difficult and demanding as this should be well paid and that the job can be done in an acceptable number of hours. Most prison systems are disciplined organizations. That does not mean that staff should be treated unreasonably or without respect for their position. If there is no formal trade union, staff should at least have a recognized negotiating machinery or means to raise issues of concern with senior managers. The exchange of views with staff is particularly important in prisons holding high-risk prisoners, as it provides a healthy outlet for staff frustrations, concerns and grievances.

The administration of prisons is increasingly being placed under the Ministry of Justice, rather than the Ministry of Interior. This is considered good practice, as it separates the authority responsible for detecting and investigating criminal activity from the authority responsible for keeping in custody individuals charged with or convicted of criminal offences. Depending on the jurisdiction, this may be at a central government or state or regional government level—or indeed a combination of both approaches. Wherever it is located, it is critical that the prison administration and its staff are accorded sufficient status to enable the recruitment and retention of good quality personnel.

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## PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS

### Principle XX

Sufficient and qualified personnel shall be available to ensure security, surveillance, and custody, as well as to attend to medical, psychological, educational, labour, and other needs.

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**Staffing levels:** Prison administrators should ensure that each prison has an appropriate number of staff on duty at all times to enable the prison to comply with international standards and national laws and regulations. The number of staff needed to provide security, safety and regime activities will depend on a range of factors including: the security level of the prison; the amount of technology being used; the design, layout and physical condition of the prison; and the number of prisoners held in the prison. If the fabric of the prison is poor, if technology is not installed or not functioning, or if the prison is overcrowded, additional staff will be required.

Comparative staffing ratios are often used because they are a convenient way to justify staffing levels to public officials. Understandably, administrators are inclined to imply the inadequacy (or adequacy, depending on the point being made) of a particular prison's staffing by comparing ratios or rates of staff per 100 prisoners. However, general guidelines or "average" staff-prisoner ratios tend to be misleading because they do not reflect the operating principles of a prison, nor its physical layout or level of technology available in the prison. Staffing attendance patterns can also have a significant impact on staffing ratios. Even if one compares two prisons holding prisoners of the same category, with similar physical layouts, the same number of prisoners, and the same general management philosophy, their staff-prisoner ratios are much more likely to differ than to be alike.

## 2.4 Prison management

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 79

1. The prison director should be adequately qualified for his or her task by character, administrative ability, suitable training and experience.
2. The prison director shall devote his or her entire working time to official duties and shall not be appointed on a part-time basis. He or she shall reside on the premises of the prison or in its immediate vicinity.
3. When two or more prisons are under the authority of one director, he or she shall visit each of them at frequent intervals. A responsible resident official shall be in charge of each of these prisons.

See also the European Prison Rules, Rule 84.

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Managing prisons is a particularly complex task. A newly appointed prison head may have had previous general legal, administrative, police or military training or will be expected simply to possess intuitively the specific skills required to manage a prison. Managing prisons requires a defined set of skills, some of which are common to general management and some of which are peculiar to prisons. The individual who is in charge of a prison (director, governor, inspector or superintendent) is the key person in setting the tone throughout the whole prison. More fundamentally his or her method of directing can determine whether the prison is a place of decency, humanity and justice. He or she is responsible for the running of a penal establishment in all its elements—from keeping prisoners in custody and preventing escapes to ensuring that those prisoners are being looked after with humanity and supported in leading law-abiding and constructive lives in custody and upon release.

On the one hand, the director should monitor his or her personnel, while on the other he or she should foster an open attitude, which allows staff a degree of creativity in the performance of their duties. A director should be a visible figure within the prison, maintaining formal and informal contacts with his or her staff. He or she should listen to problems, and solve them to the best of his or her ability, while at the same time demonstrating a critical attitude and ensuring that staff do their work properly. He or she should keep an eye on the way in which staff work, and stamp out any abuses. Prison directors should show a willingness to speak to prisoners, treating them first and foremost as human beings entitled to respect.

Prison managers should make sure that their staff are aware of their duties and responsibilities, so that they will do what they can to maintain satisfactory contact with prisoners and encourage prisoners to adopt a tolerant attitude to one another. Good staff realize that it is in the interests of security to have a situation in which prisoners are reasonably reconciled to the deprivation of their liberty. Managers should also regulate their prisons by maintaining a high profile and by acting as role models. Managers are seen as the embodiment of what the prison stands for, and junior staff and prisoners mirror their behaviour and approach. There is a need for managers to establish a physical presence in the areas within their prisons for which they are responsible. This aspect of the work involves more than visiting different areas of the prison, but further includes auditing and monitoring. It is about finding out what is going on and ensuring that standards are being upheld. Maintaining a high profile also enables managers to talk to staff and to send messages about their standards and beliefs. The amount that managers interact with prisoners, the manner of the interaction and the language used, all send messages about how managers see the community behaving.

## 2.5 Professional standards and ethics

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 77

All prison staff shall at all times so conduct themselves and perform their duties as to influence the prisoners for good by their example and to command their respect.

## UNITED NATIONS CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

### Article 7

Law enforcement officials shall not commit any act of corruption. They shall also rigorously oppose and combat all such acts.

## EUROPEAN CODE OF ETHICS FOR PRISON STAFF

5. Prison staff shall maintain and promote high standards of personal honesty and integrity.
6. Prison staff shall endeavour to maintain positive professional relationships with prisoners and members of their families.
7. Prison staff shall not allow their private, financial or other interests to conflict with their position. It is the responsibility of all prison staff to avoid such conflicts of interest and to request guidance in case of doubt.
8. Prison staff shall oppose all forms of corruption within the prison service. They shall inform superiors and other appropriate bodies of any corruption within the prison service.

See also the European Guidelines for National Ethical Guidelines for Staff Concerned with the Implementation of Sanctions and Measures, Guidelines 3-4; European Prison Rules, Rules 72 and 75.

Prisoners may attempt to undermine the professionalism of staff and seek to exploit weak staff to obtain illicit goods, to assist with an escape attempt or to act as a conduit to criminal groups outside of the prison. Prison staff need, therefore, to meet high standards of professional and personal conduct at all times. They should carry out their duties loyally, conscientiously, honestly and with integrity. Staff should be courteous, reasonable and fair in their dealings with all prisoners, colleagues and members of the public. They should treat people with decency and respect. All staff should comply with policies and procedures.

Managers should ensure that standards of behaviour and conduct are maintained. Staff should take responsibility and be accountable for their actions. Misconduct should not be tolerated and failure to comply with professional standards should lead to action which may result in dismissal from the prison administration. Prison staff who have reason to believe that a violation of the ethical code has occurred or suspect it is about to occur should report the matter to their superior authorities and, where necessary, to other appropriate authorities.<sup>26</sup> This action is often referred to as “whistle-blowing”. Doing so may put staff in a particularly vulnerable position where they may be intimidated or ostracized by other staff or managers. In order to encourage staff to report misconduct, appropriate protection measures should be put in place. These may include guarantees of confidentiality, support from senior management as well as reassurance to potential “whistle-blowers” that their information is valued and that they will not be treated adversely should they have the courage to raise their concerns.

Behaviour that amounts to unprofessional conduct should include: discrimination; harassment; victimization or bullying; dealings with prisoners, former prisoners and their friends and relations; provoking, using unnecessary or unlawful force or assaulting a prisoner; using offensive language to a prisoner; having any sexual involvement with a prisoner; and giving

<sup>26</sup> See for example, Recommendation CM/Rec(2012)5 of the Committee of Ministers of the Council of Europe to member states on the European Code of Ethics for Prison Staff, Art. 35.

prisoners or ex-prisoners personal or other information about staff, prisoners or their friends and relatives which is held in confidence.<sup>27</sup>

Corrupt and fraudulent behaviour by prison staff is not acceptable. Staff should not solicit or accept any advantage, reward or preferential treatment for themselves or others by abusing or misusing their power and authority. Staff should not undertake monetary or business transactions with, or accept gifts or favours from, prisoners, ex-prisoners or friends or relatives of prisoners or ex-prisoners. Staff should not bring into or carry out of a prison establishment, without proper authority, any items for or on behalf of a prisoner or ex-prisoner; or knowingly condone such action. Furthermore, staff should not have private interests that interfere or could interfere with the proper discharge of their duties. This includes financial and business interests but also any personal relationships which could compromise or be perceived to compromise them in the discharge of their duties. Staff must bring any potential conflict of interests to the attention of a senior manager.

Staff working with high-risk prisoners should ensure that their actions, or negligence, do not endanger the security of an establishment, including contributing to the escape of a prisoner; or loss, damage or injury to the prison administration or individuals. They should also comply with all lawful and reasonable orders or written instructions. Staff should not be unfit for duty through alcohol or drug abuse and should not drink alcohol or take prohibited drugs while at work or on duty.

## 2.6 Importance of interpersonal skills and guidance

*Interpersonal skills:* It is imperative that staff working with prisoners have a high level of interpersonal skills: their job can be demanding, intense, and at the same time very rewarding. Staff must be able to maintain professionalism and fairness at all times. If staff are confident and assertive in their approach, they will find that conflict is limited and that they are able to deal with volatile situations as they arise. Staff should be familiar with and understand the different prisoner groups referred to in this Handbook and that they may come across within their prison. They must be respectful of and sensitive to the needs of those around them, while not compromising the security of the environment.

Staff should know and understand how behaviour, communication and interpersonal skills affect an individual's expectation. They should be aware of barriers that may interfere with communication and they must also be aware of how their non-verbal behaviour is interpreted during communication with prisoners. Communication, both verbal and non-verbal, is a two-way process. The behaviour of prison staff can affect the expectations of individuals and groups, both positively and negatively. Different forms of non-verbal communication can have an impact: for example, exaggerated hand movements or invading someone's personal space may aggravate a situation. While staff cannot always overcome barriers, they can minimize their effects. Behaviour can prevent conflict within the prison: for example, by displaying staff approachability, instilling confidence, and creating a sense of order and safety/security. Staff should be introduced to the techniques for dealing with conflict, such as appearing calm and in control of the situation.

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<sup>27</sup>It should be noted that women, particularly at the pretrial stage, are especially vulnerable in the closed environment of prisons, which includes women in high-security prisons or units. High-risk women prisoners must therefore be protected from physical or sexual abuse by male members of staff at all times. Women prisoners should be supervised by women staff. If male staff are employed in a women's prison they should never be in sole control of the women. There should always be a female member of staff present.

**Exercise of discretion:** Prison staff possess a considerable degree of discretion in carrying out their job. In the absence of detailed and unambiguous directions, prison staff are confronted on a daily basis with numerous dilemmas. These dilemmas surround the interpretation of rules and regulations: whether a prisoner should be put on a disciplinary charge; what is appropriate behaviour; what is a reasonable amount of property in a room; who to unlock from a cell first; or who can have a shower when. Inappropriate exercise of discretion by staff can lead to grave consequences. Such behaviour may include: unnecessary disciplinary charges; undue searches; inconsistent treatment; staff picking on particular prisoners; varying access to facilities; prisoners being humiliated or feeling powerless; abuses, bullying and harassment; or prisoners being manipulated by staff.

Managers are able to assist prison staff in their roles by resolving dilemmas that staff have to cope with. They are able to do this by designing detailed rules, regulations and routines that help to clarify what is expected in specific circumstances. In addition, managers can seek to influence how staff use their discretion by creating an “interpretative framework” for dealing with day-to-day issues that arise in staff encounters with prisoners, and by establishing clear standards and expectations. This is particularly important in prisons holding high-risk prisoners.

## 2.7 Manipulation and conditioning of staff

A feature of prison life is that prisoners endeavour to manipulate staff. They may do this for malicious reasons or as a game played for psychological domination. Whatever the motivation, the consequences are always serious. In manipulating staff, prisoners seek to take control from them and this threatens safe custody, leaving staff anxious and uncertain. Manipulation involves causing a person to think, feel or behave in a way that is ultimately not in their best interests. This may be done consciously by bullying or coercion; or subtly through lying or deception. Psychological manipulation can take many forms, from distraction to exploitation of relationships and conditioning. Obvious violations include having a personal relationship with a prisoner; trafficking goods; disclosing classified information; and bypassing procedures for any reason. However, manipulation is often subtle and can take time to engineer. Staff should not underestimate how prevalent, ruthless and potentially harmful prisoner manipulators can be.

In order to prevent manipulation, staff should demonstrate professionalism, be transparent, impartial and consistent. Managers should ensure that staff receive training on manipulation and are constantly vigilant to attempts to manipulate them.

Prisoners are particularly good at conditioning prison staff. Conditioning can be defined as the manipulation of the balance of power towards the advantage of the manipulator. Within the prison context, it is how prisoners impose their will upon staff and how some staff impose their will on other members of staff. Prisoners can adopt a number of methods to identify potential staff targets for conditioning and exploitation. Once identified, the target is singled out, which may take some time and include several prisoners over many months collecting information about the target. The potential target will then be tested to identify how tolerant they are (how far can they be pushed, will they turn a blind eye when faced with confrontation, if they allow prisoners to get away with breaking the rules).

Prisoners will then get close to the target and become friendlier through flattery, sympathy, indispensability and touching. This will be followed by attempts to create a split between the target and other staff. At that point, there is usually a demand from the prisoner. But once the target has complied, the manipulator(s) have them hooked into doing more. The stakes are now even higher and more difficult for the individual not to comply. This may include the threat to tell the prison director about what they have done. The next demand may include trafficking in weapons, drugs or mobile phones.

One of the most difficult methods of conditioning to deal with in prisons is staff-on-staff conditioning, often known as peer group pressure. Examples of peer group pressure include: custom and practice (such as leaving work early or having unauthorized breaks); signing as having checked something without actually having made the checks; avoidance of good practices like closing gates and checking areas (“don’t go in there, those prisoners are not a problem”); giving in to local practices designed to cut corners, i.e. not conducting procedures properly such as cell or searching procedures (“forget what you were taught at the training school, we will show you the right way to do it in this prison”). Negative peer pressure can be an unwanted daily problem and can lead to insecure and unsafe working environments, particularly in prisons holding high-risk prisoners. Prison administrations should take active steps to address peer pressure, as high-risk prisoners will quickly identify that some members of staff are weak and easily manipulated.

Prison administrations should take steps to ensure that staff do not succumb to conditioning and exploitation. Staff should receive training on the importance of adhering to policy and procedures; reporting conditioning immediately; avoiding over-familiarity with prisoners (friendly, not friends); dynamic security (see chapter 5.3); establishing boundaries (e.g. not sharing personal information); and acting in a professional, reliable and consistent manner.

## 2.8 Staff working in prisons holding high-risk prisoners

The subjects discussed earlier in this chapter have particular importance in relation to staff who work in prisons holding high-risk prisoners. The working environment in those prisons can be more challenging due to the potential activities associated with prisoners who have been assessed as being a risk to security, safety, and stability or of committing ongoing criminal activity.

**Appointment of staff:** Most jurisdictions appoint only experienced staff to work with high-risk prisoners, as it requires greater skill and personal integrity to work effectively in those prisons. This means, first of all, that men and women who are to work in prisons holding high-risk prisoners need to be carefully selected to make sure that they have the necessary additional qualities, knowledge, and experience.

A number of jurisdictions do use new staff in prisons holding high-risk prisoners in order to ensure that new perspectives are available, to break down more entrenched views displayed by longer serving staff, and to overcome problems of corruption among some current staff. If new staff are used, they should be closely supported and supervised by more experienced and knowledgeable staff. Care should also be taken to ensure that new staff are not members of criminal gangs or associated with organized crime and being used to infiltrate the prison. Individuals who seek to work in prisons holding high-risk prisoners with a view to giving out extra punishment to prisoners should not be appointed. The selection process should test the applicant’s motivation, including a psychological test, where possible.

Adequate numbers of specialist staff, such as psychiatrists, psychologists and social workers, should be appointed to prisons holding high-risk prisoners, given the requirement to address the complex needs of this group. Staff who are in charge of high-risk prisoners under sentence of death on a daily basis should be specially selected for this stressful responsibility. They should be experienced, have continuous support from management, and be given special training, especially in the emotional aspects of their work.

**Training:** Training, which is crucial to any prison environment, is especially critical for staff working with high-risk prisoners, where some prisoners will be manipulative, combative, assaultive or threatening. Good practice is to give additional training to staff before they begin working in prisons holding high-risk prisoners.

## CASE STUDY

### TRAINING COURSE FOR STAFF WORKING WITH VIOLENT EXTREMIST PRISONERS (ITALY)

In 2010, the Office of Training of the Penitentiary Department of the Italian Ministry of Justice identified the need to introduce a training course for existing staff on how to manage violent extremist Muslim prisoners. The course had two objectives: to help staff avoid behaving in a way that might offend the religious sensitivity of Muslim prisoners; and give staff sufficient knowledge about Islam to ensure that prisoners did not exploit the lack of knowledge. The three-day training course consisted of sessions on:

- Cultural and religious aspects of Islam
- Islamic religious practice
- International terrorism, ideological background and its diffusion
- Proselytization and radicalization to violence
- Penitentiary management of international terrorists
- Operational techniques

A six-month follow-up evaluation found that 80 per cent of staff who completed the course noticed a significant improvement in the quality of their daily duties in the prison; felt more aware of the aspects related to the culture and religious practice of Muslim prisoners; and were therefore better able to establish constructive relationships with those prisoners.

*Source:* Office of Training, Penitentiary Department, Ministry of Justice, Italy

The additional training should include: understanding of what high-risk conditions involve; definition of types of prisoners who may need to be held in high-security and control conditions; assessment of those prisoners; implementing a positive regime within high-security and control conditions; assessment of intelligence and other information about high-risk prisoners; anti-conditioning and manipulation training; dealing with individual or group violence in a way that protects staff while using minimal force; adhering to ethical and professional standards; interpersonal skills; intelligence gathering; stress management; religious diversity and freedom of religion and belief; and sensitization and awareness courses focusing on language, behaviour, cultural and religious issues related to specific groups (e.g. minority religious groups, such as Muslim or Christian prisoners, depending on the jurisdiction, minority ethnic groups or gangs). Staff must also work together and be able to rely on each other to a greater degree than in most other prison settings. Accordingly, teamwork is often also included in the curriculum for staff working with high-risk prisoners.

Regular counting of prisoners, provision of meals, handling of correspondence and property, providing escort, and performing cell searches can all be very sensitive areas with high-risk prisoners, so refresher training on a regular basis is required. Staff must be able to handle their responsibilities consistently and professionally. Failure to properly restrain a prisoner, perform a thorough rubdown pat search, or operate control panels precisely can lead to disastrous results in prisons holding high-risk prisoners. Only quality training and regular refresher courses can provide the skills essential to carry out these duties in a professional manner and to ensure that bad habits are not passed on to new staff members. Continuing training for staff working with high-risk prisoners can have the added benefit of enabling them to get a break from the stress of daily work and to reflect on their role and its challenges. There have also been many examples of where safety shortfalls and control issues have been identified during training sessions.

**Terms and conditions:** The issue of pay is particularly important for staff who work with high-risk prisoners, as it makes high demands on staff. If staff are not paid at an appropriate level, they may be open to corruption of a direct or indirect nature. In some jurisdictions, staff working with high-risk prisoners are paid an additional allowance or given additional paid holiday time. Furthermore, the prison administration should take appropriate steps to ensure the personal safety of staff working in prisons holding high-risk prisoners both while they are on duty in the prison and while outside of the prison. Depending on the level of risk at any particular time, this may involve providing secure housing for staff and their families, equipment to search their vehicles and personal alarms.

**Staffing levels:** The appropriate staffing level for each prison holding high-risk prisoners should depend on the number of staff required to be on duty at any one time to ensure security, safety and order, as well as to provide the regime activities for prisoners. The decision on staffing should therefore be based on: the category and number of prisoners being held in the prison; the layout of the prison; the condition of the physical fabric of the prison; availability and functioning of technology; staff attendance patterns; standard operating procedures; and regime facilities. It is important that sufficient staff are appointed to enable high-risk prisoners to participate in a range of constructive regime activities (see chapter 7) and to do so without having a negative impact on the security, safety and stability of the prison.

**Preventing boredom and stress:** Good security in prisons holding high-risk prisoners depends as much upon routine tasks being performed properly as it does on sophisticated equipment. Even well-motivated staff can become bored and their efficiency reduced if the tedium of important but routine tasks is not relieved. This should be achieved through a range of measures, including job rotation, job enrichment and the use of technology. Regular visits from staff in supervisory grades can also do much to relieve boredom and support staff.

Many prison managers who have run prisons holding high-risk prisoners express concern that the unique challenges of these facilities can create a great deal of stress for the staff who work there. A very stressful environment is created by much of the day being extremely routine while emergencies can occur instantaneously—staff being challenged verbally and/or physically by prisoners, and emphasis on security and control. Prison administrations can attempt to mitigate the impact of this environment in a variety of ways. Some require rotation of assignments within the unit or prison, some require periodic rotation out of the unit or facility, and others rely on training and stress reduction classes to help staff handle the work environment. The prison administration should make confidential counselling sessions available for staff who are suffering from mental health issues, feeling stressed or who are suffering

from post-traumatic stress disorder following an incident in the prison.<sup>28</sup> Good practice also involves using other staff to provide peer support.

**Staff conditioning, manipulation, intimidation and corruption:** Prisoners assessed as being high risk present a greater risk of: escape; being violent or dangerous; creating disorder; or committing criminal activities while in prison. In order to achieve these goals, high-risk prisoners are more likely to seek to condition, manipulate or corrupt staff. They may use threats, intimidation, coercion or other forms of pressure to affect the way in which prison staff behave and respond. Typical examples of behaviour are:

- Threats against staff family members, in which knowledge of their addresses, routines or other personal details are revealed
- Strong verbal confrontation or physical violence
- The generation of a climate of fear, in which violence is never far below the surface
- Regular challenges to instructions from staff
- Constant unjustified complaints to senior staff about their treatment

In such circumstances, there is a danger that some prison staff will respond by retreating into a passive role, in which they do little to enforce rules or correct prisoners' behaviour. Full use must be made of sound procedures, good intelligence and appropriate surveillance aids to identify cases of staff conditioning, manipulation, intimidation and corruption. The issues should be thoroughly addressed during training, continuously monitored by line managers and staff reminded of the risks as part of their daily or weekly briefing sessions.

Prison staff working in prisons holding high-risk prisoners should be searched to reduce the risk that they will succumb to intimidation by prisoners and prisoners' associates. This should involve mandatory searching of staff on entering prisons holding high-risk prisoners and random searching of staff leaving these prisons. Staff generally welcome such arrangements if the purpose is explained to them. The searching should be carried out by prison staff in a sensitive manner, given that they are searching their colleagues. In some jurisdictions, the perimeter staff do the searching even where they are part of a different organization (such as the police or military). A number of prison administrations further ensure an appropriate degree of mobility and rotation for staff working with high-risk prisoners so that they are not exposed to contact with these prisoners for unduly long periods.

<sup>28</sup>See World Health Organization Europe (2007): *Health in prisons—A WHO guide to the essentials in prison health*, chapter 14 (“Promoting health and managing stress among prison employees”).



# 3.

## Assessment, classification and allocation

The proper assessment, classification and allocation of prisoners is one of the fundamental components of good prison management policies, enabling the efficient use of resources, individualization of sentences, protection of the public and the human rights of prisoners. Investments made in developing and implementing effective, evidence-based systems of classification and categorization can enable States to make immense savings in the long term by improving the prospects of prisoner rehabilitation and reducing reoffending, while at the same time ensuring that resources are not wasted on high-security facilities and measures in cases where they are not warranted. In some jurisdictions, all prisoners who are charged with or have been convicted of certain offences (e.g. homicide) or those who have been sentenced to long prison terms or life sentences are categorized as high risk without any individualized assessment. In addition, where periodic reviews do take place, these may cover only prisoners' compliance with prison discipline. Such practices are not in line with good prison management.

The United Nations Standard Minimum Rules for the Treatment of Prisoners require that prisoners always need to be separated according to their legal status (pretrial from sentenced), gender (men from women) and age (children from adults).<sup>29</sup> Furthermore, an assessment of all prisoners should be undertaken upon admission in order to determine the risk they may pose to themselves and/or others as well as their needs. Such individual assessments are crucial in order to ensure that the necessary measures are put in place to minimize these risks and to respond to prisoners' needs in a manner that will enable their eventual social reintegration. On the basis of his or her risk and needs assessment, each prisoner should be classified according to criminal record, character and treatment needs, including the assignment of a security category that corresponds to the findings of the risk assessment.<sup>30</sup>

Prisoners' classification and categorization are essential to decide their allocation to a suitable prison or unit within a prison and, together with the findings of their risk and needs assessment, provide the basis for the development of individualized sentence plans. These basic rules apply to the management of all prisoners. In fact, they are particularly important in the case of high-risk prisoners, where any shortcomings in their assessment, classification, categorization and allocation can have far-reaching and severe consequences both for the prisoner and the public.

<sup>29</sup> United Nations Standard Minimum Rules, Rule 11.

<sup>30</sup> United Nations Standard Minimum Rules, Rule 89(1), (2) and Rule 93.

## 3.1 Individualized risk assessment

### 3.1.1 General principles

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#### RECOMMENDATION CM/REC(2014)3 OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE TO MEMBER STATES CONCERNING DANGEROUS OFFENDERS

##### Risk-assessment principle during the implementation of a sentence

26. The depth of assessment should be determined by the level of risk and be proportionate to the gravity of the potential outcome.
27. Risk assessments should involve a detailed analysis of previous behaviours and the historical, personal and situational factors that led to and contributed to it. They should be based on the best reliable information.
28. Risk assessment should be conducted in an evidence-based, structured manner, incorporating appropriate validated tools and professional decision-making. Those persons undertaking risk assessments should be aware of and state clearly the limitations of assessing violence risk and of predicting future behaviour, particularly in the long term.
29. Such risk-assessment instruments should be used to develop the most constructive and least restrictive interpretation of a measure or sanction, as well as to an individualized implementation of a sentence. They are not designed to determine the sentence although their findings may be used constructively to indicate the need for interventions.
30. Assessments undertaken during the implementation of a sentence should be seen as progressive, and be periodically reviewed to allow for a dynamic re-assessment of the offender's risk:
  - a. Risk assessments should be repeated on a regular basis by appropriately trained staff to meet the requirements of sentence planning or when otherwise necessary, allowing for a revision of the circumstances that change during the execution of the sentence.
  - b. Assessment practices should be responsive to the fact that the risk posed by an individual's offending changes over time: such change may be gradual or sudden.
31. Assessments should be coupled with opportunities for offenders to address their special risk-related needs and change their attitudes and behaviour.
32. Offenders should be involved in assessment, and have information about the process and access to the conclusions of the assessment.
33. A clear distinction should be made between the offender's risks to the outside community and inside prison. These two risks should be evaluated separately.

See also European Prison Rules, Rules 18.8, 51.3, 52.1; 102-03.

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The management of high-risk prisoners, and especially sentence planning, cannot be successfully undertaken without assessments of the risks posed by individual prisoners. A careful appraisal should be made by the prison administration to determine whether individual prisoners pose risks to themselves and to others. Such an assessment should be undertaken when a prisoner is first admitted to prison and repeated at regular intervals. Assessments should begin with the pretrial detention period in order to inform the most suitable categorization and allocation of detainees prior to sentencing.

The range of risks assessed should include: (a) harm to self, to other prisoners or to persons working in or visiting the prison (harm-related risk); (b) threat to good order in the prison (order-related risk); (c) the likelihood of escape (security related risk); (d) committing another serious offence on prison leave or release (reoffending-related risk); and (e) instigating the commission of offences in the community in cooperation with associates in the outside world (crime-related risk).

The assessment of prisoners who are potentially high risk, based on the gravity of the offence committed and other factors, such as the circumstances of the offence, membership of an organized crime group or terrorist organization, should be more in-depth and comprehensive and therefore usually of longer duration than for most other offenders, such as those who have committed petty offences or who face short terms of imprisonment.<sup>31</sup> This is due to the complex risks and needs associated with such offenders, as well as their generally long prison sentences. In the case of pretrial detainees, an important focus of risk assessments would be the risk of detainees influencing the course of justice, including by intimidating witnesses or interfering with evidence via their contacts in the community.

Needs assessments, on the other hand, should seek to identify needs relating to learning skills, education and job skills, as well as the personal needs and characteristics associated with the prisoner's offence(s) and harmful behaviour ("criminogenic needs"). To the greatest extent possible, all needs should be addressed so as to provide prisoners with a better opportunity to live crime-free lives upon release and to reduce the risk of harmful behaviour both during and following imprisonment.

Furthermore, a physician or other qualified health-care professional should undertake a medical examination as soon as possible following admission. A significant number of high-risk offenders are likely to have a range of mental health-care needs, substance dependencies, or both (comorbidity). It is crucial that these needs are identified at the outset of a prison sentence and taken into account in the formulation of sentence plans in order to provide the appropriate support and treatment. The United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) clarify that in the course of the health assessment upon admission, particular attention should also be paid to:

"(c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment."<sup>32</sup>

It is important to note in this regard that the relationship between health-care professionals and the prisoners is governed by the same ethical and professional standards as those applicable to patients in the community, including medical confidentiality and the consent of the prisoners to any proposed treatment. Medical information should only be shared when not doing so would result in a real and imminent threat to the patient or to others.<sup>33</sup>

<sup>31</sup> Recommendation CM/Rec(2014)3 of the Committee of Ministers of the Council of Europe to member states concerning dangerous offenders, para. 26.

<sup>32</sup> United Nations Standard Minimum Rules, Rule 30(c).

<sup>33</sup> United Nations Standard Minimum Rules, Rule 32(1)(b), (c); also see World Medical Association, International Code of Medical Ethics; Recommendation Rec (98) 7 of the Committee of Ministers of the Council of Europe to member states concerning the ethical and organisational aspects of health care in prison, para. 13.

Risk and needs assessments should be conducted by appropriately trained specialist staff, with a system also established for recording the observations of other staff. As the assessment needs to cover a variety of issues, including different types of risk and needs, staff with different specializations should be involved in different types of assessments. This would include health-care specialists, including psychologists, for health-care-related needs; social workers for social rehabilitation/resettlement needs (e.g. education, job skills and family contact); a team of social workers and mental health specialists for psychosocial and criminogenic needs; and security staff for assessing different types of risk to safety and security. Specialists in child development and psychology should always be involved in the assessment of children in conflict with the law.

Assessors should undertake a detailed analysis of the best reliable information available to them about the prisoner's background, social circumstances, patterns of behaviour and offence profile. Some of such information may be made available by judicial authorities, and where appropriate (e.g. in the cases of offenders who are members of organized crime syndicates), by law enforcement agencies, to supplement and complement the prison-based assessors' own observations and assessments. Use should be made of modern risk and needs assessment instruments. There exist a variety of such instruments, developed to assess different types of risk and with a focus on different types of offenders (e.g. sex offenders, other violent offenders). Some sophisticated tools examine the scenarios in which risk increases and those in which it reduces. Risk and needs assessment tools should be reviewed and, where necessary, updated from time to time, taking into account new developments and knowledge in this field.

Risk and needs assessment instruments always contain a margin of error. With even the best risk assessment instruments, there will still be occasions when an offender will behave unpredictably or where risk proves to be more or less severe than predicted. Therefore, such instruments should never be the sole method used to inform decision-making but should be supplemented by other forms of assessments. Furthermore, neither danger nor criminogenic or other needs are intrinsically stable characteristics. Therefore, risk and needs assessments should be regarded as a dynamic process and be repeated at regular intervals by appropriately trained staff to meet the requirements of sentence planning or when otherwise necessary. In other words, risk and needs assessments are related to the management of risks and needs, and should inform the choice of appropriate interventions, or modifications to those already in place.

In countries with low resources and especially in post-conflict contexts, individualized risk assessments are rarely carried out. The classification and categorization of prisoners is usually undertaken on the basis of gender, age and sometimes pretrial status, though even this kind of classification and separation is not always in place. Those who have long or life sentences or who face the death penalty may automatically be held in extremely restricted conditions, not based on an individualized risk assessment, but purely on the length and nature of their sentences. If coupled with chronic overcrowding, ensuring safety and security in prisons where high-risk prisoners are held is particularly challenging. It is of fundamental importance that efforts are made, even in countries with scarce resources, to develop a system of individualized assessments, at least to separate those who are genuinely high risk from others, and to ensure that those who are in need of protection are protected.

### 3.1.2 Basis of risk assessments

The overriding consideration in security risk assessments is the protection of the public. Those involved in undertaking security risk assessments of high-risk prisoners need to be satisfied that the prisoner's security-related risk is declining in order to recommend progressive moves in custody, and that the risk has reduced to an acceptable level compatible with the protection of public safety in order to recommend release. A number of criteria have been identified for assessing security risks, which usually include the following:

- The threat the prisoner might present to the community if he or she were to escape
- The likelihood that the prisoner will try to escape either on his or her own or with external assistance
- Any previous history of attempting to escape and/or access to external help
- The nature of the crime for which the prisoner was convicted
- The number and types of any previous offences
- The potential threat to other prisoners and staff
- The potential risk to the public via contacts with the outside world (e.g. prisoners involved in organized crime syndicates or terrorist groups)

Initial risk assessments, related to all types of risks posed, should not over-focus on observable behaviour but should encourage the identification of less obvious features that might signify risk. Accordingly, important aspects within the risk assessments which should not be overlooked include:

- The existence of a criminal lifestyle
- The presence of sexual deviance (e.g. history of sexual violence, child abuse)
- The offender's attitude to the victim of the offence
- Thinking skills deficits, such as the failure to anticipate consequences
- Emotional immaturity such as difficulty coping with loss, rejection, or stress
- An analysis of the motivation for the violence within the offence
- The social environment of the offender (e.g. living in—and potentially returning to—economically and socially deprived areas where the influence of gangs or crime syndicates are significant)

The length of the sentence or the number of previous offences should not constitute the key criteria for the risk assessment and the allocation within the prison system, as is the case in a large number of jurisdictions. As mentioned in chapter 2, many long-term prisoners present no risk of escape or disruptive behaviour in prison. Placing these prisoners in overly restrictive custodial settings on the mere basis of the length of their sentence is not in line with the principle to allocate prisoners to the least restrictive environment necessary for their safe and secure custody; renders their social reintegration more difficult; and may constitute a waste of resources. Similarly, while considering previous offences in the context of a risk assessment, focus should equally be put on the nature and circumstances (rather than merely the number) of such offences, and to evaluate this information together with all other criteria assessed.

### 3.1.3 Types of risk and special risk groups

As mentioned above, it is vital that the risk assessment differentiates between five overriding types of risk posed:

- Risk of escape and the commitment of a serious offence should the offender escape (security-related risk)
- Risk of violence towards staff, other prisoners and visitors (harm-related risk)
- Risk to good order (order-related risk)
- Risk of reoffending on temporary or final release (reoffending-related risk)
- Risk to the public by instigating the commission of criminal acts outside prison (crime-related risk)

The type of risk the prisoner poses will have a profound impact on the risk management strategy. For example, the risk management of prisoners who are assessed to be a serious escape risk will need to emphasize security routines and measures, while that of prisoners who are assessed to represent a risk to good order may not need to emphasize security so much as efforts to change attitudes and behaviour. If apart from the prisoner's placement in a high-security setting, no effort is made to influence such prisoners, confinement to a maximum security unit runs the risk of confirming them in their disruptive behaviour. An attempt should be made to deal with antagonistic, exploitative and aggressive feelings as otherwise, these will continue to result in active or covert expression in behaviour.

**Violent extremist prisoners (VEPs):**<sup>34</sup> In the case of VEPs, there are additional and specific risks that need to be covered. Such issues would include their role within their organization or group (i.e. high or low level), their recruiting or radicalizing other offenders, maintaining or creating operational command structures in prison and plotting terrorist activities from prison, in communication with outside contacts. It is very important to understand that violent extremist prisoners do not comprise a homogenous group.

In general, the motivations, circumstances and reasons why individuals commit similar types of offence are often varied and complex. The risk assessment of such prisoners needs to be informed by a sophisticated understanding of the characteristics of any organization to which they may belong as well as their motivations.<sup>35</sup> It should not be assumed either that all offenders convicted of terrorism-related offences are committed to bringing about political or social change or to fighting for a moral or religious cause. Practice has shown that some become engaged in violent extremism because of more conventional criminal motives (for example, to make money, for the excitement or simply for the gratification of committing violence) and others get involved to fulfil more intrinsic or existential needs and desires (for example, the need for status, belonging or meaning).

It is critical, therefore, to assess each individual's personal and contextual circumstances which contribute to their offending and which are likely to contribute to such offending in the future. Such assessments sometimes use structured professional judgements, in which the assessors use their discretion to consider how certain factors may impact on risks and how

<sup>34</sup>While violent extremism is a diverse phenomenon without clear definition, it is considered in this Handbook as, and when, conducive to terrorism (see the United Nations Secretary-General's Plan of Action to Prevent Violent Extremism, A/70/674, para. 2).

<sup>35</sup>International Centre for the Study of Radicalisation and Political Violence (2010), *Prisons and Terrorism—Radicalisation and De-radicalisation in 15 Countries*, pp. 13 and 22.

these risks may be addressed through interventions or risk management strategies. In order to render these judgments systematic, considered and transparent, assessors often resort to a framework (or assessment tool), which usually focuses on three dimensions:

- *Engagement*: The circumstances or factors which may motivate an individual to engage with a violent extremist group
- *Intent*: The circumstances or factors which may enable an individual to be willing or prepared to offend on behalf of the group, cause or ideology
- *Capability*: The circumstances which may enable someone to actually commit a particular violent extremist act

Working from this basic premise, different jurisdictions will need to develop their own tools to make them relevant to their particular contexts.

**Gang members:** In a number of countries, a growing proportion of high-risk prisoners are gang members. Experience in a number of jurisdictions demonstrates that prison gangs are responsible for a high proportion of prison violence,<sup>36</sup> and there are particular risks associated with the management of such offenders. Similar to offenders convicted of terrorism-related offences, the risk of their recruiting new members is high. Research in the United States, for example, has found that almost one half of gang members in prison were not affiliated with a gang when they entered prison. According to this research, the overriding reason why prisoners joined gangs in prison was due to concerns for their safety and, in particular, fear of other prisoners, which underlines the importance of ensuring prisoner safety as well as that of the proper assessment and allocation of prisoners.<sup>37</sup> Research also indicates that there are significant variances between different gangs as well as the motivation to participate in them, which the assessment and sentence plans need to take into account in order to develop effective risk management strategies and regimes. As with other special risk groups, it is very important to assess gang members' role, status and influence within the group.

**Organized crime:** Risks associated with offenders who are members of organized crime syndicates would include their risk of escape, the risk of their continuing to operate criminal activities both in- and outside prison, including bringing drugs or other illegal items into prison and running an underground economy in prisons. In some cases, the highest risk such prisoners pose is to the public, as they may continue to instigate criminal acts outside prison by passing on orders to their associates in the community. Ascertaining their role and status within the organization, among a vast array of issues relating to their criminal activities and sphere of influence, is crucial in order to develop appropriate strategies for their categorization and allocation within the prison system. All of these risks will need to be managed by applying specific targeted security measures, which are the least restrictive necessary in each individual case to ensure the safe and secure custody of these prisoners (see chapter 5 for further detail on prison security).

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<sup>36</sup>According to a report published in 2009, in the Department of Corrections for Washington State, gang members represented up to 18 per cent of the prison population, but accounted for 43 per cent of all major violent infractions inside the prison. Similar findings were reported in the prison systems of Arizona and Texas in the United States, as well as other countries, such as Mexico and South Africa (Research Brief, Prison Gangs: A Review and Survey of Strategies, Correctional Service of Canada, August 2009, p. 9).

<sup>37</sup>Ibid., pp. 5, 29.

## 3.2 Classification

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

Classification and individualization

#### Rule 93

1. The purposes of classification shall be:
  - (a) To separate from others those prisoners who, by reason of their criminal records or characters, are likely to exercise a bad influence;
  - (b) To divide the prisoners into classes in order to facilitate their treatment with a view to their social rehabilitation.
2. So far as possible, separate prisons or separate sections of a prison shall be used for the treatment of the different classes of prisoners.

### UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (the Bangkok Rules)

#### Rule 40

Prison administrators shall develop and implement classification methods addressing the gender-specific needs and circumstances of women prisoners to ensure appropriate and individualized planning and implementation towards those prisoners' early rehabilitation, treatment and reintegration into society.

#### Rule 41

The gender-sensitive risk assessment and classification of prisoners shall:

- (a) Take into account the generally lower risk posed by women prisoners to others, as well as the particularly harmful effects that high security measures and increased levels of isolation can have on women prisoners;
- (d) Ensure that those with mental health-care needs are housed in accommodation which is not restrictive, and at the lowest possible security level, and receive appropriate treatment, rather than being placed in higher security level facilities solely due to their mental health problems

See also the United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 89(1), (2).

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As described earlier, prisoners need to be separated according to their legal status, gender and age. For most prisoners, these factors are static and change only in very few circumstances, for example, when a child becomes an adult. This separation is an overriding factor when it comes to allocation to a prison or a part of a prison<sup>38</sup> and is not dependent on any risk assessment.

Classification further differentiates the separation of prisoners, and facilitates their placement to the most appropriate prison or section of a prison that will (a) adequately address the issues of health, safety and security; and (b) contribute to the timely preparation for their

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<sup>38</sup> See United Nations Standard Minimum Rules, Rule 11.



eventual release. The classification process is based on the information gained through the individual risk and needs assessment of each prisoner, and may be further informed by potential health issues assessed in the course of the medical examination.

**Pretrial detainees:** As with other high-risk prisoners, the allocation and treatment of high-risk pretrial prisoners should be based on a risk assessment to identify the degree to which they are a risk to security, safety and order. Such a risk assessment may be made based on the offence with which they are charged and additional reports from the law enforcement officials, as to their background, affiliation with any crime syndicate or terrorist organization and circumstances of the offence, among others. It is not permissible to hold high-risk pretrial prisoners in very restricted conditions simply in order to encourage them to cooperate with investigators or to confess to their guilt. The investigating or prosecuting authority should not be able to influence the prison authorities as to how they treat prisoners who are awaiting trial.

**Women prisoners:** Risk assessment tools are most often developed for male offenders, without taking into account the gender-specific needs of women—an omission which frequently results in women being placed in higher security settings than appropriate to the level of risk they represent. It should be noted that the victims of women who commit violent offences are usually somebody they knew, frequently a husband or a partner, and that the offence is often in response to abuse. Such women do not pose a risk to others. Association with a violent extremist organization (including terrorist groups), crime syndicate or gang is more rare among women than men, and even when women are affiliated with such groups they are infrequently in leadership roles. While the question of whether women present an escape risk will depend on their risk assessments, such risk is usually low. Consequently, very few women may be justifiably required to be held in high-security settings. In line with the Bangkok Rules, prison authorities should develop and apply gender-sensitive risk assessment tools for women prisoners. The practice in some jurisdictions of assessing women's mental health-care needs as risks and allocating them to a higher security level rather than the opposite is not compatible with the rules.<sup>39</sup>

**Ex-armed forces personnel and ex-combatants of irregular armed groups:** The offending behaviour of this group of high-risk prisoners is unlikely to have been directly caused by their service, but is sometimes contributed to by their experiences and, on occasion, made possible by their training. Post-traumatic stress disorder, poor mental health, personality disorders and substance misuse often contribute to their offending. Similar concerns apply to ex-combatants in armed conflicts, who may comprise a significant proportion of prisoners in some post-conflict countries. Unlike the general population, where acquisitive crimes are the most typical offences, offences of a sexual nature or violence are the most common for those who have served in the armed forces. This has resulted in larger numbers of ex-armed forces prisoners being categorized as high risk and often located in high-security prisons. Prison administrations should ensure that these prisoners are identified and that their specific needs are assessed, particularly in terms of addressing their violent offending behaviour as well as possible mental health issues and substance disorders.<sup>40</sup>

<sup>39</sup>United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, Rules 40-41.

<sup>40</sup>See for example, Her Majesty's Inspectorate of Prisons (2014): People in Prison: Ex-service personnel. A findings paper by HM Inspectorate of Prisons; Ex-Service Personnel Supplementary Paper: Veteran data from HM Inspectorate of Prisons' inspection surveys. For further information on the rehabilitation and re-integration of ex-combatants, also see International Labour Office (2010): Guidelines for Socio-economic Reintegration of Ex-combatants.

**Other categories:** Like all other prisoners, prisoners with long-term sentences, life sentences or—in States which have not abolished the death penalty—under sentence of death should be assessed on an individual basis and allocated to appropriate conditions. The length or nature of their sentences should not dictate their categorization and allocation.

### 3.2.1 Categorization and allocation

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 89

2. (...) It is desirable to provide varying degrees of security according to the needs of different groups. (...)

#### EUROPEAN PRISON RULES

##### Rule 51

4. Each prisoner shall (...) be held in security conditions appropriate to (...) levels of risk.

##### Rule 53

5. The level of security necessary shall be reviewed at regular intervals throughout a person's imprisonment.

#### RECOMMENDATION OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE TO MEMBER STATES CONCERNING THE CUSTODY AND TREATMENT OF DANGEROUS PRISONERS

The Committee of Ministers (...) recommends the governments of Member States:

2. to apply security measures only to the extent to which they are necessarily required;
  3. to apply security measures in a way respectful of human dignity and rights;
  4. to ensure that security measures take into account the varying requirements of different kinds of dangerousness.
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Security categorization refers to assigning a security category to prisoners, which should be the lowest category consistent with managing the prisoner's assessed security-related risks, and to subsequently allocating him or her to a prison regime suitable for the management of his or her individual security level and other risks and needs.

#### DEFINITION OF SECURITY CATEGORIES (UNITED KINGDOM)

'2.1 Adult male prisoners may be held in one of four security categories.

##### Category A

Prisoners whose escape would be highly dangerous to the public or the police or the security of the State and for whom the aim must be to make escape impossible.

**Category B**

Prisoners for whom the very highest conditions of security are not necessary but for whom escape must be made very difficult.

**Category C**

Prisoners who cannot be trusted in open conditions but who do not have the resources and will to make a determined escape attempt.

**Category D**

Prisoners who present a low risk; can reasonably be trusted in open conditions and for whom open conditions are appropriate.

*Source:* National Offender Management Service, National Security Framework—Categorisation Function: Categorisation and Recategorisation of Adult Male Prisoners, PSI40/2011, Ref: NSF 1.1

In most jurisdictions, prisons are described according to their security category, which may be high, medium or low. The security category of the prison is based on the level of security that exists in the prison. A high-security prison would have significant physical, procedural and dynamic security arrangements in place so that it would be impossible for a prisoner to escape. In contrast, a low security prison may have no locks on cell doors and a low perimeter fence. In deciding on the allocation of prisoners, the principles of that all prisoners are held in the least restrictive setting necessary for their safe and secure custody should be respected, based on their individual risk assessments and without discrimination.

The small number of prisoners who are assessed and categorized as high risk would usually be allocated to a high-security prison or a high-security unit within a prison of a lower security category (e.g. a medium-security prison). The even smaller number of prisoners who are considered to be particularly dangerous may need to be held in special maximum security facilities, which may be special prisons or separate units within another prison (e.g. within a high-security prison where other high-risk prisoners are held).

The dangers of rigid classification should not be overlooked. Prisoners categorized as “dangerous” may find it difficult, if not impossible, to get away from this labeling, particularly when special secure units or maximum security prisons exist exclusively to hold such prisoners. On the other hand, sometimes the categorization of a prisoner as high-security can be regarded as a status symbol, which can attract respect from other prisoners and bring with it authority and power, resulting in a situation where prisoners may be further encouraged and enabled to continue with their criminal careers. This is yet another reason for avoiding the categorization of prisoners as high risk when it is not justified.

Review and reassessment are important features of any humane classification system which seeks to balance security and rehabilitation. They should be scheduled and conducted with reasonable frequency and with sensitivity to the individual prisoner’s development.

### 3.2.2 Concentration or dispersal

All prison services need to decide how to distribute high-risk prisoners within the prison system. This decision revolves around three questions: whether the prisoners should be held

in one place (concentration), whether they should be separated from the general prison population (separation) and whether they should be isolated from each other (isolation). In most prison systems, a mix of concentration, separation and isolation is used depending on the risk and needs assessments and the availability of facilities and resources. However, it is important to note in this regard that the United Nations Standard Minimum Rules for the Treatment of Prisoners identify prolonged (in excess of 15 days) or indefinite solitary confinement as one of the practices that should be prohibited. Permanent and total isolation may further violate Member States' obligations under the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment.<sup>41</sup>

In some jurisdictions, high-risk prisoners are dispersed among the high-security prisons within the prison estate. In others, they are concentrated in large maximum security prisons (sometimes referred to as "supermax" prisons). In other jurisdictions, where high-security prisons do not exist or are insufficient, high-risk prisoners may be allocated to regular prisons, to be held either in a separate high-security unit or placed in cells that are furnished and equipped to provide a high level of security. Such cells will usually be located in parts of the prison that are the most protected from the outside world.

There are no rules as to whether concentration or dispersal is the better strategy for all high-risk prisoners. The decision depends on the characteristics of the offenders in question. However, dispersal with partial concentration is generally the preferred option, as it avoids concentrating all high-risk prisoners in one institution, which has a number of disadvantages. Where all such prisoners are held in one place, the control of prisoners may present management challenges, for example, were the prisoners to decide to cause disruption. Housing all high-risk prisoners together could increase the risk of prison violence and the chances of illegal activities being carried out. Where tightly structured terrorist organizations are involved, they may attempt to recreate their operational command structures, make desertions more difficult, and present the prison authorities with a united front. Staff manipulation or threats against staff may also represent a higher risk. There are also concerns from the perspective of fair and humane treatment, as the balance between control and care is like to be undermined in favour of more control.<sup>42</sup> However, in jurisdictions where there is no network of high-security facilities or where they are insufficient, the best option is often to concentrate the most dangerous amongst the high-risk prisoners in one high-security unit or an available high-security prison.

The decision relating to the allocation of prisoners assessed to be less dangerous, though still categorized as high-risk, will need to take into account the specific context of the relevant jurisdiction, the available prisons and their categories, staffing and other resources.

**Violent extremist prisoners (VEPs):** VEPs still constitute a small, but growing proportion of high-risk prisoners in a number of jurisdictions worldwide: firstly, separating low-level from high-level violent extremists is an important strategy to reduce the risk of malignant influencing, while improving the possibilities of addressing their social reintegration needs, including their disengagement. Separating them also from the general prison population has its

<sup>41</sup>United Nations Standard Minimum Rules, Rule 43(a), (b); Human Rights Committee, General Comment 20, on Art. 7 of the ICCPR (1992); Committee against Torture, Concluding observations on the combined third to fifth periodic reports of the United States of America (United Nations Ref. CAT/C/USA/CO/3-5), 19 December 2014, para. 20; also see the Istanbul Protocol on the use and effects of solitary confinement (A/63/175, Annex); Report of the Special Rapporteur on torture to the United Nations General Assembly, 5 August 2011 (A/66/268), in particular paras. 75, 76, 80, 81 and 84.

<sup>42</sup>As there can be only a limited number of such institutions in one prison system, prisoners are likely to be placed far away from their homes, which will hinder or limit family contact.

advantages. This may make it easier to manage such prisoners, enabling a better use of resources, which can focus on interventions and specialist staff in one institution rather than being spread across a number of prisons. With a single institution, it is also possible to try and create a more therapeutic environment in which the impact of interventions can be fostered. Keeping VEPs away from other prisoners also ensures that there is no radicalization to violence of non-extremist prisoners.

On the other hand, concentrating all lower-level VEPs in one prison can create opportunities for them to reinforce their extremist ideology with each other. It can also lead to a situation in which maintaining control may be challenging if they do decide to cause disruption. Dispersing the prisoners to a number of institutions can have a positive impact on them as they will be able to mix with ordinary prisoners who may challenge their extremist views and the violent acts that they have committed. Integrating them among other categories of prisoners may also prevent the formation of tight groups and confront extremists with alternative perspectives and ideas that might contribute to their disengagement.

Each jurisdiction will need to carefully weigh the advantages and disadvantages of each option, taking into account the characteristics of the violent extremist group in question, individual risk assessments, and resource implications in terms of staffing and facilities, before deciding on an appropriate strategy for effective risk management.

*Members of organized crime syndicates:* Different approaches will need to be considered for high-risk prisoners who are leading members of organized crime syndicates. The risks they pose differ considerably to those of VEPs. Separating the leaders from low-level members of the same or similar organizations is also a good approach in their case, although in other respects, measures taken will need to be targeted to the particular risks posed. In Italy, for example, among other restrictive measures applied to prisoners who have committed specific crimes as members of mafia-type organizations, one preventive measure used is to allocate such prisoners away from their places of residence, due to the highly localized nature of their power and the heightened risks associated with their remaining in the territory of their influence, where they may continue to maintain covert contacts with their associates and instigate criminal activities in the community. While such a measure is generally not recommended in the case of any prisoner, due to the disruption of links with their families, in exceptional cases, such as those of leaders of mafia-type organizations, such a measure may be necessary.<sup>43</sup> This approach should always be based on individual risk assessments, which need to be repeated at regular intervals. The risks to staff may be minimized by changing their duty placement regularly.

In some jurisdictions, high-risk prisoners are moved around the system on a frequent basis, from one prison to another, with the apparent principal objective of preventing any escape plans to be carried out. Sometimes, prisoners who represent a continuing threat to good order in prisons are also moved around to share the challenges associated with their management and to give prisoners an opportunity for a fresh start in a different prison. While in some cases prisoners may have to be transferred to different prisons from time to time, using frequent transfers as a general policy has no place among good prison management practice.<sup>44</sup> Repeated transfers can cause significant harm to the prisoners concerned, triggering

<sup>43</sup>The explanatory memorandum relating to the Recommendation CM/Rec(2014)3 of the Committee of Ministers of the Council of Europe to member states concerning dangerous offenders notes that when necessary, dangerous offenders involved in organized crime should be detained in prisons located far from places where their criminal organizations have a strong presence, in order to prevent these offenders from continuing to carry out their criminal activities (para. 21).

<sup>44</sup>See, for example, the decision of the European Court of Human Rights in the case of *Khider v. France* (39364/05).

feelings of acute anxiety, disrupting links with families, presenting challenges in continuing any health treatment or education/training programmes without interruption and in adapting to a new prison environment on a constant basis.

### 3.2.3 International transfer of sentenced persons

The nature of transnational organized crime and international terrorism means that it is increasingly common for offenders to be convicted and sentenced in foreign countries. The international transfer of sentenced persons, including prisoners, is a tool of international cooperation which facilitates their fair treatment and social reintegration. Generally, it is preferable that prisoners serve their sentences in their own countries, where they have access to visits from their families and where their rehabilitation and social reintegration is aided by familiarity with the local community, language and culture. However, where proper international transfer proceedings for sentenced persons do not take place, e.g. when simply deporting or expelling them, the result may be that punishment is completely avoided and that they may resume their criminal activities. Alternatively, where prison conditions in the prisoners' home country are substandard, their imprisonment or deprivation of liberty may amount to a violation of their fundamental human rights. States are forbidden from transferring persons in such situations.<sup>45</sup>

 *For further detail, see the UNODC Handbook on the International Transfer of Sentenced Persons.*

## 3.3. Sentence planning

### 3.3.1 General principles

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 94

As soon as possible after admission and after a study of the personality of each prisoner with a sentence of suitable length, a programme of treatment shall be prepared for him or her in the light of the knowledge obtained about his or her individual needs, capacities and dispositions.

#### EUROPEAN PRISON RULES

##### Rule 103

2. As soon as possible after (...) admission, reports shall be drawn up for sentenced prisoners about their personal situations, the proposed sentence plans for each of them and the strategy for preparation for their release.

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<sup>45</sup>For example, in March 2015, German courts refused to execute the European Arrest Warrants (EAW) and to extradite three Bulgarian offenders to Bulgaria due to the extremely poor conditions in local prisons, according to reports of the prosecuting authority. (See *Sofia News Agency: German Courts Refuse Extraditions to Bulgaria Over Poor Prison Conditions*, 20 March 2015).

### RECOMMENDATION OF THE COMMITTEE OF MINISTERS OF THE COUNCIL OF EUROPE TO MEMBER STATES CONCERNING DANGEROUS OFFENDERS

34. Interventions for the prevention of reoffending should be clearly linked to the ongoing risk assessment of the individual offender. It should be planned for both the custodial and community settings, ensuring continuity between the two contexts.
  35. All plans developed with this aim in mind should include: rehabilitative and restrictive measures to reduce the likelihood of reoffending in the longer term, while affording the necessary level of protection to others; measures to support the individual to address personal needs; contingency measures to respond promptly to indications of either deterioration or imminent offending; and appropriate mechanisms to respond to indications of positive changes.
  36. Such a plan should facilitate effective communication, co-ordinate the actions of various agencies and support multi-agency co-operation between prison administration, probation workers, social and medical services and law-enforcement authorities.
  37. Plans should be realistic and have achievable objectives and should be structured in such a way as to allow the offender to understand clearly the purposes of the interventions and the expectations of him or her.
  38. The above processes should be subject to regular review, with the capacity to respond to changes in risk assessment.
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The achievement of the general purposes of a sentence of imprisonment, including for high-risk prisoners, cannot be realized unless comprehensive sentence plans for each individual prisoner are made. These plans should seek to identify the most constructive ways in which their imprisonment can best be carried out. Sentence plans, in order to be realistic, should be based on a risk and needs assessment of each prisoner, as described above. The aim of such plans should be to assist the prisoner to adjust to the reality of the sentence imposed, which—in the case of high-risk prisoners—will usually be of a long duration, to use to the full opportunities offered for progression through the prison system and, eventually, to prepare for release and a constructive use of post-release supervision. The plans should include the decisions and actions of the prison authorities and other competent authorities, their interventions in the life of the prisoner and offers of suitable programmes.

Sentence plans will have an increased likelihood of being followed if they are developed, as far as possible, with the active participation of the prisoner. Sentence planning should seek, to stimulate and motivate the prisoner to cooperate in addressing criminal behaviour and using personal, prison and community resources that promote coping with prison life and preparing for crime-free life in the community upon release. Contractual agreements that spell out what is required of prisoners and the positive or negative consequences of fulfilling, or failing to fulfil, these requirements, are useful ways of enhancing the taking of personal responsibility. Where sentence planning impinges directly on post-release matters, it should be undertaken in close collaboration with the post-release supervision authorities. This collaborative planning for release is of particular importance when the prisoner is coming towards the end of his or her sentence.

A major purpose of sentence planning should be to provide for the purposeful use of time, which, if unstructured and not used purposefully, hangs heavily upon prisoners, contributes to the onset of apathy and, potentially, the reinforcement of criminal values and behaviour. A range of suitable occupations should be provided. It may be necessary and desirable to

interweave work with other forms of occupation of educational, physical or cultural nature. This will depend on the physical and intellectual capacities of the individual prisoner. Providing for daily exercise and physical activities is no less important. Many prisoners wish to maintain health and physical fitness and counteract the effects of what easily becomes a sedentary life in prison. The provision of suitable work, educational, physical and leisure activities is also an important way of preventing or counteracting the damaging effects of long-term imprisonment.

A further important aim of sentence planning is to identify any interventions necessary to reduce the risk of disruptive behaviour in the prison or of reoffending upon release. The purpose of such interventions should be to provide prisoners with opportunities to reflect on their criminal or harmful behaviour and provide programmes that enable them to find ways of neutralizing it.

#### BENEFITS OF SENTENCE PLANNING

Sentence planning can have a number of benefits for the prison and for the prisoner.

For prisons it will:

- Provide information to assist prisons to target resources more effectively, in order to ensure that prison regimes and programmes more closely match the identified needs of offenders
- Contribute towards ensuring security and control through the identification and management of risk and keeping prisoners occupied
- Have a major impact in helping to manage offenders more consistently and more effectively
- Enable staff to make sound and defensible decisions
- Provide a comprehensive audit trail.

For prisoners it will:

- Reduce the likelihood of reoffending by identifying areas of criminogenic need or offending related factors and providing programmes and activities aimed at reducing that likelihood during custody
- Enable them to make constructive use of their time in prison
- Provide strategies to avoid future offending and further periods in prison.



*For further detail on constructive regimes, see chapter 7.*

### 3.3.2 Progress through the system

As outlined above, the prison regimes and conditions in which prisoners are held will depend on their risk and needs assessment. An important feature of such assessments is that they can be used (a) to identify the small number of prisoners who are likely to pose a continued serious threat to security, safety or good order in the prison; and (b) to distinguish them from the majority of high-risk prisoners who—although they may have committed serious crimes—will not necessarily pose a threat within the prison setting. This is in recognition of the fact that the second category's level of dangerousness may reduce over time, in response to various interventions and programmes in prison.



The aim should be to progressively move such prisoners to less restrictive settings, based on periodic individual risk assessments. The final stage of a sentence should ideally be spent in the lowest security prison, which will provide prison management and the prisoner with the best environment to prepare him or her for release. When a prisoner is moved to a lower security prison, the prison administration must ensure that the purpose of each move is specified and that new targets are set for the prisoner on arrival in the new facility.

### 3.3.3 Integrated case management

Some prison systems have established an integrated case management system for all prisoners, including high-risk prisoners, to reduce risks associated with reoffending upon release. Integrated case management can be described as a prisoner-centred, multidisciplinary approach to working with prisoners with provision for initial assessment, goal-setting and periodic reviews to measure progress. An emphasis is made on prisoners taking greater personal responsibility for their own development through active engagement with both specialist and non-specialist services in the prisons.

The integrated case management system aims to establish an effective system that facilitates closer cooperation and joint work practices between criminal justice and other relevant agencies, such as social work, housing and health agencies, as well as probation services (where they exist). In jurisdictions where judges are involved in decision-making regarding the sentence management of prisoners, they should be involved in the process of collaboration. The purpose of integrated case management is to ensure that a coherent and comprehensive risk management strategy is implemented throughout a prisoner's sentence and following release with the involvement and participation of all relevant agencies in order to improve effectiveness and prospects of successful resettlement. Integrated case management is particularly pertinent to the management of high-risk prisoners, who present challenging and complex risks and needs profiles requiring the input of services with different specializations.

In order to be effective, an integrated case management system should be based on a clear system for information-sharing. In countries with sufficient resources, this can be ensured by using electronic information systems accessible by all relevant agencies, where information such as prisoners' periodic risk and needs assessments, activities and programmes they participate in, their progress and specific resettlement needs is stored and updated. In some jurisdictions, the categorization of the prisoner as high risk is flagged on the front screen of the electronic information system so that all relevant agencies are made aware. This enables a coordinated approach to the prisoner's risk management and social reintegration. In low-resource countries, such a collaborative approach may be implemented by other means, such as regular meetings between the relevant services in the prison and outside agencies.

Some prison systems implement a process that includes a case conference model for action planning. This model brings together the prisoner, key prison staff and staff from external agencies and, as appropriate, the family of the prisoner, to examine the prisoner's progress through custody and decide on appropriate interventions in response to risks and needs identified within the ongoing risk and needs assessment system. If the prisoner is approaching release, a range of services from the community that can play a role in the prisoner's successful resettlement should also be invited (e.g. probation services, social services, housing and health-care services). The case conferences are repeated at set intervals (e.g. within six months of sentence and annually thereafter) and a risk and needs assessment is undertaken

prior to each one, to be discussed at the conference. This system ensures that the prisoner is at the centre of the integrated case management process and that a focus is maintained on issues both internal and external to the prison system. It further provides a regular forum for sharing information across agencies and assessing and managing risk in a collaborative manner.

## 4.

# Accommodation and general living conditions

One of the fundamental principles of good prison management and a requirement under international law is that prisoners shall be treated, at all times, with humanity and with respect for the inherent dignity of the human person (see chapter 1.1). This also means that prison authorities must ensure that their conditions of imprisonment meet at least their basic requirements, which include accommodation, bedding and clothing, access to adequate nutrition and water, natural and artificial light, a temperature appropriate to health, personal hygiene and sanitation facilities. All prisoners, including high-risk prisoners, are entitled to these rights.

In low-resource countries and post-conflict environments, meeting these basic requirements may pose significant challenges, especially where prisons are overcrowded, which is often the case. In such jurisdictions, there may be significant reliance on support from donor agencies to meet basic requirements, and such support is not always available. Prisoners will usually be dependent on their families to provide them with adequate food, and will not have access to sufficient space or other conditions that promote and protect physical and mental health. The Human Rights Committee has noted that States are under a positive obligation to meet the basic standards required in prisons and cannot claim that a lack of material resources and funding prevents them from doing so.<sup>46</sup>

Measures that need to be taken to improve conditions in prisons should start with a review of criminal justice policies with the aim of rationalizing the use of imprisonment, and steps must be taken to mitigate the impact of overcrowding and to maximize the use of existing capacity by careful planning and by using available space creatively. Families should never be prevented from bringing food to prisoners, where the State is not able to fulfil this responsibility adequately, though the food should always be carefully checked to ensure that illegal items are not smuggled into the prison.<sup>47</sup>

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<sup>46</sup> See Human Rights Committee General Comment 21, paragraph 4 (1992). The Human Rights Committee has reiterated this point a number of times in response to individual complaints concerning prison conditions (see, for example, *Mukong v. Cameroon* (458/1991), CCPR, A/49/40 vol. II (21 July 1994)).

<sup>47</sup> For further detail, see the UNODC *Handbook on Strategies to Reduce Overcrowding in Prisons*.

## 4.1 Accommodation

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 3

(...) [T]he prison system shall not, except as incidental to justifiable separation or maintenance of discipline, aggravate the suffering inherent in such a situation.

#### Rule 12

1. Where sleeping accommodation is in individual cells or rooms, each prisoner shall occupy by night a cell or room by himself or herself. If for special reasons, such as temporary overcrowding, it becomes necessary for the central prison administration to make an exception to this rule, it is not desirable to have two prisoners in a cell or room.

2. Where dormitories are used, they shall be occupied by prisoners carefully selected as being suitable to associate with one another in those conditions. There shall be regular supervision by night, in keeping with the nature of the prison.

#### Rule 42

General living conditions addressed in these rule, including those related to light, ventilation, temperature, sanitation, nutrition, drinking water, access to open air and physical exercise, personal hygiene, health care and adequate personal space, shall apply to all prisoners without exception.

#### Rule 113

Untried prisoners shall sleep singly in separate rooms, with the reservation of different local customs in respect of the climate.

### UNITED NATIONS RECOMMENDATIONS ON LIFE IMPRISONMENT

Steps may need to be taken:

- (a) To ensure that the actual conditions for life-sentence prisoners are compatible with human dignity and accepted minimum prison standards for all prisoners, in accordance with the Standard Minimum Rules for the Treatment of Prisoners.

See also the European Prison Rules, Rules 18 and 96; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XII(1); Kampala Declaration on Prison Conditions in Africa, Recommendations 3-5; Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines), Recommendation 25(f).

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In some jurisdictions, prisoners are held in dormitory style accommodation, whereas in others, prisoners are held in single cells, cells for two or three prisoners or in large rooms, holding six to twelve prisoners. Where larger dormitory style accommodation is used, the number of prisoners held in each dormitory may vary greatly, sometimes up to a hundred or more prisoners, depending on the jurisdiction and type of prison.

Dormitory housing brings about a whole range of safety concerns, and prisoners should not be housed in dormitories unless prison staff know enough about them to be able to assess their suitability for being housed together. High numbers of people with criminal and sometimes violent backgrounds housed together are likely to single out some vulnerable prisoners

for abuse or are prone to other types of dangerous behaviour, such as gang-related activities. Prisoners with a history of violent behaviour, either within prisons or outside, should never be housed in dormitories. Therefore, housing high-risk prisoners in dormitories is not a good practice and carries many risks. Where dormitories are used to house high-risk prisoners, extreme caution on the part of prison staff must be exercised.

In order to be able to supervise a dormitory at night, prison staff must inspect it at regular intervals, not longer than one hour. Prison staff should not enter dormitories alone at night for security reasons, though it should be noted that observation through the doors is often not effective with large dormitories, as staff will not be able to see all parts of the dormitory. In addition, a staff member needs to be stationed within hearing distance of the dormitory and be able to hear what is going on inside at all times so that help can be summoned immediately. However, this is not always feasible where large dormitories are concerned, so there should always be a means to raise the alarm within dormitories, such as an alarm bell or cord. Inspections should not be intrusive. They should be carried out in such a way as not to wake prisoners. Even with all of these precautions, housing high-risk prisoners in communal accommodation is a dangerous strategy and should be avoided.

It is good practice to house high-risk prisoners in single cells, although in some cases, depending on the nature and level of risk posed, two or three prisoners may be housed in one cell, provided that its space, ventilation, furnishing and sanitation facilities are sufficient for the needs of two or three people and meeting personal hygiene needs allows for privacy. However, it is essential that, where cells are shared, prisoners are assessed to be suitable to be held together. It should further be noted that prisoners' preference for single or shared accommodation varies significantly between different cultures. In some jurisdictions, prisoners have a strong preference for shared accommodation and may perceive single cell accommodation as isolation. This should be taken into account to the extent possible in decision-making, without jeopardizing safety and security.

Within his or her accommodation, each prisoner must have, at a minimum, a bed, a cupboard or shelving to store personal belongings, a chair to sit on during the day and a table or desk for work or study. All prisoners must have the means to summon assistance. Cell call systems should provide both a visual and an audible means of alert. Where possible, there should be access panels located outside each cell, room or dormitory to enable staff to turn off water and electricity to that accommodation in case of an incident.

Many jurisdictions are increasingly using sanitary ware (toilets, hand basins, shower trays and cubicles, and ancillary equipment) manufactured from stainless steel or solid surface material to make them hard wearing, easy to clean and to be vandal and ligature resistant. Greater use is also being made of furniture bolted to the floor or wall-mounted. These are normally fully welded or bolt-together with tamper-resistant hardware, so that there are no loose parts to break or convert into weapons, require minimal maintenance, and contain no cavities in which to hide contraband. While such arrangements do reduce certain risks associated with causing violence and disruption in prison, they impinge upon the personal autonomy of individuals considerably, and exacerbate the institutional atmosphere of the custodial environment. It is good practice for such arrangements to be the exception rather than the rule, applied only in cases where justified by a prisoner's risk assessment.

Finally, it is of utmost importance that housing prisoners in cells should not amount to isolation. The United Nations Standard Minimum Rules for the Treatment of Prisoners prohibit prolonged and indefinite solitary confinement as well as the imposition of solitary

confinement by virtue of a prisoner's sentence—provisions of particular importance in the case of high-risk prisoners (see chapter 6.5). Prisoners should spend the maximum possible time out of their cells in association with other prisoners selected on the basis of their risk assessments, and occupied in regime activities (see chapter 7). Pretrial detainees, including those considered as high risk, should benefit from a special regime in line with the presumption of innocence.<sup>48</sup> As they have not been convicted of any offence, their accommodation should be no worse, but arguably better than for convicted prisoners.

## 4.2 Bedding and clothing

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 20

Every prisoners who is not allowed to wear his or her own clothing shall be provided with an outfit of clothing suitable for the climate and adequate to keep him or her in good health. Such clothing shall in no manner be degrading or humiliating.

#### Rule 21

Every prisoner shall, in accordance with local or national standards, be provided with a separate bed and with separate and sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

See also the European Prison Rules, Rules 20.1-20.4, 21, 97; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XII, paras. 1 and 3.

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While the type of beds and bedding will vary according to local tradition, it is important that all prisoners are provided with their own beds and bedding, and that the bedding provided must be clean and suitable to the local climate. Bedding should be changed at regular intervals to ensure cleanliness.

It is not considered good practice to require prisoners to wear uniforms, as this constitutes an infringement of a person's individuality, exacerbating the negative impact of institutionalization. Where prisoners do not have adequate clothing suitable for the climatic conditions in which they are imprisoned, they should be provided with clothing by prison authorities. However, such clothing should never be degrading or humiliating. When prisoners are allowed to leave prison for whatever reason (e.g. to hospital, on leave etc.), they should not be required to wear clothing that identifies them as prisoners.

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<sup>48</sup>United Nations Standard Minimum Rules, Rule 111(3).

### 4.3 Space, light, ventilation and heating

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 13

All accommodation provided for the use of prisoners and in particular all sleeping accommodation shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, heating and ventilation.

##### Rule 14

In all places where prisoners are required to live or work:

- (a) The windows shall be large enough to enable the prisoners to read or work by natural light, and shall be so constructed that they can allow the entrance of fresh air whether or not there is artificial ventilation;
- (b) Artificial light shall be provided sufficient for the prisoners to read or work without injury to eyesight.

See also the European Prison Rules (2006), Rules 18.1 and 18.2; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XII, para. 1.

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The United Nations Standard Minimum Rules for the Treatment of Prisoners do not set down a minimum standard with regard to the amount of space each prisoner should have. This is because these standards were developed to be applied widely in all jurisdictions with their varying climatic conditions, cultures and traditions. The key part of Rule 13 is that accommodation must meet all requirements of health. In other words, the prison administration must take care to assure that conditions are not harmful to a prisoner's health. Some key international and regional bodies have made some recommendations as to the minimum space which should be provided for each prisoner.

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) considers 4 m<sup>2</sup> of living space per person as a minimum requirement in a multi-occupancy cell and 6 m<sup>2</sup> for a single-occupancy cell. The sanitary annex required for each cell, which should be fully partitioned in the case of multi-occupancy cells, is not included in this calculation, and should be added. Furthermore, the CPT considers that any cell used for prisoner accommodation should measure at least 2 m<sup>2</sup> between the walls and 2.5 m<sup>2</sup> between the floor and the ceiling. The desirable standard for multi-occupancy cells is to add 4 m<sup>2</sup> per additional prisoner to the minimum living space of 6 m<sup>2</sup> for a single-occupancy cell.<sup>49</sup> The International Committee of the Red Cross (ICRC) has recommended a minimum floor space of 5.4 m<sup>2</sup> per prisoner in single cell accommodation and 3.4 m<sup>2</sup> in shared accommodation. These are not standards adopted by the United Nations, but recommendations by the ICRC as to minimum requirements and include the sleeping space (1.6 m<sup>2</sup>) and storage space, but exclude toilet and shower (1.2 m<sup>2</sup>). In single cells, the minimum distance between the cell walls is recommended to be 2.15 m, and the ceiling should be at least 2.45 m high.<sup>50</sup>

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<sup>49</sup>Living space per prisoners in prison establishments: CPT standards (CPT/Inf (2015) 44).

<sup>50</sup>UNODC Handbook on *Strategies to Reduce Overcrowding in Prisons*, p. 15; International Committee of the Red Cross (2012): *Water, Sanitation, Hygiene and Habitat in Prisons—Supplementary Guidance*, pp. 16-17.

In setting these specifications, both the ICRC and CPT are clear in stating that the appropriate amount of space cannot be assessed by a simple measure of space alone. The application of these specifications is dependent on the actual situation in a given context. Factors that may be relevant in any given detention situation include: condition of the building; amount of time prisoners spend in the sleeping area; number of people in that area; other activities occurring in the space; ventilation and light; facilities and services available in the prison; and the extent of supervision available. This more comprehensive approach provides a more accurate picture of the reality for prisoners and staff. It serves to underline the fact that all aspects of space and its use are interrelated and a variation in one factor will impact on other factors and on the quality of the individual prisoner's experience.<sup>51</sup>

The amount of space which each prisoner has, the temperature and quality of air in each cell all have a serious impact on prisoners' physical and mental health. Sleeping in cold, damp, dark and unventilated rooms leads to a number of ailments, including tuberculosis. Spending long hours in cells, especially in those cases when prisoners do not work and do not leave the cells except for short recreation periods, may lead to muscle atrophy. All of these risks are exacerbated when accommodation is overcrowded, as is the case in many jurisdictions. Where prisoners are required to work in their cells, the work materials often crowd the place even further, while work in the cell may lead to additional health problems. Spending an extended number of hours in a badly lit area may cause permanent damage to a prisoner's eyesight. Prolonged exposure to artificial light only may also be harmful both to a prisoner's vision as well as to his or her mental well-being.

For these reasons, one of the most basic rights of all prisoners, including high-risk prisoners, is to have sufficient personal space and accommodation with windows that allow enough natural light to read or work by during the day and access to fresh air for regular ventilation. In some jurisdictions, the windows of high-risk prisoners are covered with some form of metal blind or shutter, ostensibly for security reasons, blocking most or all of the natural light. Such practices are not acceptable. The security of windows can be ensured by other means, such as bars, that do not block the light. In other jurisdictions, high-risk prisoner cells have no windows at all and the natural light might reach their cell from skylights placed in the corridor outside cells.<sup>52</sup> This practice also does not comply with the spirit or letter of the United Nations Standard Minimum Rules for the Treatment of Prisoners, which underline specifically the need for windows, not only so that prisoners may be able to read or work by natural light but also for them to have access to fresh air. Conversely, in some countries, high-risk prisoners may not be allowed to shade their windows—a practice which may interfere with their sleeping patterns, and which does not have any security justification.

Access to artificial light is also important to allow prisoners to read or work when daylight is insufficient. Prisoners should be able to regulate their own lighting, as not being able to make a decision about turning the light on or off exacerbates the feeling of powerlessness and frustration on the part of the prisoner, infringing their sense of autonomy. In this regard, it is important to note that the United Nations Standard Minimum Rules for the Treatment of Prisoners prohibit the placement of a prisoner in a dark or constantly lit cell.<sup>53</sup> Thus, every cell should have a light switch inside the cell, as well as a switch on the outside of the cell to enable staff to turn on the light to check prisoners when required. In cases where high-risk prisoners are held in dormitories (which is not recommended), the lights will have to

<sup>51</sup>Ibid.; Living space per prisoners in prison establishments: CPT standards (CPT/Inf (2015) 44, Appendix.

<sup>52</sup>Shalev, S. (2009): *Supermax—Controlling risk through solitary confinement*, pp. 117-18.

<sup>53</sup>United Nations Standard Minimum Rules, Rule 43(1)(c).



be left on, but dimmed, so that prison staff are able to supervise the prisoners effectively during the night. Lights may also have to be left on during the night in the cases of prisoners who are at risk of suicide or self-harm, for temporary periods, while they receive proper treatment suitable to their needs.

Cells holding all prisoners, including high-risk prisoners, should be maintained at a suitable temperature which ensures that prisoners' physical health is not put at risk, taking into account the local climate and seasonal variations.

## 4.4 Food and water

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 22

1. Every prisoner shall be provided by the prison administration at the usual hours with food of nutritional value adequate for health and strength, of wholesome quality and well prepared and served.
2. Drinking water shall be available to every prisoner whenever he or she needs it.

See also Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XI and the European Prison Rules, Rules 22.1-22.6

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Access to adequate nutrition and water is one of the most fundamental rights of all prisoners, including high-risk prisoners. Food provided to high-risk prisoners should be fresh, nutritious, properly balanced and of adequate calorific content. Any prison director will readily admit that complaints about quality and/or quantity of food are among the most common he or she receives. One simple way for the prison director to assess the validity of these complaints is to eat or sample—on a regular basis—the food served to prisoners.

Prison authorities must ensure non-discrimination and also take positive action to make sure that any specific dietary needs in accordance with the prisoner's religion or belief are met.<sup>54</sup> This is essential not only from the perspective of freedom of religion and a States' duty to respect the religious beliefs of each individual, but also from the perspective of good prison management. Where prisoners are not provided with the requirements prescribed by their religious beliefs, this is likely to lead to dissatisfaction, distress and tension within the prison, putting order and discipline at risk.

In addition to the quality and quantity of the food, other important nutrition-related factors are where, when and how often the meals are taken and with what utensils. Meals should be served at normal times, similar to the times when food is served in the community. Prison staff should also make all efforts to assure that the utensils are clean and in accordance with local customs of eating. Kitchens where food is prepared should be hygienic and free from

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<sup>54</sup> See the reports of the Special Rapporteur on freedom of religion or belief, Asma Jahangir, including United Nations Docs. A/60/399, para. 75; A/HRC/4/21/Add.1, paras. 57-68; and A/HRC/10/8, para. 44.

infestation. High-risk prisoners may be allowed to prepare their own food in the communal area of their units or in a kitchen area adjacent to their cells. Such arrangements will help increase their feeling of autonomy and have a positive impact on their mental well-being. Kitchen utensils to which prisoners have access need to be closely supervised and accounted for. However, prisoners who pose a risk to others should not be allowed to use sharp knives and other similar utensils. In some jurisdictions, kitchen utensils are removed from prisoners' possession after meal preparation to prevent them being used as tools to assist an escape. The key point being that a risk assessment should be undertaken and appropriate action taken when the risk changes.

Drinking water should be available to prisoners at all times. When cells are not equipped with taps carrying drinkable water, staff members should devise a system for keeping drinkable water in constant supply. Such a system may consist of issuing prisoners with clean plastic bottles or other safe containers to keep the water in, for example, always ensuring that the water is clean and available in the cell, without prisoners having to ask for it.

## 4.5 Sanitation, cleanliness and personal hygiene

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 15

The sanitary installations shall be adequate to enable every prisoner to comply with the needs of nature when necessary and in a clean and decent manner.

#### Rule 16

Adequate bathing and shower installations shall be provided so that every prisoner may be enabled and required to have a bath or shower, at a temperature suitable to the climate, as frequently as necessary for general hygiene according to season and geographical region, but at least once a week in a temperate climate.

#### Rule 17

All parts of a prison regularly used by prisoners shall be properly maintained and kept scrupulously clean at all times.

#### Rule 18

1. Prisoners shall be required to keep their persons clean, and to this end they shall be provided with water and with such toilet articles as are necessary for health and cleanliness.
2. In order that prisoners may maintain a good appearance compatible with their self-respect, facilities shall be provided for the proper care of the hair and beard, and men shall be enabled to shave regularly.

### UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (the Bangkok Rules)

#### Rule 5

The accommodation of women prisoners shall have facilities and materials required to meet women's specific hygiene needs, including sanitary towels provided free of charge and a regular supply of

water to be made available for the personal care of children and women, in particular women involved in cooking and those who are pregnant, breastfeeding or menstruating.

See also the European Prison Rules, Rule 19; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XII, para. 2.

Prisoners' ability to maintain their personal hygiene determines to a large extent their capacity to keep up their self-respect. Personal hygiene is also fundamental to physical health. The prison administration needs to supply prisoners, at a minimum, with soap, toothbrushes, toothpaste and towels. When prisoners are allowed to receive or purchase such items from outside, the prison still has the responsibility to have these items available, since some prisoners will not be able to afford them. Furthermore, prisoners should have regular access to adequate facilities for bathing or showering. Ready access to hot and cold running water would obviously be the ideal situation and should be the goal of every prison. In tropical climates, prisoners may use cold water to wash themselves. If running hot water is not available often enough, arrangements may be made to heat water and to provide prisoners with washbasins. Prisoners employed in very strenuous or dirty jobs should be able to take a shower at the end of each shift. Furthermore, prisoners should have access to washing facilities (not in living accommodation) to wash their personal clothing.

In terms of risk management, prison administrations should keep in mind that prison showers are high-risk areas, both in terms of a potential location from which to escape as well as from a personal safety perspective. Staff should provide effective supervision of shower areas and not be intimidated by prisoners from doing so. Such supervision should always be undertaken by staff members of the same sex as the prisoners.

Prisoners should be allowed to wear facial hair if they wish so, while men who do not have beards should be enabled to shave regularly. Access to blades or other shaving instruments may for security reasons have to be closely supervised.<sup>55</sup> As a general rule, prisoners' heads should never be shaved against their will, except for demonstrable medical reasons. It is also important to take into account the gender-specific needs of women prisoners when it comes to personal hygiene. For example, women should have access to water at all times, especially when they are menstruating, pregnant or breastfeeding.<sup>56</sup> Furthermore, it should be recognized that personal hygiene and washing can also include a religious dimension. The United Nations Standard Minimum Rules for the Treatment of Prisoners provide that the religious beliefs and moral precepts of prisoners shall be respected, and prohibit any discrimination in this regard. This means that prisoners should be able to take care of their personal hygiene in accordance with their religious beliefs.<sup>57</sup>

All prisoners, including high-risk prisoners, should have access to a toilet at all times. Nobody should be put in a position when one's ability to take care of the most basic physical needs depends on a guard's availability or willingness to open the door and lead a prisoner to a

<sup>55</sup>In addition, staff members must make sure that no shaving instruments are shared by two or more prisoners.

<sup>56</sup>Menstruating women should be able to wash themselves and their undergarments as often as they need to, and be provided with sanitary material typically used by menstruating women in the country (such as pads, tampons, cotton, cloths). These arrangements should be available to women prisoners under conditions in which they do not need to be embarrassed asking for them. In those prisons where women live with their children, provisions should be made for adequate hygienic conditions and facilities for infants. For further detail, see the UNODC *Handbook on Women and Imprisonment* (2nd edition).

<sup>57</sup>United Nations Standard Minimum Rules, Rule 2(1); also see Rule 66.

bathroom. Toilets located in or adjacent to the cells should have covers and should be separated from the living area by a wall or, at the very least, a partition. This is particularly important in prisons where prisoners eat in the cell. All prisoners must be able to use the toilet in privacy, away from other prisoners. This is defined to mean full body visual screening from all points in the cell or room. In shared accommodation, there should be a sanitary annex ventilated separately to the living area. In single cell accommodation, there is no justification for staff to see toilet areas unless the prisoner presents a self-harm or suicide risk (as certified by a health-care practitioner). In these cases, and in dormitory-type cells, if supervision of toilet areas is needed for security reasons, such supervision should always be done by staff members of the same sex as the prisoners. Efforts should be made to provide all cells with flushable toilets; if this is impossible, containers used need to be emptied several times a day. Toilet paper and running water should be kept in constant supply.

Prisoners should be required to keep their cells clean, and the prison administration needs to provide the necessary supplies to do so, such as buckets, soap, mops, brooms, etc. Each prison should devise a routine for maintaining the cleanliness of common areas of the prison, using prisoners to undertake the work and devising a system of remuneration or rewards for the work performed. Appropriate security procedures should be put in place to monitor prisoners while they are undertaking their cleaning duties and to ensure that all hazardous materials (chemicals, cleaning agents, caustics, etc.) issued to prisoners, or drawn by staff, are in the quantity required to accomplish an immediate task and put in canisters or dispensers labelled to identify the contents.

## 4.6 Special conditions of imprisonment

In some countries, leaders of gangs and organized crime syndicates may be granted special privileges, such as better conditions in their accommodation, and be allowed to keep an excess amount of personal property in their cells. In others, wealthy prisoners may be able to buy privileged conditions. No prisoner should be accorded special privileges on the basis of their status or wealth. This is different from measures to protect and promote the rights of prisoners with special needs, which are required, and which should not be regarded as being granted privileges.<sup>58</sup>

Each prison should have a written policy establishing standard conditions and facilities in cells, rooms or dormitories, limitations on the amount of personal property a high-risk prisoner may have in his/her possession, a listing of allowable items and maximum value, and procedures for managing prisoner property. The amount and type of property allowed should be strictly controlled. All items that are not on the prisoner's property inventory or allowable property list should be confiscated during searches. Preventing staff corruption and manipulation is also vital in this respect (see chapter 2).

 *For legitimate incentives and earned privileges, see chapter 6.2.2.*

<sup>58</sup>United Nations Standard Minimum Rules, Rule 2(2).

## 4.7 Prisoners under sentence of death

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 45

1. Solitary confinement (...) shall not be imposed by virtue of a prisoner's sentence.

### ECONOMIC AND SOCIAL COUNCIL RESOLUTION 1996/15

The Economic and Social Council, (...) 7. Urges Member States in which the death penalty may be carried out to effectively apply the [United Nations] Standard Minimum Rules for the Treatment of Prisoners, in order to keep to a minimum the suffering of prisoners under sentence of death and to avoid any exacerbation of such suffering.

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In some prison systems, prisoners under sentence of death are held segregated from all other prisoners in an area that is often referred to as “death row”. In a number of countries, this involves separation in some form of solitary confinement, without any security justification. The bleak isolation and years of uncertainty as to the time of execution can result in what is sometimes called “death row syndrome/phenomenon”, which has been found to amount to cruel, inhuman and degrading punishment in violation of international human rights law by the European Court of Human Rights.<sup>59</sup> In other countries, prisoners are held in common cells along with other prisoners who are in the same legal position.

High-risk prisoners under sentence of death retain all the rights to which prisoners in general are entitled. Furthermore, prisoners under sentence of death have special needs due to the most extreme form of sentence that they are under. It is therefore essential to ensure that prisoners under sentence of death do not receive a lower standard of treatment in terms of such matters as food, health care, hygiene, exercise, activities and association with other prisoners. The Human Rights Committee has equally clarified that high-risk prisoners who are facing the death penalty should not be subjected to unnecessary restrictions on their movement within prison or to more severe treatment simply because they have been sentenced to death.

“The Committee notes that the author [Xavier Evans] was detained in solitary confinement on death row for a period of five years in a cell measuring 6 by 9 feet, with no sanitation except for a slop pail, no natural light, being allowed out of his cell only once or twice a week during which he was restrained in handcuffs, and with wholly inadequate food that did not take into account his particular dietary requirements. The Committee considers that these—uncontested—conditions of detention, taken together, amount to a violation of article 10, paragraph 1, of the Covenant.”

Source: Human Rights Committee, *Xavier Evans v. Trinidad and Tobago*, 2003

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<sup>59</sup> *Soering v. United Kingdom*, European Court of Human Rights, App. No. 00014038/88 (7 July 1989); reaffirmed by the Parliamentary Assembly of the Council of Europe in 2001 (Resolution 1253).

The United Nations Standard Minimum Rules for the Treatment of Prisoners echo this position by excluding the imposition of solitary confinement if it is solely based on a prisoner's sentence, which encompasses prisoners sentenced to death. In terms of good prison management, there is no justification for holding such high-risk prisoners routinely in isolated conditions, where they have no access to any facilities for work, education or cultural activities. Their death sentence should not involve additional punishment in respect of their conditions and the prison administration should do all in its power to reduce the mental anguish which may result from the nature of the sentence and the lengthy process of appeal.

# 5.

## Ensuring effective security

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS

#### Rule 89

2. (...) It is desirable to provide varying degrees of security according to the needs of different groups. (...)

### EUROPEAN PRISON RULES

#### Rule 51

1. The security measures applied to individual prisoners shall be the minimum necessary to achieve their secure custody.

#### Rule 53

1. Special high security or safety measures shall only be applied in exceptional circumstances.
  2. There shall be clear procedures to be followed when such measures are to be applied to any prisoner.
  3. The nature of any such measures, their duration and the grounds on which they may be applied shall be determined by national law.
  4. The application of the measures in each case shall be approved by the competent authority for a specified period of time.
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The credibility of any prison system rests on its ability to keep prisoners, particularly high-risk prisoners, in custody—in other words, to prevent escapes. Preventing escapes is a fundamental activity of prison management as it protects the public from further criminal acts; contributes to giving the public, media and politicians confidence in the criminal justice system; and enables prisoners to benefit from rehabilitation activities provided within the prison system. The consequences of escapes by high-risk prisoners can be severe. There have been instances where escaped high-risk prisoners have perpetrated acts of terrorism; murdered and/or seriously injured members of the public and law enforcement personnel; and committed other serious criminal activity. This being said, prison security also refers to measures necessary to prevent high-risk prisoners from directing criminal activity taking place outside

the prison. Such criminal activity may include conducting organized crime; directing terrorist or gang activity; organizing drug trafficking; and seeking to intimidate or corrupt witnesses, judiciary, lawyer or jurors.<sup>60</sup>

The maintenance of security is a fundamental skill in the management of prisons and prisoners. It is a skill which sets managing the prison system apart from most other organizations or professions, including the police. While prisoners do not like being in prison, the majority of them accept the reality of their situation. Provided they are subject to appropriate security measures and fair treatment, they will not try to escape or seriously disrupt the normal routine of the prison. A small number of prisoners, however, may well do everything in their power to try to escape. As emphasized in chapter 4, this means that the prison authorities should assess, on an individual basis, the risk posed by each prisoner in order to make sure that all are subject to their appropriate conditions of security, neither too high nor too low. Different levels of risk call for different levels of security.

There are a number of reasons why security measures to which prisoners are subject should be the minimum necessary to achieve their secure custody. The fewer the number of high-security prisoners, the more likely it is that staff will be aware of those prisoners and focus their attention on them. In addition, lower levels of security tend to involve more humane treatment than higher security levels, so good practice is to hold as few prisoners in high-security conditions as possible. At a practical level, security is expensive so the more prisoners are held in higher security conditions, the greater the cost to the State.

It is possible to ensure the secure custody of high-risk prisoners while at the same time respecting their fundamental freedoms and human rights. While it is clear that limitations on certain rights may be necessary and legitimate, these should never go as far as undermining the human dignity of prisoners. A number of jurisdictions have adopted the approach of having intensive perimeter security to prevent escape and ensure public protection, alongside more dynamic internal security which allows for purposeful activity and controlled contact with families and the outside world. These issues will be explored in subsequent chapters.

## 5.1 Physical security

A fundamental aspect of prison security is the physical security of the institution. Aspects of physical security include the architecture of the prison buildings, the strength of the walls of those buildings, the bars on the windows, the doors and walls of the accommodation units, the specifications of the perimeter wall as well as fences, watchtowers and so on. They also include the provision of physical aids to security such as locks, cameras, alarm systems (internal and external), x-ray machines, metal detectors and radios.

Good practice is to set minimum physical security standards for each type of prison, and for each element within that prison. The specification for perimeter security, for example,

<sup>60</sup>The commentary to Recommendation CM/Rec(2014)3 of the Committee of Ministers of the Council of Europe concerning dangerous offenders clarifies that offenders whose dangerousness is determined by their involvement in organized crime and/or terrorism create specific demands, in particular as far as questions of security and public order are concerned: “[T]he development of phenomena such as violence and/or proselytism in prisons needs to be avoided; when necessary, these dangerous offenders should be detained in penitentiary establishments located far from places where criminal organizations have a strong presence; these dangerous offenders should not be able to carry on with their criminal activities while in detention (for example, they should not have the opportunity to transmit orders to their accomplices on the outside)” (CM(2014)14 add.1, para. 21).



may include an outer concrete wall and an inner prison mesh-type fence. The height, width, foundations, building materials and method of construction would be specified, along with the distance between the wall and fence, the type and location of perimeter lighting, perimeter alarm system and, where applicable, a CCTV system to trigger the cameras when a perimeter alarm is generated.

In designing the physical aspects of security, a balance needs to be found between the best way of achieving the required security level and the need to respect the human dignity of prisoners. For example, it is possible to use architectural designs which meet the need for cell and dormitory windows to be secure while, at the same time, meeting the standards for access to natural light and fresh air. Physical aids to security such as cameras, monitoring and alarm systems by definition intrude on personal privacy and their use should be set out in relevant laws, policies or regulations. In making decisions about where they have to be placed, there needs to be a balance between legitimate security requirements and the obligation to respect individual privacy.

The use of physical security instruments, such as chains, handcuffs and fetters, that are applied directly to prisoners, can be a contentious issue. The United Nations Standard Minimum Rules for the Treatment of Prisoners address, in detail, the circumstances in which physical security instruments may be used as well as the principles which should govern their use. The rules also emphasize, however, that “[t]he prison administration should seek access to, and provide training in the use of, control techniques that would obviate the need for the imposition of instruments of restraint or reduce their intrusiveness”.<sup>61</sup>

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 47

1. The use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited.
2. Other instruments of restraint shall only be used when authorized by law and in the following circumstances:
  - (a) As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority;
  - (b) By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property; in such instances, the director shall immediately alert the physician or other qualified health-care professionals and report to the higher administrative authority.

##### Rule 48

1. When the imposition of instruments of restraint is authorized (...), the following principles shall apply:
  - (a) Instruments of restraint are to be imposed only when no lesser form of control would be effective to address the risks posed by unrestricted movement;
  - (b) The method of restraint shall be the least intrusive method that is necessary and reasonably available to control the prisoner’s movement, based on the level and nature of the risks posed;

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<sup>61</sup>United Nations Standard Minimum Rules, Rule 49.

(c) Instruments of restraint shall be imposed only for the time period required, and they are to be removed as soon as possible after the risks posed by unrestricted movement are no longer present.

2. Instruments of restraint shall never be used on women during labour, during childbirth and immediately after childbirth.

*See also the European Prison Rules, Rule 68.*

While physical security is a core element of ensuring that high-risk prisoners do not escape, there is a tendency to overrely on the physical elements of security, which can have a negative impact on the humanity of a prison. Removing prison staff from all, or most, direct contact with prisoners through the use of physical barriers, for example, is unlikely to be justifiable on security grounds. Prisons should also ensure that they are not reliant on one type of physical technology security method in order to prevent natural disasters, human failure and technical breakdown which may render physical security technology unusable.<sup>62</sup>

## 5.2 Procedural security

In many jurisdictions, the prison estate comprises a wide variety of buildings, many of which date from previous centuries, others which are redundant military camps, and a few which are modern purpose-built establishments. The physical fabric of these older prisons is often neglected and consists of poor features, such as limited visibility and blocked lines of sight. The reinforcement of internal structures is often not of the latest standards. It is essential, therefore, that the physical security is complemented by other forms of security.

Security requires effective systems and procedures, coordinated both nationally and locally. Procedures play an important role in preventing escapes and are regarded as a fundamental aspect of prison security. Prison staff often learn, or are reminded of how to perform a security-related task through procedures. Since the human memory is prone to play tricks on everyone, it is highly likely that most people will forget how to do a task that is not repeated with great frequency, hence the need for procedures. In each prison, there should be a clearly understood set of procedures which describes how and when staff should carry out certain functions. Procedures are becoming more critical as the use of advanced technology increases, especially when it comes to procedures for monitoring CCTV, perimeter security systems and electronic locking.

A procedure can be defined as a process that has been standardized as an approach expected to achieve regulation, consistency and fairness and to assist prison managers and staff to carry out their duties. Procedures often include checklists that provide extra control to assure that work is performed properly. Procedures can also provide detailed information about special problems that are known to occur. On the basis of policies, procedures set out how to perform a task in the optimum manner and ensure consistent application within each, and across all, prisons. More specifically, policies define what is to be done, whereas procedures:

<sup>62</sup>Where applicable, three different systems (out of image digital analysis, thermal vision, microwave, electromagnetic fields, and physical pressure) usually provide sufficient resilience.

- Outline how to carry out the policies
- Identify a series of steps to be taken in order to accomplish an end goal
- Define the mechanisms to enforce policy
- Provide a quick reference in times of crisis
- Are the basis of staff training
- Help eliminate the problem of a single point of failure

Good quality procedures have the following features. They are written and presented in a clear and accessible style and format; issued in good time for its proper implementation; are as short as possible without excluding relevant material; and are accessible and available, reproducible and can be updated and/or deleted.

Security procedures can cover many aspects of security-related work. At a minimum, good practice suggests that there should be procedures covering: (a) searching strategy and conducting searches; (b) monitoring and accounting for prisoners; accounting for items presenting a risk, such as tools; (c) monitoring contact with the outside world; (d) assessment and classification of prisoners; (e) communications and surveillance; and (f) information gathering and security intelligence systems.

### 5.2.1 Searching

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 50

The laws and regulations governing searches of prisoners and cells shall be in accordance with obligations under international law and shall take into account international standards and norms, keeping in mind the need to ensure security in the prison. Searches shall be conducted in a manner that is respectful of the inherent human dignity and privacy of the individual being searched, as well as the principles of proportionality, legality and necessity.

##### Rule 51

Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy. For the purpose of accountability, the prison administration shall keep appropriate records of searches, in particular strip and body cavity searches and searches of cells, as well as the reasons for the searches, the identities of those who conducted them and any results of the searches.

##### Rule 52

1. Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches. Intrusive searches shall be conducted in private and by trained staff of the same sex as the prisoner.
2. Body cavity searches shall be conducted only by qualified health-care professionals other than those primarily responsible for the care of the prisoner or, at a minimum, by staff appropriately trained by a medical professional in standards of hygiene, health and safety.

**Rule 60**

1. Admission of visitors to the prison facility is contingent upon the visitor's consent of being searched. The visitor may withdraw his or her consent at any time, in which case the prison administration may refuse access.
2. Search and entry procedures for visitors shall not be degrading and shall be governed by principles at least as protective as those outlined in rule 50 to 52. Body cavity searches should be avoided and should not be applied to children.

**UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (the Bangkok Rules)**
**Rule 19**

Effective measures shall be taken to ensure that women prisoners' dignity and respect are protected during personal searches, which shall only be carried out by women staff who have been properly trained in appropriate searching methods and in accordance with established procedures.

**Rule 20**

Alternative screening methods, such as scans, shall be developed to replace strip searches and invasive body searches, in order to avoid the harmful psychological and possible physical impact of invasive body searches.

**Rule 21**

Prison staff shall demonstrate competence, professionalism and sensitivity and shall preserve respect and dignity when searching both children in prison with their mother and children visiting prisoners.

See also the European Prison Rules, Rule 54; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XXI.

Many illicit items infiltrated into prisons arrive through social visits.<sup>63</sup> The initial searching of visitors upon arrival is the main safeguard against smuggling. If searching is not carried out efficiently, this safeguard is lost. Procedures for searching visitors should be clearly set out in written instructions, and staff should be properly trained and proficient in the use of X-ray and metal detecting equipment. It is important to emphasize that search and entry procedures must not be degrading, in particular in the case of children visiting prisoners, and that as opposed to prisoners, visitors may withdraw their consent to be searched at any time. At the same time, procedures should not be ignored because of time pressure, belligerent prisoners or visitors or to meet statistical targets. The consistency of application of procedures should be closely monitored. The design of, and procedures within, each visiting room should also be given careful consideration.

Once illicit items have infiltrated the prison, the only defence against their use is a thorough search programme. Searching strategies should not be aspirational, but based upon a realistic appreciation of what is necessary and what is possible. Realistic local searching policies, properly and professionally undertaken, will have a deterrent effect upon prisoners. There are different areas of the prison or situations in which searching is required, including searching prisoners, visitors, staff, contractors, vehicles, equipment, goods, stores, mail, property, workshops, sports fields and accommodation. Some prison systems make extensive use of specially

<sup>63</sup> Other means of illicit items entering the prison include: staff corruption; prisoners returning to the prison (from work parties, court visits or temporary leave); and/or items being thrown into the prison.

trained dogs to detect drugs, explosives, weapons and mobile phones. As prisoners may breach the physical security of the cell by tampering with bars, locks or other physical security measures (walls, ceilings and floors), prisons should have procedures in place for conducting accommodation fabric checks at a frequency compatible with their individual needs.

Given the importance of searches to ensure security in the prison, but also the potential for abuse if not conducted properly, the United Nations Standard Minimum Rules for the Treatment of Prisoners provide detailed guidance on searches. Importantly, searches must not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy, and the prison administration should ensure accountability by keeping proper records of searches, including, inter alia, the identities of those who conducted them. Staff should exercise special sensitivity when searching women prisoners. Male members of staff should never be involved in personal searches of women prisoners. The need to observe common decency, for example, by not requiring a prisoner to strip completely naked in the course of a body search, also applies especially in the case of women prisoners.<sup>64</sup>

Intrusive searches, including strip searches and body cavity searches, should be undertaken only if absolutely necessary, with a clear preference given to alternatives to intrusive searches (e.g. scans). If necessary, intrusive searches should be conducted in private and by trained staff of the same sex as the prisoner. In the case of body cavity searches, only medical staff other than those primarily responsible for the care of the prisoner, or, at a minimum, staff appropriately trained by a medical professional in standards of hygiene, health and safety, may perform the searches.

Prisoners should be present when their personal property is being searched unless investigating techniques or the potential threat to staff prohibits this. Staff should also ensure that the searching is completed according to procedures and that they are not intimidated or distracted by prisoners during the search. Care should be taken to maintain the confidentiality of legal correspondence and medical files, and religious items should be treated with respect and sensitivity during searches.

## 5.2.2 Accounting and movement control

**Accounting for prisoners:** The system and procedures for accounting for prisoners is crucial to the security of the prison and the safety of both staff and prisoners. A count is a physical acknowledgement of the number of prisoners in certain locations. The number of prisoners in each area is compared with the number assigned there. Procedures should set out:

- When to count prisoners
- Where to count prisoners
- How to count prisoners
- Who should count prisoners
- Arrangements for the recording of counts
- When there should be a prohibition on the movement of prisoners
- Counting procedures during emergencies

<sup>64</sup>United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, Rules 19 and 20.

For example, prison staff should be under a duty, upon taking charge of a group of prisoners, to count the number of prisoners and to remain responsible for the charge and supervision of each prisoner in the group until the prisoners are delivered into the charge and supervision of a relieving member of staff.

**Accounting for items presenting a risk:** High-security prisoners are good at stealing tools and equipment that belong to the prison, which may then be used to assist with escapes. It is critical that each prison has in place procedures for the control of tools and equipment. The security department should have ready access to up-to-date inventories of all equipment and tools held in the prison and must arrange frequent but irregular checks of all shadow boards, tool cupboards and tool stores in the prison, and record the outcome of those checks in auditable form. Effective management of tools, equipment and property requires that:

- Every tool has a unique number etched on it
- Each prisoner has an identification tally
- The tally is placed on board to indicate which tools have been issued
- All tools are secured in locked cabinets when not in use
- Tool checks are conducted at end of every work session
- No prisoner movement takes place until all tools have been accounted for

Effectively managing the movement of prisoners within a prison depends on:

- Staffing levels being commensurate with the number of prisoners
- The level of staff skills and competency
- The layout/configuration of the prison
- The effectiveness of static security infrastructure
- The ability to effectively classify and separate categories of prisoners

Source: DPKO (2013): Prison Incident Management Handbook, p. 26.

**Movement control:** Movement control procedures should be put in place so that prisoner movements are risk assessed and clearly recorded and controlled from a central point. There should be designated movement routes agreed, following threat and risk assessments. The routes should be safe and easily observed, particularly by CCTV, where available. Staff supervising movements should be in radio communication. So far as possible, routes should avoid open areas or access to rooftops. The order of movement should be centrally controlled but unpredictable.

It is important that high-risk prisoners are searched on departure from each location and logged out. Prisoners should also be logged in on arrival at their approved destination. No other movement of individual high-risk prisoners should be permitted until mass movement has been completed and the prison roll (total number of prisoners in the prison accounted for) is correct. If the roll is not correct, a standstill (freeze all movement of prisoners) roll-check should take place at the specific location showing discrepancy. If this does not reconcile the roll, a standstill roll-check should take place at every location to identify discrepancy. If this also fails to reconcile the roll, all prisoners should be returned to accommodation blocks for lock-down roll-check (all prisoners located in cells, rooms, or dormitories).

## 5.3 Dynamic security

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 76

Training [of all prison staff before entering on duty] ... shall include, at a minimum, training on:

- (c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and meditation.

### EUROPEAN PRISON RULES

#### Rule 51

2. The security which is provided by physical barriers and other technical means shall be complemented by the dynamic security provided by an alert staff who know the prisoners who are under their control.
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While physical and procedural security arrangements are essential features of prison life, they are not sufficient in themselves. Security also depends on an alert staff who interact with prisoners, who have an awareness of what is going on in the prison and who make sure that prisoners are kept active in a positive way. This is often described as dynamic security.

Dynamic security is much more qualitative than static security measures. Where there is regular contact with prisoners, an alert staff member will be responsive to situations that are different from the norm and may present a threat to security. Staff who are engaged with prisoners in these ways will be able to prevent escapes and incidents occurring. Where dynamic security is operating effectively, staff will be monitoring and reading their environment and the prisoners within it. The strength of dynamic security is that it is likely to be proactive in a way which recognizes a threat to security at a very early stage. It will operate best where there is professional and well-trained staff who are aware of what is happening in the prison community before an incident occurs. Placing an emphasis on the need for prison staff to establish positive relationships with prisoners is key to dynamic security. This concept rests on the notion that engaging with prisoners and getting to know them can enable staff to anticipate and better prepare themselves to respond effectively to any incident that may threaten the security of the prison or the safety of staff and prisoners.

A fundamental aspect of dynamic security is that it provides prison management with essential information on what is happening within the prison. Prison staff who mix with prisoners observe and listen to what is going on and obtain information from prisoners. They are able to feed this information into the security system so that valuable intelligence is developed. Many escapes have been prevented through effective dynamic security and information gathering (for prison intelligence, see chapter 6.7). The United Nations Standard Minimum Rules for the Treatment of Prisoners foresee that dynamic security shall be within the minimum content of training of prison staff.

The principles of dynamic security apply especially in high-security prisons. Staff will generally accompany these prisoners whenever they are outside their living accommodation or

moving from one part of the prison to another. The supervision of these prisoners involves much more than a mere escort function. Staff should interact with them in as positive a manner as possible. Furthermore, an emphasis on dynamic security is particularly suitable to meet the needs of female prisoners, due to the particularly harmful effects which high-security measures can have on women. Creating a positive climate in prisons and using disciplinary measures only when strictly necessary should comprise essential components of a gender-sensitive approach to prison management.

In summary, individualism, relationship and activity come together in the widely shared concept of dynamic security. This approach to safety for the public (preventing escapes) and safety for the prison (internal order) recognizes that both are only really possible through the relationship between staff and prisoners. Dynamic security is knowing what is going on in a prison, in addition to providing a safe and secure background against which the whole range of activity making up the life of a prison takes place.

 *For further detail, see the [UNODC Handbook on Dynamic Security and Prison Intelligence](#)*

## 5.4 Concentric circles of protection

There is always a risk that elements of physical and procedural security may fail. Physical security arrangements may be breached, power may fail, and equipment break down. Staff may not follow procedures, be subject to conditioning, manipulation and corruption, or human error may occur. In order to reduce the risk associated with failures in physical and procedural security, an underlying principal for providing good security involves a concept called “Concentric Circles of Protection”. This concept involves the use of multiple “rings” or “layers” of security. The application of this concept ensures that even if one layer or element of security fails, prisoners will need to overcome a number of other security measures to escape. Having multiple layers decreases the probability that a prisoner will be able to escape or that an intruder will be able to gain access.

The first layer is located at the boundary of the prison, and additional layers are provided as you move inward through the prison toward the most secure area of the prison. The more layers exist between the outside world and a prisoner, the better the security is likely to be. At each layer, there is an opportunity to deter, detect, disrupt and delay a prisoner or intruder. For example, prisoners or intruders attempting to penetrate a layer can be detected and intercepted with an appropriate security response. It is possible to decrease the prisoner’s or intruder’s chance of success by adding layers, or by increasing the effectiveness of each layer, or by doing both. Relying on a single layer to provide security is almost never effective because it requires a level of perfection that is unattainable. While the chances of breaching any single layer may be good, the chance of breaching three or more successive layers becomes exponentially more difficult.

Layers of security can take many forms. Physical barriers (walls, fences, gates, bars) and detection and surveillance systems (CCTV, movement detection systems, watch towers, guard posts, tracking systems) can provide primary layers. Simple procedures can provide additional security layers at little or no cost. Staff security awareness can also create an invisible, yet very effective, security layer. Intervention arrangements can be considered to be a security layer as effective and swift intervention by staff can stop an escape attempt. The multiple layers concept also provides redundancy in case there is a breakdown in procedures. For



example, a member of staff may fail to lock a piece of equipment in a cabinet as per established procedures, but instead leave the equipment lying out openly on a desk. If the area is locked, and access to the area (workshop) is controlled, the equipment is still protected. While the chance of a breakdown in any single procedure may be good, the chance of a breakdown in three or more successive procedures is considerably less likely. An absolute minimum of three layers should exist between the outside world and a prisoner, with five or more layers being desirable.

The concept of concentric circles of protection underpins the decision of many jurisdictions to create high-security units within the perimeter of larger prisons—a prison within a prison. High-security prisoners would need to get out of the high-security unit and then get through the security measures in the main prison before managing to escape. The security measures in the high-security unit should replicate rather than replace or rely on the security measures in the main prison. For example, all staff, prisoners and materials entering the high-security unit should be searched, even though they may have been searched in the main prison.

## 5.5. Prison security frameworks

*At central level:* All prison administrations should have a national, state or federal high-level prison security framework document to provide prisons with the information and guidance needed to maintain high levels of security, meet the aim of preventing escapes and prevent high-risk prisoners from directing criminal activities taking place outside the prison. The security framework should apply equally to all parts of all categories of prisons.

The aim of the security framework should be to provide common minimum standards of security across all prisons, but it should not provide extensive central prescription. Individual prison directors should be given some level of autonomy in the running of their prisons and the flexibility to adapt the core minimum standards to local circumstances, resources and needs. The security framework should be readily accessible and up to date. Headquarters should enter and highlight amendments as they become necessary.

*At prison level:* The prison security framework should be supported by an agreed local security strategy which reflects the needs of each prison, manages identified local risks and meets the requirements set out in the framework. Good practice is to make the local security strategy available to all local staff. It is often rightly stated on notices within prisons that “security is everyone’s responsibility”.

The local security strategy in each prison should set out arrangements for meeting the requirements of each of the four (or more) functions mentioned below that are covered in the national security framework. This document, drawn up by local prison management, should specify procedures that enable compliance with the national framework while reflecting the particular security needs and resources of the individual prison. In particular, the procedures set out in the local security strategy should:

- Take account of local risk analysis
- Reflect local physical and procedural security
- Consider the categories of prisoners held in the prison
- Identify staff, equipment and resources necessary to carry out each task

The balance within each prison between the different types of security (physical, procedural and dynamic) should be based on such features as the presence of external patrols, towers, security barriers, or detection devices; the type of accommodation within the institution; internal security features; and the staff-to-inmate ratio. At prison level, the crucial requirement for prison management is to ensure that all staff are aware of the concepts of physical, procedural and dynamic security, and to create the necessary structures to enable staff to feel supported in the exercise of their authority. Good practice indicates that there should be four components to a local security management structure:

- The prison director with overall operational responsibility for prison security
- A security committee to advise the director on the full range of security issues
- A security manager and a security department with operational responsibility
- Prison staff who are collectively and individually responsible for the maintenance of proper levels of security at all times

## 5.6 Security audits and covert testing

Investigations into escapes from prisons reveal few instances in which malfunctioning locks or electronic detection systems, insufficient razor wire or other deficiencies in physical plant or technology were solely responsible. The most serious security breaches have occurred because one or more staff members have taken a “shortcut”, did not know what was expected of them, or simply had failed to follow established security procedures. Though weaknesses in the physical plant may have contributed to the problem, it was usually the failure of staff to attend to security-related activity that was at the heart of the incident. In other words, people-system failures, not physical-system failures account for most security breakdowns.

This reality points to the need to establish a comprehensive security auditing programme. A security audit is a process for determining the extent to which policy, procedure, standards and practice combine to provide a safe and secure prison environment. Included in this process is a detailed evaluation of every major aspect of a prison’s security programme. The security audit focuses on security operations. Although standards and policy are important aspects of such audits, the primary focus is the security systems and their operational implementation on a daily basis. The audit is a practical experience that, when properly conducted by persons who are intimately familiar with security principles, identifies weaknesses in prison security arrangements that create risk to the safety and security of staff and the community. The benefits of security audits to the prison administration and individual prisons are many:

- Weaknesses, deficiencies, inadequate procedures, and areas of vulnerability in the institution’s operation are identified
- Compliance with the national security framework and prison level standards, policies, and procedures is assessed
- Equipment, locking mechanisms, tool and key systems, etc. that are inoperable, inappropriate or inadequate are identified
- The efficient and effective application of security resources is reviewed
- Good practices are identified and shared throughout the prison administration

In some jurisdictions, a combination of internal and external audits are mandated. Internal audits (conducted by staff within a prison) are sometimes required between external audits (conducted by a team or staff from outside the institution). In other jurisdictions, internal audits are pre-audits and are conducted by institution staff just prior to the external audit.

Internal audits are not recommended as the sole audit activity. It is often found that auditors find it difficult to objectively point out shortcomings by friends, fellow workers and supervisors. In addition, they may not identify risk or vulnerability as they audit conditions in which they work every day, because they are too familiar with them and unable to be dispassionate. In some jurisdictions, “peer-to-peer” audits take place (where staff from one prison audit another prison), which helps to overcome some of these problems.

External audits tend to be more objective and thorough. They may be announced or unannounced. An advantage of unannounced audits is that the institution is viewed in an operational condition more closely approximating normal. An advantage of announced audits is that the institution has an opportunity to prepare and correct conditions that they know to be deficient before the audit occurs. Some jurisdictions have found a combination of announced and unannounced audits to be effective; a schedule of unannounced audits sometimes being established on a random basis.

Many jurisdictions use a security audit checklist, which is often a statement of the security objectives and baselines set out in the national security framework. Information is recorded related to each baseline and space provided for an auditor’s comment. The auditor should make an assessment for each baseline and identify whether the prison complies or does not comply with the baseline. An overall assessment score for each prison should be given at the end of the audit that reflects the level of compliance with the national security framework and security baselines.

Experience has proven that the development and implementation of a comprehensive security audit programme is a major step in reducing security risks that can be endemic in prison operations.

**Covert testing:** Covert testing is the planned, managed, realistic but unannounced test of security processes, procedures and equipment. The main purpose of a covert testing policy is to:

- Test the delivery of processes and procedures as well as of technical aids designed to maintain security and prevent escape
- Prevent the entry of unauthorized items
- Identify vulnerable areas, inadequate equipment and/or management and system inadequacies that need reinforcing
- Reward and recognize good practice
- Respond and test identified intelligence and/or risk assessment concerns
- Identify training needs
- Identify failings and ensure they are addressed appropriately
- Offer assurance on a prison’s ability to deliver core security responsibilities

Covert testing is a tool to give assurance to prison directors that staff are vigilant and that security procedures are conducted in accordance with national procedures. Used appropriately,

covert testing is a dynamic and realistic test of security arrangements. For example, covert testing may include: asking a member of staff to try to smuggle an illicit item into the prison and seeing if it is detected; taking a prisoner from a work party without informing the responsible member of staff and seeing how long it takes to identify that a prisoner is missing; asking a prisoner to smuggle something out of the kitchen and seeing if he or she is able to do it; or leaving a gate unlocked and monitoring how long it takes before it is discovered.

## 5.7 Security trends related to high-risk prisoners

**Attacks on the external perimeter:** Recent years have seen a significant increase in the number of attacks on the external perimeter of prisons in attempts to free high-security prisoners. These attacks have been mounted by terrorist groups, drug cartels or criminal gangs. Prisons should take a number of actions to prepare for such an attack. Effective intelligence can provide early warning of attacks. Locating high-security prisoners in the centre of the prison, rather than in accommodation close to the perimeter, will delay the escape and give staff the opportunity to respond and summon assistance.

### CASE EXAMPLES

- In July 2013, an estimated 70 Pakistani Taliban (TTP) militants stormed Dera Ismail Khan prison shortly after 11.00 pm, freeing 242 prisoners, killing 17 people and injuring 16 others. The escaped prisoners included 30 hard-core militants.
- Around 145 inmates escaped from Koton-Karfi Prison in Nigeria following an attack by gunmen suspected to be Boko Haram insurgents, in November 2014.
- Armed attackers mounted a coordinated bomb, grenade and gun assault at Sanaa's central prison in February 2014 in Yemen to free al Qaeda-linked inmates. At least 19 suspected militants fled in the ensuing chaos.
- Nearly 1,200 prisoners, most of them facing serious charges, escaped from a prison near the Libyan city of Benghazi in July 2013, following an attack on the prison by a militant group.

Applying “target hardening” techniques to the perimeter will also prevent or delay an escape. These techniques include digging moats and ditches; creating blast zones; setting up cordons; putting in place concrete or reinforced steel barriers and security bollards; or installing tiger traps (collapsible areas), which help to ensure that vehicles containing explosives cannot reach the perimeter. In addition, the area around the perimeter should be clear of vegetation and buildings to create clear lines of sight and a defensible space.

It may be appropriate in some circumstances to relocate high-risk prisoners some distance away from their family and friends. For example, where there is a risk that there may be attacks from the local population or terrorist groups on the prison, it would be appropriate to relocate the prisoner or group of prisoners to a prison in a more secure location. Also, where the prisoner is part of a criminal gang or organized crime organization, it may be necessary to move them away from the area so that they cannot influence or direct local criminal activity.<sup>65</sup>

<sup>65</sup>See footnote 60, where reference to the commentary to the Council of Europe Recommendation CM/Rec(2014)3 is made.

**Aircraft-assisted escapes:** Since 1971, there have been 43 well-documented attempts worldwide to free high-risk prisoners using helicopters. Approximately 31 were successful. These escapes involve helicopters briefly touching down in exercise areas and on rooftops; lowering ropes or ladders for escaping prisoners to climb up; or using grappling hooks to try to pull down a security fences. Various actions can be taken to prevent helicopter-assisted escapes, including fixing anti-helicopter Kevlar cables (catenary wires) or wire mesh over prison exercise and sports areas; building armed posts overlooking each exercise area; and installing anti-climb devices such as electric fences and razor wire to prevent prisoner access to roofs. Modern prison architecture involves building designs that prevent a helicopter touching down, by creating air uplift.

### CASE EXAMPLES

- In 2013, two prisoners successfully escaped from the Saint-Jérôme Detention Facility in Canada by clambering up a rope from an awaiting helicopter. The helicopter had been hijacked at gunpoint by two accomplices. Another three detainees awaiting trial for murder successfully escaped by helicopter from a Canadian prison in June 2014.
- A chartered helicopter—carrying two armed passengers, a pilot and a technician—first tried to rip off the chicken-wire fence surrounding Trikala prison in Greece, with a hook dangling from a rope. When that did not work, a rope was lowered down to a waiting prisoner who climbed up the rope (February 2013).
- A man hijacked a helicopter and forced its pilot to land in a prison outside the Belgian city of Bruges in July 2009. The helicopter picked up four men, including a prisoner who had been described as one of the most dangerous criminals in Belgium.
- One of the most daring prison escapes in Brazil happened in 2002, when a helicopter was flown into Parada Neto Penitentiary, freeing two prisoners serving time for murder and bank robbery. Earlier in the day, two men rented a helicopter pretending to be tourists wanting a panoramic ride over the city. While in the air they drew guns and forced the pilot to land in the central yard of the prison. The prisoners jumped aboard, and when the pilot took off again guards opened fire.

Prisons should also have contingency plans in place setting out actions that should be taken if the prison is attacked by land, air or sea, including effective means to contact prison emergency response units, the local police service and the military, air force and coastguard or navy.

**Escapes from escorts:** A number of escapes by high-risk prisoners have also taken place during escorts to court hearings. The risk of such escapes can be reduced by locating courts close to prisons and connecting the two buildings by underground tunnel or secure air bridges. Some jurisdictions make use of video links to enable prisoners to appear in court for routine remand hearings by video.

Where high-security prisoners do have to travel to court (or hospital, family funerals, dying relatives, etc.), appropriate security measures should be put in place. This may include the use of helicopters to transport the prisoner, helicopters to monitor the escort, and the provision of armed police, military or security personnel to provide protective cover for the escort. The timing of escorts and routes to/from court should be kept confidential and varied from time to time. A joint risk assessment should be undertaken between prison staff, escorting staff and external security services before each escort and staff levels and security arrangements agreed in advance.

Where the movement of prisoners is difficult, including due to security reasons, consideration can also be given to using modern technologies such as tele-health care, depending on the nature and severity of the health condition. This being said, tele-health care should never totally replace face-to-face consultations with medical specialists.

## 6.

# Operating safe and orderly prisons

“The fact that States exercise effective control of the prisons implies that it must be capable of maintaining internal order and security within prisons, not limiting itself to the external perimeters of the prisons. It should be capable of ensuring at all times the security of the prisoners, their family members, visitors and those who work in the place.”

*Source:* Inter-American Commission on Human Rights (IACHR), Report on the human rights of persons deprived of liberty in the Americas, 2011, para.77.

The management of high-risk prisoners presents a challenge to prison authorities, in that they have to achieve a balance between the threat that such prisoners pose to order inside prisons and the obligation of the State to treat all prisoners in a decent and humane manner. The importance of constantly striving to achieve and maintain the balance between security, order and justice should be understood by all prison managers. The level of control over the daily lives and movement of prisoners must not be more than is necessary to meet those requirements.

It is quite wrong to suggest that treating prisoners with humanity and fairness will lead to a reduction in order within the prison and threaten the safety of staff and other prisoners. On the contrary, the objective of ensuring order can best be achieved within a well-ordered environment safe for prisoners and staff in which (a) all members of the prison community perceive they are being treated with fairness and justice; and in which (b) prisoners have the opportunity to participate in constructive activities which prepare them for release.

High-risk prisoners with vulnerabilities and special needs should not only be held in a safe environment, but also need to feel safe as far as their physical and mental well-being is concerned.<sup>66</sup> Where prison managers cannot provide safe conditions, prisoners will turn to other prisoners for protection. This is particularly the case in prisons holding high-risk prisoners, where feeling unsafe will lead prisoners to join prisons gangs; pay for protection (in goods or services); or undertake illicit activity (such as smuggling goods, participating in disturbances or assaulting other prisoners or staff) in return for protection.

<sup>66</sup>For example, the special protection needs of young prisoners, women, prisoners with physical and mental disabilities should always be taken into account in the development of strategies and policies that aim to ensure that all prisoners are safe from abuse at all times.

## 6.1 Order in prison<sup>67</sup>

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### CODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS

#### Article 2

In the performance of their duties, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 36

Discipline and order shall be maintained with no more restriction than is necessary to ensure safe custody, the secure operation of the prison and a well-ordered community life.

### EUROPEAN PRISON RULES

#### Rule 49

Good order in prison shall be maintained by taking into account the requirements of security, safety and discipline, while also providing prisoners with living conditions which respect human dignity and offering them a full programme of activities (...).

### PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS

#### Principle XXIII

##### 1. Preventive measures

In accordance with international human rights law, appropriate and effective measures shall be adopted to prevent violence amongst persons deprived of liberty, or between persons deprived of liberty and the personnel.

In order to achieve that, the following measures shall be taken, amongst others:

- a. Separate the different categories of persons deprived of liberty in conformity with the criteria set down in the present document;
- b. Provide periodic and appropriate instruction and training for the personnel;
- c. Increase the number of personnel in charge of internal security and surveillance, and set up continuous internal surveillance patterns;
- d. Effectively prevent the presence of weapons, drugs, alcohol, and other substances and objects forbidden by law, by means of regular searches and inspections, and by using technological and other appropriate methods, including searches to personnel;
- e. Set up early warning mechanisms to prevent crises or emergencies;
- f. Promote mediation and the peaceful resolution of internal conflicts;
- g. Prevent and combat all types of abuse of authority and corruption;
- h. Eradicate impunity by investigating and punishing all acts of violence and corruption in accordance with the law.

See also the Kampala Declaration on Prison Conditions in Africa, Recommendations 1 and 2.

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<sup>67</sup>Also see DPKO (2013): *Prison Incident Management Handbook*, for a discussion on maintaining order and control in prison.



Order, within the prison context, can be defined as the absence of violence, overt conflict or the imminent threat of the chaotic breakdown of social routines. Since the introduction of modern prisons, prison staff have been faced with the fundamental problem of how to maintain order, i.e. to prevent disorder. There is a need to ensure order in prisons, as none of the positive aspects of prisons, such as rehabilitation, can be accomplished unless there is order. There is also a risk that disorder can be used as a distraction or diversion to facilitate the escape of high-risk prisoners.

At the same time, it is also important to note that under article 9 of the Covenant on Civil and Political Rights, States are under an obligation to ensure everyone's right to security of person. As stressed by the Human Rights Committee in its General Comment no. 35, the right to security of person protects individuals against intentional infliction of bodily or mental injury, regardless of whether the victim is detained or non-detained.<sup>68</sup>

**Balancing legitimacy, justice and fairness:** Prison managers should ensure that prisoners and staff view the operation of the prison as being legitimate, just and fair, and that security, order and justice are held in balance. It has been pointed out that like virtually all conceptualizations of social relations, order is a matter of degree. Security and order in high-security prisons could be achieved through excessive control, but to do so would make the prison punitive, restrictive, oppressive and over-controlled. Oppressive confinement and repressive brutality and intimidation have no place in a modern prison system, even when managing high-risk prisoners.

There is no single answer on where the balance should rest between the three elements of security, order and justice. The correct balance will depend on the prison population, the environmental context, and on intelligence about what is happening in the prison at any given time. In particular when managing high-risk prisoners, prisons managers should constantly try to make sure that one element does not impinge on the others to such a great extent that it destabilizes the prison. In reality, prisons may differ to a significant extent in values such as respect, humanity, relationships, trust, fairness, order, well-being and decency. The challenge for prison managers is to regulate their institutions in a way that ensures that these positive values are embedded in its culture, and are adhered to by both staff and prisoners.

For prisoners, justice in prison encompasses (a) the basic "quality of life", such as adequate living accommodation, food, bathing, visits, exercise, clean clothes; (b) various informal aspects of prison life, including the manner of prisoners' treatment by staff; and (c) formal system features, especially the grievance and disciplinary systems. Perceived injustice often leads to a breakdown in order. Most high-risk prisoners have a precise sense of justice and what they can and cannot legitimately expect from life in the prison, and it is only when this "legitimate expectation" is met that order and safety can result. Prison managers have to be seen to be acting legitimately (in terms of formal rules) at all times, and in ways that demonstrate fairness and provide meaningful rationales for the exercise of their power.

## 6.2 Control strategies to achieve order

There are a number of broad strategies that can be deployed when managing high-risk prisoners that will contribute to achieving well-ordered prisons. The most important of these is

<sup>68</sup> Human Rights Committee (2014), General Comment 35, CCPR/C/GC/35, paras. 9 and 59.

focusing on maintaining control. Control can be defined as the use of routines and a variety of formal and informal practices which assist in the maintenance of order.

**Situational control:** Situational control methods aim to tackle precipitating factors that generate control issues and reduce the opportunity for disorder to take place. Situational measures mostly refer to the use of hardware (locks, bars, security lighting) and surveillance (cameras, staff observation, watch towers) to "harden targets" and reduce opportunities to undermine control. Within a high-security prison, situational control methods that can be deployed include temporary removal of prisoners to segregation or another room; increasing staff patrols and visibility (formal surveillance); increasing time in room; only unlocking a few prisoners at a time; limiting the numbers of prisoners permitted to gather in one place; transferring troublemakers to another prison; and the use of CCTV camera and other surveillance means.

**Social control:** Social control measures include attempts to reduce disorder by developing or strengthening social relations between prisoners, and between staff and prisoners. Socialization and strengthening social relations can be achieved by having the right balance of prisoners; changing prisoner culture; attempts at consultation and participation with prisoners; strengthening relationships; ensuring that the exercise of power is seen as legitimate by most prisoners most of the time; and developing mutual trust. It is not inappropriate for prison staff to maintain healthy and constructive relations with prisoners. On the contrary, that is one of the more effective means of maintaining order and security in prisons—often known as dynamic security, as addressed in chapter 6.3.

There is a need to get the "right" relationship between staff and high-risk prisoners in order to ensure the orderly operation of a prison. The challenge for prison administration is to decide what the "right" relationship is within their prison and how to develop and sustain those relationships. Getting the right staff-prisoner relations is important; there is less violence, less bullying, and a much healthier relationship between staff and prisoners. Prison staff can and should seek to positively influence and enlist the willing cooperation of high-risk prisoners through humane leadership and good example. Very often, it will be possible to elicit good behaviour from a prisoner who appreciates that he or she is being treated as a mature human being with due respect and dignity.

**Control "hotspots":** Challenges to good order cannot just be explained by reference to the presence of a particular type of prisoner, such as high-risk prisoners. Even within prisons holding only high-risk prisoners, there will be certain "hotspots" for trouble. That is, times and places where there is a special prevalence of critical situations because of some important conjunction between persons and the circumstances, opportunities and interactions that routine conditions of their lives regularly produce. For example, prisoners are often resistant to being hurried off to work or to leave the exercise area and return to their rooms. Particular care should be taken by staff when managing these situations in order to prevent them from becoming flash points for disorder.

### 6.2.1 Passive and active control-risk prisoners

It is often the case that some high-risk prisoners will remain well-behaved, passive and compliant ("model prisoners") in order to convince prison staff that they are not a risk to the order of the prison. However, they may well be undermining staff control by running prison

gangs and manipulating the weaker prisoners into breaking the rules. Good training and experience enables prison staff to identify the real causes of actual or threatened disorder.

The prison population in most jurisdictions contains a small number of prisoners who do not respond to the existing control mechanisms and become so disruptive that they make life unbearable for others. While there are not many of them, their continuing presence in the prison estate is a constant threat to others and their disruptive influence is out of all proportion to their numbers. Disruptive prisoners are not confined to any one security category, although the high-security, long-sentence group, in particular, often contains a hard core of persistent troublemakers. Many have learned to be extremely manipulative and have long histories of violence, which intimidates others. Some have criminal associates who can be used to threaten the families of staff or other prisoners, undermining the efforts of the prison administration to control them.

Prison administrations should therefore take steps to manage those prisoners who are not mentally ill, but whose behaviour has been thoroughly and maliciously disruptive, including the very small number of prisoners who are so dangerous that it is necessary for several staff to be present whenever they are out of their cells. Underpinning the means used to contain the behaviour of those prisoners must be a regime that is constructed on progressive lines. Prisoners should move between several regimes, starting with minimal privileges, restricted movement and little or no association with other prisoners. Progress to other levels would be earned until the prisoners would have privileges more akin to a standard prison.

Some jurisdictions seek to identify high-risk prisoners considered to be a significant control risks and subsequently allocate them to conditions in which there is no meaningful contact between prisoners and staff, and in which they are held in a barren lock-down regime spending 23 hours a day, as a matter of policy, confined to their cells. Such practices may amount to prolonged or indefinite solitary confinement explicitly prohibited in the United Nations Standard Minimum Rules for the Treatment of Prisoners.<sup>69</sup> From a prison management perspective, it is difficult to envision the breakdown in order that would justify subjecting those prisoners to such systematic levels of deprivation, for anything other than short periods of time.

## 6.2.2 Incentives and earned privileges

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 95

Systems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every prison, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment.

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<sup>69</sup> United Nations Standard Minimum Rules, Rule 43(1), (a) and (b).

The concept of incentives is one which prison administrations throughout the world have been wrestling with for many years. The idea of encouraging good behaviour and discouraging bad behaviour is a philosophy that runs through all aspects of society. In the context of prisons, it seems incontrovertible that prisoners are more likely to behave more responsibly and to make the best use of their time in prison, if they feel that their responsibility and effort will be in some way rewarded. Such schemes promote conforming behaviour through rational choice. Enabling prisoners to earn benefits in exchange for responsible behaviour encourages prisoners to engage with sentence planning and ensures a more disciplined and controlled environment that is safer for staff and prisoners. Other outcomes include a reduced risk of self-harm and improved staff-prisoner relationships.

Incentives are widely used in many jurisdictions, although the level of sophistication varies. At the core of all approaches is that well-thought out incentives are a spur to good, positive behaviour. They give some hope for those facing long sentences, who otherwise feel that, however badly they behave, they have nothing to lose. Incentives arrangements should be fair, consistent and not subject to unfair discrimination. They should support the requirements of the prison and meet the needs of the population, where practicable. The basic or minimum level should provide access to a safe, legal and decent regime on normal location.

Additional higher levels should have clearly set out criteria. Privilege levels should be determined by patterns of behaviour, including compliance with the regime or individual sentence plan targets, helping prison staff or other prisoners, whether the prisoner is taking an active part in their rehabilitation and/or significant events (where the misconduct would warrant disciplinary charges being laid, for example for violence, supply and possession of drugs, a mobile phone or a weapon, absconding, etc.). Decisions should always be recorded and the prisoner notified.

For a system of incentives and earned privileges to work effectively, high-risk prisoners must understand the importance of the scheme, how it operates, what it could mean for them and what behaviour is necessary to obtain additional privileges.<sup>70</sup> Prisoners who cannot read should have the details of the scheme explained to them orally. A number of countries also inform the prisoners' families of the scheme and how it operates, in order to enable them to encourage prisoners to seek additional privileges.

### 6.2.3 Prohibition on the use of prisoners to maintain security and order

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 40

1. No prisoner shall be employed, in the services of the prison, in any disciplinary capacity.

See also the European Prison Rules, Rule 62; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XXII(5).

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<sup>70</sup> Foreign national prisoners and prisoners coming from indigenous groups who cannot speak the official language of the States should have the system explained to them in a language that they understand. In some jurisdictions, the details of the incentives and earned privileges scheme are translated into relevant languages.

In a well-managed prison, it is never permissible to employ or to use prisoners to control other prisoners. This sometimes happens when there is a shortage of staff. Such prisoners are often given special treatment in terms of accommodation, food or other facilities, to encourage them to monitor or manage other prisoners. These arrangements are always open to abuse and should never be allowed.

The reality in a number of jurisdictions is that prisoners maintain order in the prison by exercising control over other prisoners. This can never be an acceptable situation and prison administrations should seek at the earliest opportunity to regain control of the prison. As a prerequisite, they may need to reduce prison overcrowding and ensure that sufficient prison staff are made available. The police or military may need to be used to regain control and remove weapons and other illicit items from the prison. This should, however, only be a short-term measure and the prison should be returned to the management of the prison administration as soon as possible. Care should be taken during any such action in order to protect the rights and safety of staff and prisoners.

#### REPORT ON THE HUMAN RIGHTS OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS

"[T]he first duty of the State as guarantor of the persons under its custody, is the duty to exercise effective control and internal security of the prisons. If this essential condition is not met, it becomes difficult for the State to ensure the fundamental legal rights of persons in its custody.

In this regard, it is unacceptable from every point of view that there are a number of prisons in the region that are governed by systems of "self-government", in which effective control of all internal aspects of the prison are in the hands of certain prisoners or criminal gangs, or systems of "shared governance", in which these gangs share the power and profits with the prison authorities.

When this occurs, the State becomes unable to guarantee the minimal human rights of prisoners and completely turns upside down and distorts the object and purpose of the deprivation of liberty. In these cases, there is an increase in the levels of violence and deaths in prisons; a creation of dangerous circles of corruption, among other consequences of the lack of institutional control in prisons."

*Source:* Inter-American Commission on Human Rights (2011), OEA/Ser.L/V/II., Doc. 64, para. 14.

## 6.3 Use of force

### BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS

#### Principle 15

Law enforcement officials, in their relations with people in custody or detention, shall not use force, except when strictly necessary for the maintenance of security and order within the institution, or when personal security is threatened.

### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 76

Training [of all prison staff before entering on duty] ... shall include, at a minimum, training on:

- (c) Security and safety, including the concept of dynamic security, the use of force and instruments of restraint, and the management of violent offenders, with due consideration of preventive and defusing techniques, such as negotiation and meditation;

#### **Rule 82**

1. Prison staff shall not, in their relations with the prisoners, use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary and must report the incident immediately to the prison director.
2. Prison staff shall be given special physical training to enable them to restrain aggressive prisoners.

### **EUROPEAN PRISON RULES**

#### **Rule 64**

1. Prison staff shall not use force against prisoners except in self-defence or in cases of attempted escape or active or passive physical resistance to a lawful order and always as a last resort.
2. The amount of force used shall be the minimum necessary and shall be imposed for the shortest necessary time.

#### **Rule 65**

There shall be detailed procedures about the use of force including stipulations about:

- a. the various types of force that may be used;
- b. the circumstances in which each type of force may be used;
- c. the members of staff who are entitled to use different types of force;
- d. the level of authority required before any force is used; and
- e. the reports that must be completed once force has been used.

#### **Rule 66**

Staff who deal directly with prisoners shall be trained in techniques that enable the minimal use of force in the restraint of prisoners who are aggressive.

### **PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS**

#### **Principle XXIII**

2. The personnel of places of deprivation of liberty shall not use force and other coercive means, save exceptionally and proportionally, in serious, urgent and necessary cases as a last resort after having previously exhausted all other options, and for the time and to the extent strictly necessary in order to ensure security, internal order, the protection of the fundamental rights of persons deprived of liberty, the personnel, or the visitors.

...

In all circumstances, the use of force and of firearms, or any other means used to counteract violence or emergencies, shall be subject to the supervision of the competent authority.

See also Code of Conduct for Law Enforcement Officials, Art. 2.

In prisons holding high-risk prisoners, tension is inevitably never far away, no matter how dedicated its staff. High-risk prisoners may seek to break the rules, threaten the good order of the institution and, on occasion, use the disorder as a distraction to facilitate an escape attempt. The challenge in any prison system is to respond to this indiscipline in a way that ensures the security and safety of prisoners and staff, and encourage prisoners to respect existing rules and regulations. Staff must therefore not exercise more power and force than is necessary and proportional in a given situation.

A clear matrix of behaviour and response will help staff decide what to do in difficult circumstances where prisoners do not respect rules and regulations. When the circumstances involve a prisoner shouting or acting in a deranged manner, more complex psychological assessment mechanisms may be needed to gauge the situation and to measure the response. It should not be assumed that all high-risk prisoners are dangerous and threatening. An experienced member of staff should be used to assisting newer staff in learning how to deal with such prisoners. If response teams only comprise recent recruits, they may panic or react too quickly and not make the right decision.

The above applies even more to the use of force—a very fundamental form of the exercise of power. Before using force, staff members should always establish whether the desired objective can be achieved by alternative means. If not, the degree of force used should be strictly proportionate to the situation. To prevent the indiscriminate and inappropriate use of force, staff should be required to inform their immediate head and the director following any incident involving force. They should do so both orally and in writing, describe the incident and justify the use of force. Prison administrations should keep a proper record of all situations in which force was used.

There are special situations where the use of force and the risk of ill-treatment can easily occur, such as during riots, group fights and collective disturbance of order. Staff must be aware of how critical these situations are, including with respect to possible ill-treatment. It is therefore imperative that instructions are made which not only explain how to deal with these situations and what procedures should be followed, but which also give guidelines on how to prevent excessive use of power and ill-treatment.

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 82

3. Except in special circumstances, prison staff performing duties which bring them into direct contact with prisoners should not be armed. Furthermore, prison staff should in no circumstances be provided with arms unless they have been trained in their use.

#### BASIC PRINCIPLES ON THE USE OF FORCE AND FIREARMS BY LAW ENFORCEMENT OFFICIALS

##### Principle 16

Law enforcement officials, in their relations with people in custody or detention, shall not use firearms, except in self-defence or in the defence of others against the immediate threat of death or serious injury, or when strictly necessary to prevent the escape of a person in custody or detention presenting the danger referred to in principle 9.

## PRINCIPLES AND BEST PRACTICES ON THE PROTECTION OF PERSONS DEPRIVED OF LIBERTY IN THE AMERICAS

### Principle XXIII, 2.

The personnel shall be forbidden to use firearms or other lethal weapons inside places of deprivation of liberty, except when strictly unavoidable in order to protect the lives of persons.

In all circumstances, the use of force and of firearms, or any other means used to counteract violence or emergencies, shall be subject to the supervision of the competent authority.

## EUROPEAN PRISON RULES

### Rule 69

1. Except in an operational emergency, prison staff shall not carry lethal weapons within the prison perimeter.
2. The open carrying of other weapons, including batons, by persons in contact with prisoners shall be prohibited within the prison perimeter unless they are required for safety and security in order to deal with a particular incident.
3. Staff shall not be provided with weapons unless they have been trained in their use.

Prison staff performing duties which bring them into direct contact with prisoners should not be armed. This is to minimize the escalation of violence, to remove the temptation to inappropriately use weapons and to prevent the weapons falling into the hands of prisoners. Where prison staff do carry firearms, for example when guarding the perimeter of the prison, they should have clear instructions about the circumstances in which these weapons may be used. Firearms should be used as a last resort and only after all other options have been considered and deployed.

More specifically, firearms should only be used: *(a)* in self-defence; *(b)* in the defence of others against the immediate threat of death or serious injury; *(c)* when strictly necessary to prevent the escape of a person in prison; *(d)* against a person who is assisting or attempting to assist a prisoner to escape from lawful custody; or *(e)* against a person who is breaking into or attempting to break into a prison without lawful authority. It is not permissible to shoot a prisoner solely on the grounds that he or she is escaping. There must be additional exceptional circumstances which lead the member of staff to conclude that the escaping prisoner cannot be stopped by any other means. The use of a firearm should be discontinued as soon as practicable after control has been established.

In exercising discretion to use or to continue to use a firearm, prison staff should have regard to the risk, in the immediate circumstances, of injury, which the use of the firepower would impose upon any person other than the prisoner(s).

The use of firearms should normally adhere to the following procedures in order:

- Open display of weapons
- Verbal warnings in a loud clear voice ordering the prisoner to halt
- Pointing weapons and warning that if they do not halt the weapon will be fired



- Discharging the weapon as a warning shot (where practicable)
- Discharging the weapon seeking to disable the prisoner rather than to kill

Prison staff should in no circumstances be provided with firearms unless they have been trained in their use. In all circumstances, the use of firearms should be subject to the supervision of the competent authority and procedures should include formal arrangements for the investigation of any incident in which firearms are used.

## 6.4 Prisoner disciplinary system

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 37

The following shall always be determined by the law or by the regulation of the competent administrative authority:

- (a) Conduct constituting a disciplinary offence;
- (b) The types and duration of punishment which may be imposed;
- (c) The authority competent to impose such sanctions;
- (d) Any form of involuntary separation from the general prison population, such as solitary confinement, isolation, segregation, special care units or restricted housing, whether as a disciplinary sanction or for the maintenance of order and security, including promulgating policies and procedures governing the use and review of, admission to and release from any form of involuntary separation.

#### Rule 38

1. Prison administrations are encouraged to use, to the extent possible, conflict prevention, mediation or other alternative dispute resolution mechanism to prevent disciplinary offences or to resolve conflicts.
2. For prisoners who are, or who have been, separated, the prison administration shall take the necessary measures to alleviate the potential detriment of their confinement on them and on their community following their release from prison.

#### Rule 39

1. No prisoner shall be sanctioned except in accordance with the terms of the law or regulation referred to in rule 37 and the principles of fairness and due process. A prisoner shall never be sanctioned twice for the same act or offence.
2. Prison administrations shall ensure proportionality between a disciplinary sanction and the offence for which it is established, and shall keep a proper record of all disciplinary sanctions imposed.

#### Rule 41

1. Any allegation of a disciplinary offence by a prisoner shall be reported promptly to the competent authority, which shall investigate it without undue delay.

2. Prisoners shall be informed, without delay and in a language that they understand, of the nature of the accusations against them and shall be given adequate time and facilities for the preparation of their defence.
3. Prisoners shall be allowed to defend themselves in person, or through legal assistance when the interests of justice so require, particularly in cases involving serious disciplinary charges. If the prisoners do not understand or speak the language used at a disciplinary hearing, they shall be assisted by a competent interpreter free of charge.
4. Prisoners shall have an opportunity to seek judicial review of disciplinary sanctions imposed against them.
5. In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.

See also the Body of Principles for the Protection of All Persons under Any form of Detention or Imprisonment, Principle 30; European Prison Rules, Rules 56-59; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XXII;

From time to time, it is inevitable that some prisoners will break the rules and regulations of the prison. The disciplinary system is one of the methods of maintaining order in prisons. It is most effective when it is used to restore a significant breach of discipline in prison order and when other means prove unsuitable for achieving the objective of restoring order and control.

**Informal resolution:** It is neither practical nor desirable for every breach of prison rules to attract formal disciplinary action. Very often, an informal caution, friendly advice and encouragement or an appropriate expression of disapproval will be enough to keep an offending prisoner under control. It is only when these fail or are inadequate or considered inappropriate that the formal disciplinary sanctions should be employed.

**Internal disciplinary mechanisms:** If a prisoner is believed to have committed a breach of prison discipline, his or her case should be heard under a set of procedures that have been defined by law or regulation of the competent administrative authority. Prisoners and staff alike should know about the rules, i.e. the prison authority has a responsibility to acquaint and provide prisoners, upon admission to the prison, as well as prison staff, with the applicable disciplinary rules.<sup>71</sup> A number of safeguards should be clearly reflected in the internal disciplinary system, including to the effect that:

- Prisoners should not be disciplined on the basis of unsubstantiated rumors supplied by staff or other prisoners.
- Prisoners should never be punished twice for the same offence.
- No prisoner should be punished unless he or she has been informed of the offence alleged.
- Prisoners should be able to defend themselves against the charges before being disciplined.

<sup>71</sup>United Nations Standard Minimum Rules, Rule 54(a), (c) and Rule 76(1)(a).

Prisoners should be allowed to defend themselves in person and have a right to respond to any adverse reports made about them, especially where such reports can form the basis of possible disciplinary action. Accordingly, prison authorities have a duty to notify the prisoners of such reports when they are received. In order to regulate the exercise of the power to discipline prisoners, it is furthermore essential that the disciplinary charges are examined by a defined category of senior prison personnel. Where prisoners do not understand or speak the language used at the disciplinary hearing, they should be assisted by a competent interpreter free of charge.

The prison administration should maintain written minutes of any occasion in which the disciplinary power is invoked against any prisoner. It is also essential for the rules to identify and state the channels of appeal or review open to a prisoner who may wish to challenge the disciplinary procedure or measure. It is very important that prisoners who are testifying before formal, internal, disciplinary or inspection proceedings should not be subjected to intimidation or harassment. This would not only hamper the fairness of the process but also undermine confidence in the grievance mechanisms in the prison, with possible adverse consequences on security.

Where the interests of justice so require, prisoners should be able to defend themselves through legal assistance, particularly in cases involving serious disciplinary charges. To avoid arbitrariness in the exercise of this discretion, the conditions under which legal representation may be granted in disciplinary hearings should be clearly defined in the corresponding prison regulation. Finally, prisoners who are dissatisfied with the ways in which the powers and procedures for maintaining discipline have been administered in relation to them should have avenues for having any disciplinary process and outcome reviewed. Reviews are needed for essential for two reasons: (a) to ensure that prison staff do not abuse the powers and procedures through which they exercise disciplinary control over prisoners; and (b) to rectify any abuses or injustices that do occur in the administration of discipline in prisons. The prisoners should be made aware of the avenues for review that exist and be able to access legal advice on the review.

**Criminal prosecution:** In all jurisdictions, major alleged criminal acts committed in prisons are reported to the relevant external authority (police, prosecutor, investigatory magistrate). In some jurisdictions, all alleged criminal acts, including minor offences, must by law be reported to the relevant authority.

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#### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

##### Rule 41

5. In the event that a breach of discipline is prosecuted as a crime, prisoners shall be entitled to all due process guarantees applicable to criminal proceedings, including unimpeded access to a legal adviser.

#### EUROPEAN PRISON RULES

##### Rule 55

An alleged criminal act committed in a prison shall be investigated in the same way as it would be in free society and shall be dealt with in accordance with national law.

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Other jurisdictions consider it inappropriate for every breach of the prison rules that qualify as a crime under general criminal law to be prosecuted as such. For them, it is inconceivable, for example, that a prisoner who steals a bar of soap in order to shower properly would be prosecuted for theft in a court. Those jurisdictions believe that only the most serious cases deserve to be submitted to the criminal prosecution. The prison administration and prison staff will be responsible for deciding when to refer a case for criminal prosecution. Prison managers should make prison staff aware of relevant guidelines and principles governing staff discretion in deciding when and when not to submit breaches of prison rules for criminal prosecution. A middle way is to be found in a number of countries where the prisoner can decide whether minor offences should be dealt with by the prison authorities, subject to their agreement.

Where the breach of discipline is prosecuted as a crime, the prisoner is entitled to all the legal safeguards and facilities necessary to defend himself or herself in the case. In particular, he or she is entitled for this purpose to unimpeded access to his or her lawyer or to any other legal representative and to legal materials.<sup>72</sup>

## 6.5 Restrictions and disciplinary sanctions

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 42

General living conditions addressed in these rules, including those related to light, ventilation, temperature, sanitation, nutrition, drinking water, access to open air and physical exercise, personal hygiene, health care and adequate personal space, shall apply to all prisoners without exception.

#### Rule 43

1. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. The following practices, in particular, shall be prohibited:

- (a) Indefinite solitary confinement;
- (b) Prolonged solitary confinement;
- (c) Placement of a prisoner in a dark or constantly lit cell;
- (d) Corporal punishment or the reduction of a prisoner's diet or drinking water;
- (e) Collective punishment.

2. Instruments of restraint shall never be applied as a sanction for disciplinary offences.

#### Rule 44

For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.

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<sup>72</sup>Also see the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems (A/RES/67/187).

**Rule 45**

1. Solitary confinement shall be used only in exceptional cases as a last resort for as short a time as possible and subject to independent review, and only pursuant to the authorization by a competent authority. It shall not be imposed by virtue of a prisoner's sentence.

2. The imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures. The prohibition of the use of solitary confinement and similar measures in cases involving women and children, as referred to in other United Nations standards and norms in crime prevention and criminal justice continues to apply.

**UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (the Bangkok Rules)****Rule 22**

Punishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison.

**UNITED NATIONS RULES FOR THE PROTECTION OF JUVENILES DEPRIVED OF THEIR LIBERTY****Rule 67**

All disciplinary measures constituting cruel, inhuman or degrading treatment shall be strictly prohibited, including corporal punishment, placement in a dark cell, closed or solitary confinement or any other punishment that may compromise the physical or mental health of the juvenile concerned.

See also United Nations Standard Minimum Rules for the Treatment of Prisoners, Rule 46; Code of Conduct for Law Enforcement Officials, Art. 5; European Prison Rules, Rules 60-62; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XXII(3).

If found guilty of a disciplinary offence, a prisoner may be subject to a range of sanctions. Disciplinary sanctions should always be just and proportionate to the offence in question, and should be the consequence and culmination of a disciplinary process imposed after an allegation against a prisoner is established. In no circumstances may restrictions or disciplinary sanctions amount to torture or other cruel, inhuman or degrading treatment or punishment. In this regard, the United Nations Standard Minimum Rules for the Treatment of Prisoners explicitly prohibit a number of practices altogether, including:

- Solitary confinement, defined as the confinement of prisoners for 22 hours or more a day without meaningful human contact, for an indefinite term
- Prolonged solitary confinement, defined as solitary confinement for a time period in excess of 15 consecutive days<sup>73</sup>
- Solitary confinement in the case of juveniles; pregnant women; women with infants; breastfeeding mothers; and prisoners with mental or physical disabilities (the latter category as far as their conditions would be exacerbated by such measures)
- Corporal punishment, including the reduction of diet<sup>74</sup> or drinking water

<sup>73</sup> Similar definitions for (prolonged) solitary confinement are used by the Special Rapporteur on torture (A/66/268, 5 August 2011, para. 26). Also see the Istanbul Statement on the Use and Effects of Solitary Confinement (A/63/175, Annex).

<sup>74</sup> Good practice would also exclude punishing prisoners by giving them food that is presented in a manner that makes it inedible or unappetizing.

- The placement of prisoners into a dark or constantly lit cell
- The collective punishment of prisoners

Furthermore, the application of instruments of restraint, such as handcuffs and straitjackets, is excluded as a sanction for disciplinary offences, notwithstanding their legitimate use in other narrowly prescribed circumstances.<sup>75</sup> Finally, disciplinary sanctions must not include the prohibition of family contact, in particular for women prisoners<sup>76</sup> (see chapter 6.5 and chapter 8.3).

**Solitary confinement as a security measure:** In some countries, high-risk prisoners are held in isolation, in prisons that are referred to as super-maximum security or “supermax” prisons, where each prisoner is held in a single cell, totally isolated from the outside world and from other prisoners. Their contact with staff is also kept to an absolute minimum and their one hour of exercise a day usually does not involve any contact with prisoners or staff. Such practices amount to prolonged solitary confinement prohibited by the United Nations Standard Minimum Rules for the Treatment of Prisoner. In other countries, where “supermax” prisons do not exist, some high-risk prisoners may be permanently segregated from others in a single person cell with very restricted or no access to regime activities, which may equally amount to prolonged solitary confinement.

As noted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, research indicates that the physical and psychological effects of solitary confinement are severe and long-lasting. They include “psychotic disturbances,” with symptoms such as anxiety, depression, anger, cognitive disturbances, perceptual distortions, paranoia, psychosis and self-harm. Some individuals experience discrete symptoms while others experience a severe exacerbation of a previously existing mental condition. The minimal stimulation experienced during solitary confinement can lead to a decline in brain activity in individuals after seven days, which may be irreversible where the prisoner is subjected to prolonged periods of solitary confinement. Studies have found continued sleep disturbances, depression, anxiety, phobias, emotional dependence, confusion, impaired memory and concentration long after the release from isolation. Additionally, personality changes often leave individuals formerly held in solitary confinement fearful when forced into social interaction. This can hinder individuals from successfully readjusting to life within the broader prison population and severely limits their ability to reintegrate into society after release.<sup>77</sup>

In the course of a country visit, the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment considered the use of cells in a maximum security prison, where prisoners were held in solitary confinement “for any prolonged period to amount to ill-treatment”, wondered “whether their use under any circumstances can be other than inhuman or degrading”, and failed “to see the need to construct further facilities of this nature”.<sup>78</sup> The Committee against Torture has equally recommended

<sup>75</sup>United Nations Standard Minimum Rules, Rules 47-48, which also specify that the application of chains, irons and other instruments of restraint which are inherently degrading or painful should be prohibited altogether.

<sup>76</sup>United Nations Standard Minimum Rules, 43(3); United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, Rule 23.

<sup>77</sup>Interim report of the Special Rapporteur on torture, United Nations Doc/A/66/268, 5 August 2011, paras. 62-65; also see Sharon S. (2008): *A Sourcebook on Solitary Confinement*, pp. 15-17; Smith, P. S. (2006): The effects of solitary confinement on prison inmates: A brief history and review of the literature, *Crime and Justice*, vol. 34, p. 441.

<sup>78</sup>Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to New Zealand, United Nations Doc. CAT/OP/NZL/ 1, 25 August 2014, para. 87.

that solitary confinement regimes in prisons, such as those in super-maximum security prisons, should be banned.<sup>79</sup> Together with similar conclusions of other United Nations mechanisms,<sup>80</sup> this points towards an increasing recognition that prolonged and indefinite solitary confinement not only contravene international standards and norms, but may further breach the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment of Punishment.

**Solitary confinement for protective purposes:** In some cases, prisoners may need to be placed in isolation for their own protection. This may be at their own request or ordered by the prison administration. In all cases, the prison administration should consider other alternatives first, such as mediation or transferring either the prisoner who needs protection or the prisoners who are posing the threat to another prison. The full consequences of being isolated for protection must be explained to the prisoner. Where a prisoner is to be placed in solitary confinement at the decision of the prison administration, the prison authorities should ensure that the prisoner participates in discussions and is given an opportunity to challenge the decision, including by applying to a higher authority. In all cases, decisions should be reviewed at regular intervals with a view to normalizing the prisoner's accommodation as soon as practically possible, including the development of plans to do so.

A need for solitary confinement for protective purposes may materialize, in particular, with regards to vulnerable groups of prisoners. However, care should be taken to institute such confinement only with the informed consent of the prisoner, not to prolong such confinement and to promptly find alternative solutions as well as to ensure that such confinement neither constitutes punishment nor leads to further stigmatization or to a limitation on accessing recreation, reading materials, legal counsel, medical doctors, education or other services and participation in activities.

**Solitary confinement as a disciplinary sanction:** Prison authorities may need to place prisoners in solitary confinement for breaches of discipline as a punishment, following a fair disciplinary process or when a prisoner is particularly disruptive and a danger to other prisoners. As noted above, the duration of such placement should always be for the shortest period possible and must not constitute indefinite or prolonged solitary confinement as defined in the United Nations Standard Minimum Rules for the Treatment of Prisoners. There is a tendency for it to become easy to send a high-risk prisoner who has been in solitary confinement before to solitary confinement again without substantial justification—a practice which should be avoided. Decisions related to the imposition of solitary confinement should be based on the principles of:

- *Legality:* Reasonable provision must be made in domestic law for circumstances when solitary confinement may be used.
- *Proportionality:* Placing a prisoner in solitary confinement must be related to the actual or potential harm the prisoner has caused or is likely to cause.
- *Necessity:* Solitary confinement should involve only those restrictions necessary for the safe and secure confinement of the prisoner (i.e. without automatic restrictions placed on rights to visits and telephones or access to reading materials).

<sup>79</sup> Committee against Torture, Concluding observations on the combined third to fifth periodic reports of the United States of America, United Nations Ref. CAT/C/USA/CO/3-5, 19 December 2014, para. 20.

<sup>80</sup> Including the Human Rights Committee (General Comment 20, para. 6) and the Special Rapporteur on torture (A/66/268, para. 80).

- *Non-discrimination*: There should be no discrimination against individuals or groups for whatever reason when solitary confinement decisions are taken.
- *Accountability*: Full records must be maintained of all decisions related to the imposition of solitary confinement.<sup>81</sup>

As far as material conditions in solitary confinement cells are concerned, the United Nations Standard Minimum Rules for the Treatment of Prisoners are very clear in requesting that all general living conditions addressed in the rules should apply to all prisoners without exception, including prisoners undergoing disciplinary sanctions (Rule 42). Prisoners in solitary confinement should have adequate space, natural and artificial light, heating and ventilation. They should have access to toilet facilities at all times, which should afford privacy; to bathing facilities as often as other prisoners; and to health-care services in similar conditions to those of the general prison population. Food and water provided for such prisoners should be of the same quantity and quality as that provided to other prisoners. Prisoners in solitary confinement maintain their right to at least one hour of exercise per day in the open air, in an exercise yard that should offer shelter in inclement weather conditions.

Cells which hold prisoners placed in solitary confinement as a disciplinary measure should be equipped, as a minimum, with a table, a chair or a bench and a bed and bedding. In many jurisdictions, such furniture is secured to the floor to reduce risks associated with the use of furniture parts to cause disruption. This is acceptable when solitary confinement is used for short periods in response to breaches of discipline.

## 6.6 Complaints, grievances and requests

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 54

Upon admission, every prisoner shall be promptly provided with written information about:

- (a) The prison law and applicable prison regulations;
- (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;
- (c) His or her obligations, including applicable disciplinary sanctions; and
- (d) All other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison.

#### Rule 55

1. The information referred to in rule 54 shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of those languages, interpretation assistance should be provided.
2. If a prisoner is illiterate, the information shall be conveyed to him or her orally. Prisoners with sensory disabilities should be provided with information in a manner appropriate to their needs.

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<sup>81</sup> CPT/Inf/E (2002) 1—Rev. 2015, Extract from the 21st General Report [CPT/Inf (2011) 28], para. 53.



3. The prison administration shall prominently display summaries of the information in common areas of the prison.

#### **Rule 56**

1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.

2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.

3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.

4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility to exercise such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.

#### **Rule 57**

1. Every request or complaint shall be promptly dealt with and replied to without delay. If the request or complaint is rejected, or in the event of undue delay, the complainant shall be entitled to bring it before a judicial or other authority.

2. Safeguards shall be in place to ensure that prisoners can make requests or complaints safely and, if so requested by the complainant, in a confidential manner. A prisoner or other person mentioned in paragraph 4 of rule 56 must not be exposed to any risk of retaliation, intimidation or other negative consequences as a result of having submitted a request or complaint.

3. Allegations of torture or other cruel, inhuman or degrading treatment or punishment of prisoners shall be dealt with immediately and shall result in a prompt and impartial investigation conducted by an independent national authority in accordance with paragraphs 1 and 2 of rule 71.

See also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 33; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle VII; European Prison Rules, Rule 70

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Prisoners must feel that the prison in which they are being imprisoned is run in a safe, fair and just manner. Where prisoners believe that this is not the case, good order breaks down. If there are no means for prisoners to raise issues and concerns, they will resort to confrontational methods to raise their grievances, which can involve violence or the destruction of prison property. This is particularly the case in prisons holding high-risk prisoners, where prisoners may stay for many years and therefore feel as though they have nothing to lose in staging a violent or disruptive protest against some aspect of the prison regime or their perceived bad treatment.

All prison systems should therefore have a clearly defined set of procedures that allow a prisoner to make a request or complaint, or to air a grievance, without fear of reprisal. The utility of healthy communication in any human institution cannot be over-emphasized. As opposed to intimidation, prisoners should be encouraged to communicate with the prison administration about any difficulties they have and be assured that their complaints will be treated seriously. Complaints procedures should contain a description of how a prisoner can

go about making a request about his or her treatment and should also describe the avenues of complaint available to prisoners, beginning at the local level and going on to the most senior level in the prison, and, if need be, to external bodies and organizations (such as the prison administration headquarters, inspectorate, Ombudsman or courts). In order to ensure awareness, all prisoners should be informed about procedures for making requests or complaints upon admission, and the prison administration should display summaries of the information in common areas of the prison.

Prisoners may be discouraged from complaining against prison staff and administration for fear of retaliation from the staff. There should be neither procedures nor negative culture in place that might deter prisoners from raising legitimate complaints and grievances nor censorship of requests or complaints as to substance. The disciplinary procedures should not contain any regulations that make it difficult for prisoners to complain, such as punishing them for making allegations against staff that turn out to be unfounded (unless those allegations are mischievous or spurious). Prison authorities should provide prisoners with confidential avenues for making their complaints and to respect any requests the prisoners may make for confidentiality in the handling of their complaints.

Many complaints are likely to be about issues concerning daily routine or treatment. Matters that will be of little importance to people in normal society can take on great significance in the highly disciplined prison world, in which there are likely to be regulations affecting almost every aspect of daily life. One of the main objectives of the prison administration should be to prevent a simple request from developing into a complaint, or a complaint developing into a formal grievance, or a grievance developing into an appeal to a higher body. Not every complaint by prisoners will need a formal consideration and response. In practice, prison staff will be able to listen and respond to most complaints by prisoners over the course of their routine duties without the need to put the complaint forward for formal consideration. This forms part of dynamic security discussed in chapter 6.

This being said, it is not possible to resolve all requests and complaints in this informal manner. In addition, each prisoner system should have access to a formal procedure for dealing with requests and complaints that cannot be resolved informally or between individuals. Every request or complaint should be promptly dealt with and replied to without undue delay. Good practice is for the prison director or senior member of staff to consider all such approaches from prisoners on each working day. Wherever possible, the prisoner should be allowed to make the request or complaint in person. If the volume of requests makes this impossible, arrangements should be made for it to be submitted in writing. Regardless of whether the request is submitted orally or in writing, the prison should make a formal written record of the request and of the response to it. These records should be monitored on a regular basis by internal and external monitoring and inspection bodies.

If the director of the prison rejects the request or complaint, if it is being made against the director, or in the event of undue delay, the prisoner should be able to make a written application to a more senior person in the prison administration, usually at regional or national headquarters, or to a judicial or other authority. It is also important to note that allegations of torture or other ill-treatment are subject to a special procedure, in that they must be dealt with immediately by the prison administration, and result in a prompt and impartial investigation by an independent national authority. The United Nations Standard Minimum Rules for the Treatment of Prisoners also specify that in case the prisoner is not able to submit a request or complaint, his or her legal adviser or, failing that, a member of the prisoner's family or any other person with knowledge of the case may do so.

Finally, high-risk prisoners should have access to judicial authorities for complaints and appeals and their correspondence with such authorities should never be subject to censorship. They should also have confidential access to international or national human rights monitoring bodies. This is extremely important, given the additional restrictions to which high-risk prisoners are subjected, which can easily be abused. In addition, the crimes they have committed or suspected to have committed may also be used as a justification for ill-treatment by staff or other prisoners. Similarly to prisoners' requests or complaints directed at the prison administration, safeguards should be put in place to ensure that prisoners who do complain to higher judicial authorities or monitoring bodies are not faced with subsequent reprisals.

## 6.7 Prison intelligence<sup>82</sup>

Maintaining order is not a one-time event but something that has to be a continual focus. Control can be lost very quickly if no effort is devoted to its maintenance. In order to identify potential control problems before they develop into disorder, prison managers should use a variety of means to monitor the stability of their prisons. As well as using systems and routines, good intelligence is a critical element of maintaining a safe and orderly prison, including the detection of prisoners who are seeking to direct criminal activity taking place outside the prison.

Intelligence can be defined as information with additional value that can be recognized or assigned through some kind of analytical process. "Prison intelligence" is simply any information with additional value that can be used by prison staff for a variety of purposes, including preventing escapes; preventing riots and disturbances; identifying criminal activity in prison; identifying rule breaking in prison; detecting staff corruption and smuggling; and gathering information about criminal activity directed from within the prison (such as organized crime, terrorist activity, drug trafficking, kidnapping and extortion).

### CASE EXAMPLE

#### HISPANIC DRUG GANGS IN PRISON (UNITED STATES)

In the United States of America, Hispanic prison gangs have become increasingly involved in the transportation and wholesale distribution of drugs. Thanks to prison intelligence, in September 2009, 21 members of a prison-based drug gang were convicted of conspiring to distribute more than 150 kilograms of cocaine and laundering millions of dollars in drug proceeds.

*Source:* United States Department of Justice, February 2010.

The use of prison information and intelligence has been steadily increasing in sophistication over the last half-century. Prison information systems that were formerly based on the collation of index cards managed by a member of the prison security team have evolved, in some jurisdictions, with information technology and dedicated software being used by prison

<sup>82</sup>While the term "intelligence" can have negative associations in some jurisdictions, it is now commonly used across national law enforcement agencies and prison administrations.

security departments and their specialist security analysts. The application of the information has also become more complex. Intelligence techniques and methodologies have been developed to identify threats to security and order or to profile existing activity or high-risk prisoners.

 For further detail, see the *UNODC Handbook on Dynamic Security and Prison Intelligence*

## 6.8 Incident management<sup>83</sup>

Incidents are frequent occurrences in prisons. Some are the result of staff action (such as taking prison keys home) or natural events (such as burst pipes), but most result from the actions of prisoners. Common incidents in prisons caused by prisoners include escapes and prisoners missing; serious assault; concerted indiscipline; hostage-taking; fire; damage to prison property; fighting; passive demonstrations; rooftop protests; suicide and self-harm; suspect packages; missing tools and equipment; and finding weapons or explosives during searches.

This reality reflects the fact that most prisoners do not want to be in prison. Many high-risk prisoners are in prison for violent offences and will continue to use violence in prison, either to obtain something that they want or to demonstrate their power. Some prisoners will wish to complain about their treatment or the treatment of others and will want to demonstrate—passively or actively—rather than use the complaints procedures, whereas others will want to cause mischief by starting fires or stealing tools. The challenge for the prison administration and staff is to be ready to manage these incidents in a professional manner if they are to maintain order and security in the prison.

### CASE EXAMPLES

- Over 100 prisoners, including 10 terrorist suspects, escaped from Indonesia's North Sumatra province in July 2013, after setting the prison ablaze and staging a riot that left five dead.
- A fight among prisoners at Mexico's Apodaca prison led to a riot that killed 44 and covered the escape of 30 members of the vicious Zetas gang, in February 2012.

Successful incident management does not occur by accident. Prison administrations should set out clear roles and responsibilities for managing incidents, develop and implement a consistent response (contingency planning), and arrangements for exercising, maintaining and reviewing responses to incidents.

**Roles and responsibilities:** Understanding individual roles and responsibilities during an incident is the first step towards the development of robust and effective response plans. There should be plans for the basic day-to-day responses and for the management of more significant and critical incidents. During an incident, there are a number of roles:

- The person who first identifies that there is an incident
- The individual who first arrives at the scene of an incident

<sup>83</sup>Also see DPKO (2013): *Prison Incident Management Handbook*.

- The staff that deployed to respond to an incident to deal with it or its consequences
- The officer who directly controls the prison's resources at the incident scene
- The commander at the prison who acts as the tactical commander managing the action needed to resolve the incident
- The national commander who is in overall control of the prison administration's resources at the incident and who should formulate the strategy for dealing with the incident

The national commander should not make tactical decisions, as he or she should be responsible for ensuring that any tactics deployed by the local commander are proportionate to the risks identified, meet the objectives of the strategy and are legally compliant.

*Incident management strategy:* There is also a need to have an incident management strategy. This will provide the foundations to ensure that all incidents are managed effectively and consistently to meet the incident management objectives. Incident management objectives include:

- Protecting the public
- Saving and protecting the life of staff and prisoners
- Relieving suffering and protecting property
- Maintaining normal services
- Protecting the health and safety of staff
- Promoting recovery
- Restoring normality as soon as possible
- Facilitating investigations and inquiries
- Evaluating the response and identifying lessons learned

A model that has been developed in a number of prison systems for managing incidents involves three stages: hold—plan—act. “Hold” involves containing the incident and making sure that it does not escalate. “Plan” involves thinking about what to do to resolve the incident. “Act” involves taking measures to resolve and end the incident. In some incidents, such as a hostage-taking or a riot, there may be some time between each stage and this is where careful planning is needed. In other incidents, such as a fire or an escape in progress, prison staff will move quickly from one stage to another, sometimes with only seconds between each stage.

*Incident management plans:* The development of consistent and robust response plans for all incidents is key. Rather than having to identify options, actions and resources needed every time an incident occurs, careful advance planning of how to manage various scenarios is critical. With this advance planning, the incident identifier, first on the scene, response team, and commander all know what they need to do in responding to an incident. A key element of this process of preparation is known as contingency planning. Even with good intelligence, there are occasions when no one can predict when, where and how an incident will occur. Incidents, by definition, are unplanned events. A contingency plan describes processes that allow measures to be put in place to allow incident managers to transform an unplanned event into a planned response.

Contingency plans need to clearly detail and describe the nature and extent of authorized use of force to address the incident. Key aspects of contingency planning include:

- Roles, responsibilities and chain of command for key prison staff and external support personnel (police, fire services, medical services, etc.) are explicit, and mutually agreed upon and understood.
- Joint training and simulation exercises are conducted with police and other external support.
- Detailed processes are outlined to effectively respond to a particular incident.
- Communication linkages between the prison and external support are provided for, before, during and after the incident.

Source: DPKO (2013): Prison Incident Management Handbook, p. 32

**Testing contingency plans:** Testing the above plans by running exercises will not only assess the effectiveness of the plan, but also the ability of staff to understand and implement procedures, all within a safe environment. Exercises have three main purposes: (a) to validate plans (validation); (b) to develop staff competencies and give them practice in carrying out their roles in the plans (training); and (c) to test well-established procedures (testing). The testing of plans on live incidents is not ideal, as there is a likelihood of failure or issues arising. Simulations are a useful tool due to the safe environment for evaluation.

Any testing of a plan in a safe environment is an exercise. These can range from a short duration desktop test of a procedure up to a simulated, full-scale, on scene multi-agency response. The most common types of exercise are discussion-based “talk-through” of a scenario often used to develop awareness and to train staff; table-top, i.e. sessions where people meet in an informal classroom setting to discuss their roles and responses during a realistic scenario (such as an emergency); and live rehearsals of an incident used to test arrangements, validate plans and provide staff with experience of what it could be like in a real life scenario. It is key to an exercise's success to ensure a post-exercise debrief is held to certify that all learning points have been captured and disseminated.

## 6.9 Prisoners who go on hunger strike

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 32

1. The relationship between the physician or other health-care professional and the prisoners shall be governed by the same ethical and professional standards as those applicable to patients in the community, in particular:

(a) The duty of protecting prisoners’ physical and mental health and the prevention and treatment of disease on the basis of clinical grounds only;

(b) Adherence to prisoners’ autonomy with regards to their own health and informed consent in the doctor-patient relationship;

- (c) The confidentiality of medical information, unless maintaining such confidentiality would result in a real and imminent threat to the patient or to others;
- (d) An absolute prohibition on engaging, actively or passively, in acts that may constitute torture or other cruel, inhuman or degrading treatment or punishment, including medical scientific experimentation that may be detrimental to a prisoner's health, such as the removal of a prisoner's cells, body tissues or organs.

Different reasons may motivate prisoners to stop eating, including religious issues, somatic problems, mental disorders or to make a protest. High-security prisoners may stop eating with the intention of protesting to effect some change, either in regime or privileges, or to obtain perceived or actual rights. When they do so, it puts in conflict the duty of the State to preserve the physical integrity and life of those it has deprived of liberty on the one hand, and the right of every individual to dispose freely of his own body, on the other hand. Such situations are challenging for prison managers and health-care staff.

The most important guidance for physicians and other health-care personnel working in prisons regarding hunger strikes is the World Medical Association's *Declaration on Hunger Strikers*<sup>84</sup> (*Declaration of Malta*) and its *Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment (Declaration of Tokyo)*<sup>85</sup>. The latter guidelines state that where a prisoner refuses nourishment and is considered by the physician as capable of forming an unimpaired and rational judgment concerning the consequences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. When a hunger strike is the logical expression of a lucidly thought out struggle and not a pathological response by a severely depressed patient considering suicide, prison doctors have to respect the expressed will of the patient and limit themselves to the position of medical counsellor. The revised Declaration of Malta specifies that forcible feeding is never ethically acceptable, and goes further in stating that feeding accompanied by threats, coercion, force or use of physical restraints is in the huge majority of cases a form of inhuman and degrading treatment.

The above is fully in line with the professional and ethical standards for physicians and other health-care professional listed in the United Nations Standard Minimum Rules for the Treatment of Prisoners, in particular as far as the emphasis on the prisoner's autonomy with regards to his or her own health is concerned.<sup>86</sup> Physicians and other health-care professionals working in prisons must obtain the informed consent from their patients before applying any skills to assist them. Each person, including prisoners, has the right to refuse treatment as long as the person is competent—in other words, does not suffer from mental disorders that alter their decision-making capacity.

 [For further detail, see the World Health Organization's Handbook on Health in Prisons<sup>87</sup>](#)

<sup>84</sup>World Medical Association, *Declaration on Hunger Strikers*.

<sup>85</sup>World Medical Association, *Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment*.

<sup>86</sup>United Nations Standard Minimum Rules, Rule 32(1)(b).

<sup>87</sup>World Health Organization Europe (2014): *Prisons and health*, pp. 13-16; also see Council of Europe (2014): *Prison health care and medical ethics—A manual for health-care workers and other prison staff with responsibility for prisoners' well-being*, pp. 40-45.





# 7.

## Constructive regimes

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### INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

#### Article 10 (3)

The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.

### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 4

1. The purposes of a sentence of imprisonment or similar measures deprivative of a person's liberty are primarily to protect society against crime and to reduce recidivism. Those purposes can be achieved only if the period of imprisonment is used to ensure, so far as possible, the reintegration of such persons into society upon release so that they can lead a law-abiding and self-supporting life.
2. To this end, prison administrations and other competent authorities should offer education, vocational training and work, as well as other forms of assistance that are appropriate and available, including those of a remedial, moral, spiritual, social and health- and sports-based nature. All such programmes, activities and services should be delivered in line with the individual treatment needs of prisoners.

### UNITED NATIONS RECOMMENDATIONS ON LIFE IMPRISONMENT

To adopt procedures for establishing implementing and reviewing individualized programmes for life-sentence prisoners, with special emphasis on the following:

- Training and treatment programmes which take into account changes in the prisoners' behaviour, interpersonal relations and motivation regarding work and educational goals;
- Educational and training programmes aimed at helping life-sentence prisoners to preserve or revive their personal abilities.

To provide opportunities for work with remuneration, study, religious, cultural and sports and other leisure activities in accordance with the individual treatment needs of each life sentence prisoner;

To encourage a sense of responsibility in life sentence prisoners by fostering their participation in all appropriate aspects of prison life.

### COUNCIL OF EUROPE, RECOMMENDATION CM/REC(2014)3 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING DANGEROUS OFFENDERS

45. The purpose of the treatment of dangerous offenders should be such as to sustain their health and self-respect and, so far as the length of sentence permits, to develop their sense of responsibility and encourage those attitudes and skills that will help them to lead law-abiding and self-supporting lives.

46. Persons under secure preventive detention should have access to meaningful activities and access to work and education guided by the principles contained in Recommendation Rec (2006) 2 on the European Prison Rules.

See also the American Convention on Human Rights, Art. 5(6); United Nations Standard Minimum Rules for the Treatment of Prisoners, Rules 5(1), 91-92; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, Rule 42; European Prison Rules, Rules 95.3, 100-01 and Part VIII; Council of Europe Resolution (76) 2 on the Treatment of Long-Term Prisoners paras. 4-6.

The aim of prisoners' social reintegration should be central to the policies and practices of all well-managed prison services, including in the case of those high-risk prisoners who appear to present minimal prospects of benefiting from them. Social reintegration can only be achieved if each individual is provided with the opportunity to develop him- or herself personally in job skills and education, among other things, while also being offered a chance to address psychosocial issues which may have contributed to his or her criminal activity. Therefore, it is of great importance that constructive activities and programmes are offered to prisoners, including high-risk prisoners, as an essential component of their sentence plans. This is also crucial to counter-balance the negative effect of the restrictive custodial environment of high-security facilities, in which they are likely to remain for very long periods, on the prisoners' mental and physical health.

Channelling prisoners' energy into positive activities is also important to improve prison safety and security, and an essential element of dynamic security principles, as discussed in chapter 6. Experience in countries around the world has demonstrated that where prisoners are offered constructive activities and programmes, tension and violence in prison decrease. The only distinction between high-risk prisoners and other prisoners in the implementation of constructive regimes is the additional security considerations that need to be taken into account in the delivery of activities and programmes.

#### EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OF PUNISHMENT

"The existence of a satisfactory programme of activities is just as important—if not more so—in a high security unit than on normal location. It can do much to counter the deleterious effects upon a prisoner's personality of living in the bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value, etc.). As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners."

Source: CPT Standards, CPT/Inf/E (2002) 1—Rev. 2015, para. 32

A constructive regime includes a balanced programme of activities, including work, vocational training, education, recreation, religious and cultural activities, sports and programmes that address the specific criminogenic and mental health needs of individual prisoners, which may include courses, group work or individual counselling. Activities offered should be of interesting and demanding character. Undemanding, dull routine tasks will increase, not reduce, the sense of waiting for meaningless time to pass. Purposeful activities can provide intellectual and emotional stimulation and be of practical use in assisting adjustment in the community after release.

Offering all high-risk prisoners a programme of individualized, constructive activities may not be easy in jurisdictions where resources are scarce. However, prison administrations need to work towards applying the principles outlined in this chapter, using their resources creatively. In doing so, they may benefit a lot from forming partnerships with suitable civil society organizations and academic institutions to deliver activities and programmes, which further reduce prisoners' sense of isolation from society. The presence of members of civil society in prisons can have a normalizing effect on the prison atmosphere, reducing to some extent the negative impact of a strictly institutional environment. Representatives of civil society may include non-governmental organizations working on prison-related issues as well as teachers and trainers from educational or training institutions.

A careful balance will need to be maintained between enabling access by such bodies to contribute to constructive prison regimes on the one hand, while taking all necessary precautions to protect safety and security, via proper searching procedures and supervision, on the other. In order to reduce any possible risks to security and order, organizations who work with high-risk prisoners should be properly vetted and their members should be offered an induction or information programme to ensure that they are aware of the prison regime, relevant rules and regulations, so that their behaviour and activities in prison do not in any way jeopardize safety and security.

## 7.1 Work

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### BASIC PRINCIPLES FOR THE TREATMENT OF PRISONERS

#### Principle 8

Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labour market and permit them to contribute to their own financial support and to that of their families.

### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 96

1. Sentenced prisoners shall have the opportunity to work and/or to actively participate in their rehabilitation, subject to a determination of physical and mental fitness by a physician or other qualified health-care professional.
2. Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day.

**Rule 97**

1. Prison labour must not be of an afflictive nature.
2. Prisoners shall not be held in slavery or servitude.
3. No prisoner shall be required to work for the personal or private benefit of any prison staff.

**Rule 98**

1. So far as possible the work provided shall be such as will maintain or increase the prisoners' ability to earn an honest living after release.
2. Vocational training in useful trades shall be provided for prisoners able to profit thereby and especially for young prisoners.
3. Within the limits compatible with proper vocational selection and with the requirements of institutional administration and discipline, prisoners shall be able to choose the type of work they wish to perform.

**Rule 101**

1. The precautions laid down to protect the safety and health of free workers shall be equally observed in prisons.
2. Provisions shall be made to indemnify prisoners against industrial injury, including occupational disease, on terms not less favourable than those extended by law to free workers.

See also United Nations Standard Minimum Rules for the Treatment of Prisoners, Rules 99-100, 102-03; European Prison Rules, Rule 26; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XIV.

Many prisoners will have turned to crime because of their low income and the lack of a steady job, often coupled with low education. This is also true in the case of many high-risk prisoners. Prison may offer them a first opportunity to acquire new job skills and to become accustomed to the discipline of regular work, which will contribute significantly to their ability to live crime-free lives upon release from prison. It is therefore important that high-risk prisoners are not barred from access to work on the basis of their security classification. Like all other prisoners, they should be offered a range of work and vocational training opportunities which are useful and which will equip them with marketable skills. Indeed, given the length of their sentences, it can be argued that high-risk prisoners should be prioritized for work and education.

At the same time, prison administrations will need to take the appropriate security precautions, which may mean that some high-risk prisoners may have to be excluded from certain types of work based on their risk assessment. However, every prisoner should be offered some work that can be undertaken in a secure environment. Risks can be minimized, as discussed in chapter 6, by taking measures such as searching prisoners, including with metal detectors; accounting for tools; supervision by staff and CCTV cameras; and organizing the work in small groups in secure units, depending on the nature and level of risk posed. The principle should be that a proper balance is attained between the desired level of work participation and security.

Choice is an important aspect of assuming responsibility. In reality, the choice of work may be limited, especially for high-risk prisoners, but where choice does exist, it is important that

prisoners be consulted about the options available and about development of work options as this occurs. Work offered should, as far as possible, be linked to the possibilities of employment outside prison. The organization and methods of work in the institutions must resemble as closely as possible those of similar work outside institutions, to protect prisoners' fundamental rights relating to work and working conditions and to prepare prisoners for the conditions of normal occupational life. Importantly, prisoners must receive wages for their work. For a variety of reasons, remuneration schemes in place for work administered by prison administrations typically feature well below the amount prescribed in national minimum wage legislation (if applicable).<sup>88</sup> This being said, remuneration of prisoners' work should not be as low as undermining the principle that "work pays", including the perception amongst prisoners that honest work is an appropriate means for earning a living upon release.

While forced or compulsory labour is prohibited under international law, its definition does not encompass labour undertaken by sentenced prisoners, either as a result of a court decision or as a requirement by prison authorities.<sup>89</sup> What is important, however, is that all prison work must not be afflictive; that working hours and conditions resemble those in the community as closely as possible, including equitable remuneration; that health and safety safeguards are not less favourable than those applicable in the community; and that work should be of a useful nature.<sup>90</sup>

## 7.2 Education

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 104

1. Provision shall be made for the further education of all prisoners capable of profiting thereby, including religious instruction in the countries where this is possible. The education of illiterate prisoners and of young prisoners shall be compulsory and special attention shall be paid to it by the prison administration.
2. So far as practicable, the education of prisoners shall be integrated with the educational system of the country so that after their release they may continue their education without difficulty.

#### Rule 105

Recreational and cultural activities shall be provided in all prisons for the benefit of the mental and physical health of prisoners.

See also Basic Principles for the Treatment of Prisoners, Principle 6; European Prison Rules, Rule 27-8; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XIII and Kampala Declaration on Prison Conditions in Africa, para. 7.

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<sup>88</sup>This is either the result of a distinction of prisoners' work from regular employment as defined in national legislation and the determination of an alternative earning applicable in custodial settings; the deduction of a significant percentage of prisoners' wages to cover imprisonment-related costs; or to make compensation payments to victim restitution funds and charities.

<sup>89</sup>International Covenant on Civil and Political Rights, Art. 8.3 (b) and (c), (i); Forced Labour Convention, 1930 (No. 29), Art. 2(2)(c). Also note that the Abolition of Forced Labour Convention, 1957 (No. 105) bans forced labour as a means of political coercion or as a punishment for holding or expressing certain political views.

<sup>90</sup>United Nations Standard Minimum Rules, Rules 98-99, 101-03.

Many prisoners have few educational qualifications. A significant proportion is illiterate or semi-literate. Often, their involvement in crime is associated with their low educational levels. This is true also of high-risk prisoners including, for example, those who are low-level members of criminal gangs or terrorist organizations. Their affiliation with such groups is often strongly correlated with their lack of education, low self-esteem and a need for belonging to a group and acquiring an identity. Education can help such prisoners overcome such basic and existential needs. It can be a vital avenue towards renewed self-respect and hope for a positive return to society. Education is seen as an essential aid to social reintegration, with a number of studies showing that it is instrumental in reducing rates of reoffending upon release.<sup>91</sup>

International standards require that all prisoners are offered an opportunity to improve their educational levels, as a fundamental component of strategies that aim to enable their social reintegration. Education provided should range from basic literacy classes to higher education, depending on the needs of prisoners. Some high-risk prisoners, especially those in leadership roles, may be well educated. Where possible, they should also be offered a range of educational activities, such as participation in discussion groups on literature, arts, philosophy and others, that can help occupy their minds in a positive and constructive manner, contribute to their personal development and which may encourage them to think about their crimes and their consequences.

In general, links between prison education and education in the general community should be encouraged. As mentioned above, educational programmes may be offered in cooperation with educational organizations in the community and/or NGOs, taking into account individual risk assessments and putting in place the appropriate security precautions against risks posed. Prisoners often benefit greatly when their teachers are not direct employees of the prison administration but those working for the local education authorities. This helps normalize the prison atmosphere and enables prisoners to follow the same education programmes as those in the community. Teachers trained in adult and remedial education are important in the prison context. Many prisoners have had poor past experiences of learning and require special motivation to build confidence. Distance learning programmes can also be extremely useful to the education of high-risk prisoners, who may further their education and receive higher education and post-graduate degrees while in prison.

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<sup>91</sup>For example, research carried out by the Ministry of Justice in England and Wales found that only 19 per cent of prisoners who had had access to study reoffended within a year of release, compared with 26 per cent of similar prisoners who had not had access to education. The sample group included people studying a range of courses from Open University degrees to vocational qualifications, funded by the Prisoners' Education Trust. (BBC News, "Education makes prisoners less likely to reoffend", 9 January 2014). A study conducted in the United States found that prisoners who participated in prison education programmes had a 43 per cent lower chance of returning to prison than those who did not. Employment after release was 13 percent higher among prisoners who participated in either academic or vocational education programmes than those who did not. Those who participated in vocational training were 28 per cent more likely to be employed after release from prison than who did not receive such training (RAND Corporation, "Prison education cuts recidivism and improves employment, study finds", 22 August 2013).

### CASE EXAMPLE

#### HIGH-SECURITY PRISONERS OFFERED ACADEMIC COURSE TO LEARN ABOUT “CAUSES OF CRIME” (United Kingdom)

Prisoners in one of the United Kingdom’s high-security prisons have been offered criminology classes by a university to study the “causes of crime”. Prisoners at Frankland prison, a Category “A” maximum security prison in County Durham, are able to take part in a 10-week course. They learn alongside students from Durham University, who will have lessons inside Frankland prison and in the medium security Durham prison. The course covers areas such as whether prison works, the causes of crime and the criminalization of drugs.

The course is modelled on a project launched by Temple University in Philadelphia in 1997. Durham University brought the initiative to Europe for the first time after its criminology lecturers took part in training inside maximum security correctional facilities in the United States of America. Durham University cited that the programme in the United States had led to longer term initiatives, such as the creation of think-tanks in prisons supported by academics, and they hoped that the Durham programme would be equally successful.

It is hoped that the programme would not only help prisoners build new skills, but that it would also encourage them to re-examine the impact of their own actions on wider society.

*Source:* The Telegraph, 29 October 2014, “High security prisoners offered academic course to learn about ‘causes of crime’”

Education may also include programmes that present violent extremist prisoners with a counter-narrative to challenge their radical ideological beliefs promoting violence, whether political, historical or religious (see chapter 7.5). Education should be understood in its broadest meaning—that of developing the person as a whole.

In order to prevent mental deterioration, to encourage a positive use of time that enhances mental well-being and help with personal development, high-risk prisoners should also have access to recreational and cultural activities, which may include learning crafts, dancing, singing, acting, training in musical instruments, yoga, or writing stories and poems.

### CASE EXAMPLE

#### THEATRE AND OTHER SOCIAL REINTEGRATION ACTIVITIES IN VOLTERRA HIGH-SECURITY PRISON (ITALY)

A prison theatre group was established in Volterra high-security prison in Tuscany, Italy in 1998, by the Carte Blanche Association, which continues its activities to this day. Prisoners who are members of the group attend training on a daily basis. Shows in the prison are open to the public. From time to time, the group goes on tour throughout Italy and every year, it puts on a new performance at the Volterra Theatre Festival. The majority of the prisoners at Volterra prison are serving long sentences for mafia-related crimes, armed robbery and murder but unless they are particularly high-risk or dangerous, none of them is excluded from joining the prison’s theatre group, the Compagnia della Fortezza (the Company of the Fortress).

Since the success of the theatre project—which built the initial bridge between prison and local populations—Volterra became a model of social reintegration programmes. Once prisoners are considered ready, they can go out to work during the daytime in local businesses, where they earn a wage and perhaps learn a profession. The prison authorities have also experimented with a new

project: exclusive dinners inside the prison chapel with gourmet meals cooked and served by inmates.

Sources: Café Babel, Volterra prison in Italy: Theatre behind bars, 10 May 2010; Radio Netherlands, Volterra Prison Drama, 16 November 2007

**Prison libraries:** Education programmes and provision of books go hand in hand as a constructive way of using time in prison and developing the whole person. Prison libraries have an important role to play in this respect, and are explicitly referred to in the United Nations Standard Minimum Rules for the Treatment of Prisoners and other regional standards.<sup>92</sup> The availability of a varied selection of interesting and educational books can also compensate for the more limited range of activities that may be provided to some high-risk prisoners, due to the prisoners' level of dangerousness.

As a start, prison libraries should contain a core of materials concerning prison rules and prisoners' rights, including relevant national legislation and international standards, such as the United Nations Standard Minimum Rules. In addition, a good and wide selection of literature, reference materials, educational books, newspapers and magazines should be offered. Prison administrations should make every effort to take into account the languages spoken by high-security prisoners when acquiring books and newspapers. In this regard, prison authorities may seek the assistance of consular services and civil society organizations to supplement prison libraries. Prisoners should be encouraged to use the library, and no unreasonable restrictions should be made on their use of it.

Prison libraries should not only be a collection of materials but should provide trained staff who can convey information, explanation and advice. Assistance may be provided by librarians of libraries outside, or by professional volunteers. Prison libraries may be enriched by cooperation with outside public libraries, who can offer recreation as well as educational activities, individually tailored to the interests, needs and capacities of the prisoners.

## 7.3 Sport and exercise

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 23

1. Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.

See also the European Prison Rules, Rule 27; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XIII.

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<sup>92</sup>United Nations Standard Minimum Rules, Rule 64; also see the European Prison Rules, Rules 28.5; Principles and Best Practices on the Protection of Persons Deprived of their Liberty in the Americas, Principle XIII.



The United Nations Standard Minimum Rules for the Treatment of Prisoners make clear that all prisoners, including high-risk prisoners, should have at least one hour of exercise outside every day, where there is enough space to exert themselves physically. Sports and physical exercise are very important in maintaining both physical and mental health, especially in the case of high-risk prisoners, who are generally accommodated in restrictive custodial settings in high-security prisons or units. In some jurisdictions, such prisoners are offered minimal exercise facilities, in a yard with very little or no access to the open air. They may be required to take exercise on their own, having no contact with other prisoners or even staff. This form of exercise does not fulfil the requirements of international standards, as it does not allow prisoners sufficient access to fresh air and to exert themselves physically.

While the exercise area should be secure and easy for staff to observe, it should be sufficiently large and in the open air. It should have means of rest and shelter from inclement weather. Ideally, a toilet and drinking water should be provided. Prisoners should be able to take exercise together with other prisoners of the same unit or others selected on the basis of their risk assessments. They should be provided with sports equipment and, where resources allow, a gym and facilities to undertake different sports activities. Similar to security precautions taken in the case of work, prisoners should be searched, supervised and sports equipment carefully accounted for following each session.

The provision of sports and recreational equipment does not necessarily place an excessive burden on prisons. Access to outside space is important, but a ball can provide the basis for recreation and exercise for a group of prisoners. Activity of this kind is useful for health, to lower tensions and to further good relations in the prison, particularly if staff join in. In some prisons, it may also be possible to have a small number of personnel who are qualified physical trainers and who can organize activities with prisoners.

## 7.4 Religion

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 65

1. If the prison contains a sufficient number of prisoners of the same religion, a qualified representative of that religion shall be appointed or approved. If the number of prisoners justifies it and conditions permit, the arrangement should be on a full-time basis.
2. A qualified representative appointed or approved under paragraph 1 of this rule shall be allowed to hold regular services and to pay pastoral visits in private to prisoners of his or her religion at proper times.
3. Access to a qualified representative of any religion shall not be refused to any prisoner. On the other hand, if any prisoner should object to a visit of any religious representative, his or her attitude shall be fully respected.

**Rule 66**

So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the prison and having in his or her possession the books of religious observance and instruction of his or her denomination.

See also International Covenant on Civil and Political Rights, Art. 18; European Prison Rules, Rule 29; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle XV

Freedom of thought, conscience and religion, including the right to have or adopt a religion or belief of one's choice, constitutes a fundamental right under international law.<sup>93</sup> All persons, including prisoners, are entitled to practice their religion. The Human Rights Committee, for example, stresses that prisoners "... continue to enjoy their rights to manifest their religion or belief to the fullest extent compatible with the specific nature of the constraint".<sup>94</sup> Religious practice can also be regarded as a component of a constructive and balanced prison regime, as religion may help some prisoners come to terms with their long sentences and restrictive custodial settings, while offering an opportunity to reflect on the crimes they have committed. The prison authorities should ensure that prisoners are not hindered, but assisted in this respect. Prisoners should be allowed to pray, to read religious books and meet other requirements, such as those which relate to diet and hygiene.

High-risk prisoners of the same religion may be allowed to gather to celebrate special days or services, taking into account individual risk assessments. They should also have the opportunity, if they so wish, to be visited by qualified representatives of their own religion in private or in group services. On the other hand, prison authorities have the right to screen religious representatives who enter high-security prisons or units to prevent violent extremist views being disseminated amongst prisoners. Prison libraries should include religious texts written by qualified representatives of the different religions that are represented in the prison. The availability of authoritative literature on religious issues is one way of ensuring that prisoners who wish to develop their knowledge in such matters do not have to rely on texts smuggled into prison which advocate for national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.<sup>95</sup>

Diversity in religious beliefs should be respected and the policies described above should apply to all prisoners and all religions represented in a high-security prison or unit. The prisoners' religious beliefs should not be used against them by the prison authorities, for example through specific interrogation methods or as punishment for observing religious practices. Personnel of detention facilities should be provided with adequate training to raise awareness and enhance their sensitivity about their duty to respect international standards for the treatment of prisoners, including the right to freedom of thought, conscience and religion.<sup>96</sup> Equally, nobody should be obliged to subscribe to any religion or join religious services, either by prison staff or other prisoners. No prisoner should be disadvantaged because of his or her religious beliefs or lack of them. Measures need to be in place to

<sup>93</sup>International Covenant on Civil and Political Rights, Art. 18.

<sup>94</sup>Human Rights Committee, General comment no. 22 (1993), United Nations Doc. CCPR/C/21/Rev.1/Add.4, para. 8.

<sup>95</sup>International Covenant on Civil and Political Rights, Art. 18(2). Also see the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, United Nations Doc. A/HRC/22/17/Add.4 (11 January 2013), appendix.

<sup>96</sup>See the interim report of the Special Rapporteur on freedom of religion or belief, United Nations Doc. A/60/399, 30 September 2005, paras. 69-91.

protect prisoners from being coerced into converting to a certain religion or into practicing a religion, including in the context of staff training in order to enable them to identify such coercive practices.

## 7.5 Programmes to help prevent offending

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### EUROPEAN PRISON RULES

#### Rule 103

5. Social work, medical and psychological care may also be included in the regimes for sentenced prisoners.

See also Council of Europe, Recommendation CM/Rec(2014)3 of the Committee of Ministers to member States concerning dangerous offenders, para. 45.

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Programmes to help prisoners to address some of the psychosocial causes that have led to the commission of offences should be key elements of constructive regimes for high-risk prisoners. Attempts should be made to identify the forms of behaviour that lead to criminal activity and the maintenance of a criminal life style. Current research suggests that the most effective ways of identifying and dealing with criminogenic needs are programmes based on cognitive psychological approaches and social learning. Prison administrations should, to the greatest extent possible, provide programmes to enable prisoners to become aware of their criminogenic needs and take steps to neutralize them.

A relatively recent advance in knowledge has emerged about programmes and interventions that provide positive results and those that are unlikely to do so. This body of knowledge has arisen as a result of rigorous research, which demonstrates the importance of evidence-based action. The research and the methods to which it gives rise are often referred to as “what works” approaches. The specific change programmes developed through these approaches are sophisticated and demand application by knowledgeable and trained persons. Those implementing programmes must know something about the theory on which the programme is based, be trained in using assessment tools that identify the offenders likely to benefit from the programme, be skilful in promoting social learning and be able to sustain these efforts over a sufficiently long period. Rigorous evaluation must be built in from the start in order to check on programme integrity as well as effectiveness. Programme integrity means that the programme is carried out as planned for a time sufficient to allow evaluation for effectiveness.

The main features of successful change interventions include:

- Identification of offenders with high risk of relapse into crime using appropriate risk assessment tools (the expensive resources involved in creating and evaluating personal change programmes should not be used on low risk offenders)
- Identification of the criminogenic needs of offenders and the behaviours associated with them

- Getting offenders to think about their behaviour and its consequences for themselves and other (cognitive approach)
- Use of structured and consistent change programmes
- Delivery and maintenance of such programmes as planned, including implementation by trained and competent staff (programme integrity)
- Provision of opportunities to learn and practise the skills necessary to avoid offending behaviour

Generally, it is good practice not to oblige prisoners to participate in such programmes. Prison staff should provide prisoners time to consider and try to motivate them to join, including by enabling them to talk to other prisoners who have successfully completed similar programmes. Prisoners should also be informed of the consequences of not participating in a programme—such as not being able to progress to lesser security levels.

In some jurisdictions, programmes may be obligatory, where they are regarded as essential in addressing the specific criminogenic needs of the offender (e.g. alcohol and drug dependence treatment programmes). In some cases, attending a particular programme may be a requirement of the sentence imposed, where the programme is directly linked to the offence committed (e.g. programmes for sex offenders). However, there is a fine line between cases in which such an obligation may be considered ethical or not. As previously mentioned, a key principle of medical ethics, including in prisons, is that, wherever medical treatment is concerned (which includes certain psychosocial interventions), the informed consent of the person is required.<sup>97</sup> Any derogation from this fundamental principle should be in conformity with the law and only related to clearly and strictly defined exceptional circumstances which are applicable in the community.<sup>98</sup>

Wherever the completion of a programme constitutes a prerequisite for a prisoner's progress through the system to lower levels of security, prison authorities must make sure that the particular programmes are available and accessible to the prisoners. Where they are not, prisoners should not be disadvantaged. Other relevant factors should then be taken into account in their periodic risk assessments, so that they still have an opportunity to advance through the system, where appropriate.

## CASE EXAMPLE

### A THERAPEUTIC COMMUNITY PRISON: GRENDON PRISON (United Kingdom)

Grendon Prison in the United Kingdom is a prison which houses high-risk offenders. It can accommodate 238 prisoners in what is referred to as Category B secure conditions. (Category B is a security level applied in the United Kingdom to prisoners who present a high risk, but who are not dangerous enough to be housed in higher security facilities.) The prison is divided into six wings, five of which are relatively independent therapeutic communities with 40 or so residents in each, plus a smaller assessment and preparation wing for 25 prisoners. Most prisoners in Grendon will have been convicted for crimes against the person. All have sentences of more than four years. A large number are serving life sentences, and a significant proportion has psychiatric problems.

<sup>97</sup>United Nations Standard Minimum Rules, Rule 32(1)(b).

<sup>98</sup>Council of Europe (2014): *Prison Health care and Medical Ethics—A manual for health-care workers and other prison staff with responsibility for prisoners' well-being*, p. 15. UNODC (2010): *From coercion to cohesion: Treating drug dependence through health care, not punishment*, Discussion paper (2010), p. 7-8.

Prisoners must volunteer to come to Grendon and must have a genuine desire to change and to work at changing. They must also be committed to staying free from drugs while in therapy. The therapeutic community process focuses on group work, which combines a mixture of behavioural and conditioning elements of therapy with social skill and modelling, cognitive and more psychodynamic elements. The work in small groups is amplified by the therapeutic community environment, providing each prisoner with up to 40 therapists (fellow prisoners) who carry on the psychotherapy in between the formal groups. Prisoners also take part in the decision-making process relating to the day-to-day running of their lives.

All staff receive therapeutic training. They are required to go on accredited courses before they can start group work. This gives them a deeper sense of involvement. Grendon prison has a history of the lowest number of assaults of any prison in the United Kingdom. It also has some of the lowest rates of drug use and self-harm in the prison estate. Rates of reoffending are also significantly lower in the case of those prisoners released from Grendon in comparison to prisoners in the general prison population.

*Sources:* Official website of the Ministry of Justice; HMP Grendon: Therapy for dangerous prisoners, BBC News, 16 November 2011; Dr. Mark Morris, Director of Therapy: Introducing HMP Grendon: A Therapeutic Community Prison;

Criminogenic needs are not necessarily stable and continuing. Both dangerousness and criminogenic needs may, for a variety of reasons, change over time. This means that risk and needs assessments made at one point in time may not be valid at a later date. In consequence, assessments should be repeated at regular intervals or when special circumstances require, as discussed in chapter 4.

Interventions and programmes to help prevent reoffending demand an investment in staff training to carry out competent implementation, as well as staff for evaluation. This is not to say that all participating staff members must be specialized experts, but they must be aware of the basic ideas that underpin the intervention, and be able to act in accordance with programme requirements. An involvement of all prison staff and not solely specialized experts is necessary in order to provide an optimum environment for operating personal change programmes. Training, therefore, should also be undertaken to ensure that the entire staff works together as a team. This usually means training sessions at particular prisons that involve all grades and categories of staff.

Examples of offending behaviour programmes, include:

- Anger management programmes
- Violence prevention programmes
- Sex offender programmes
- Drug and alcohol treatment programmes
- Enhanced thinking skills programmes
- Reasoning and rehabilitation programmes
- Arson prevention programmes
- Violence against women prevention programmes
- Disengagement programmes to address violent extremism

Some of these programmes have been developed over the years and proven to be effective, whereas others, such as disengagement programmes, are more recent and continue to be tested and refined; their success rates have not yet been properly evaluated. In addition, courses such as relationship skills, gender awareness, and coping with grief and loss are available in some prison systems. Many of the programmes are delivered in a group setting. However, the importance of one-to-one offence-related work with high-risk prisoners should not be neglected. This provides the opportunity for the prisoner to examine his or her offending in detail and to take responsibility for it, which is crucial to reducing risk in the future.

It should be emphasized that the effectiveness of such programmes relies on their place within a balanced regime of activities, including education, work opportunities and skills training, among other things, which target underlying causes of criminal activity and are essential for the long-term success of social reintegration strategies.

## CASE EXAMPLE

### REDUCING GANG VIOLENCE IN PRISONS IN PARTNERSHIP WITH CIVIL SOCIETY (United Kingdom)

Ministry of Justice figures in the United Kingdom show the number of recorded assaults in English and Welsh prisons increased from 14,045 in 2012-13 to 15,441 in 2013-14. The government's London Crime Reduction Board highlighted the worrying significance of gang members driving such violence and offending in custody.

The charity Catch22 offers a prison gang service which supports the management of prison environments by reducing the risk posed by gang-involved prisoners. Since Catch22 started to work with gang members in Thameside prison in 2013, the number of violent incidents in the prison significantly dropped from a peak of approx. 90 violent incidents per month to fewer than 20. Under the scheme, a new prisoner is visited by a Catch22 practitioner within 12 hours of arrival for a conversation, during which they find out whether they have gang involvement. A management plan is drawn up to ensure that antagonistic gang members are put into different parts of the prison and have different times for activities and visits. The Catch22 practitioners keep in contact with them in case issues arise and they undertake conflict resolution, as needed. Mediation is another part of the work, along with a weekly "circles" session—a group forum where painful emotional issues can be aired and discussed. "Teachable moments"—when prisoners become disillusioned about gang life—are seen as a vital heart of the programme, when prisoners may reveal the root causes of their behaviour. Model prisoners who have had gang involvement are trained to be "gang reps" within the prison and given a mentor role to provide guidance and support for other prisoners.

The director of the prison said of the project: "We have seen the value of working with gang members by using people who can get close and understand them better. We are convinced this focus has been vital in the big drop in gang violence we have seen."

*Sources:* The Guardian, "The jail that has reduced violence by helping inmates escape from the gang", 19 November 2014; "The Catch22 approach to managing and addressing gang involvement in prison" ([www.catch-22.org.uk](http://www.catch-22.org.uk))

In order to increase their value and effectiveness, prison activities and programmes should not only be well-balanced, but sequenced in such a way that provides a logical path of development for the prisoners. This means that all interventions are carried out in a coherent and planned way, building on what has been done previously. The purpose of sequencing is

to deliver interventions taking into account issues such as timing, combination and dosage, and to identify patterns that work for various profiles of offenders to reduce reoffending. The “what works” approach and methods in programme delivery, referred to earlier, sets out the following principles to underpin the sequencing of interventions:

- *Risk principle:* The degree of intervention required for each individual should be related to a risk assessment
- *Needs principle:* Interventions for each individual should be targeted towards personal and social factors that are assessed as being likely to cause reoffending
- *Responsivity principle:* Interventions should be based on methods that are demonstrably effective in reducing offending, and responsive to the culture, gender and learning styles of individual offenders

Sequencing is recommended when the likelihood of reoffending is high and when a prisoner has a range of criminogenic needs that makes them suitable for more than one programme. At the first stage, the aim should be to ensure that offenders are able to participate effectively in any programme that has been determined as suitable for their needs. It is essential that responsivity issues, such as literacy difficulties or mental health-care needs, are addressed at the earliest stage in the prisoner’s sentence and prior to engaging him or her in any form of group or offence-specific work. Prisoners should further be encouraged to address any problems with substance dependence at the earliest stage in their sentence in order to provide optimum conditions for successful participation in other interventions.

Sequencing normally consists of pairing a general offending behaviour programme, such as cognitive skills, with a more specialist programme, such as a substance dependence, sexual or violent offending programme. Within this framework, the individual should participate in the cognitive skills group first. This is in order to provide them with an introduction to group work and problem solving/self-management skills. Sometimes, two specialist offence-specific programmes may also require to be sequenced. For example, if an individual is going to participate in a violence prevention programme, it is recommended that they first address any outstanding issues with regard to sexual offending.

As mentioned above, such programmes should always be part of a broad range of interventions that meet the wider needs of offenders, such as basic skills deficits and practical issues such as housing and jobs. Therefore, there should always be a combination of programmes with other interventions addressing needs associated with social reintegration, such as basic social skills and employment.

## 7.6 Responding to mental health-care needs

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 25

1. Every prison shall have in place a health-care service tasked with evaluating, promoting, protecting and improving the physical and mental health of prisoners, paying particular attention to prisoners with special health-care needs or with health issues that hamper their rehabilitation.

2. The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry. (...)

#### Rule 109

1. Prisoners who are found to be not criminally responsible, or who are later diagnosed with severe mental disabilities and/or health condition, for whom staying in prison would mean an exacerbation of their condition, shall not be detained in prison, and arrangements shall be made to transfer them to mental health facilities as soon as possible.
2. If necessary, other prisoners with mental disabilities and/or health conditions can be observed and treated in specialized facilities under the supervision of qualified health-care professionals.
3. The health-care services shall provide for the psychiatric treatment of all other prisoners who are in need of such treatment.

#### COUNCIL OF EUROPE, RECOMMENDATION CM/REC(2014)3 OF THE COMMITTEE OF MINISTERS TO MEMBER STATES CONCERNING DANGEROUS OFFENDERS

##### Recommendation 44

Those who have, or develop, a mental disorder, should receive appropriate treatment. (...) The medical or psychiatric service of the penal institutions should provide or facilitate the medical and psychiatric treatment of all dangerous offenders who are in need of such treatment.

See also International Covenant on Economic, Social and Cultural Rights, Art. 12(1); Convention on the Rights of Persons with Disabilities, Art. 25; European Prison Rules, Rule 103.5; Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Principle X.

Prison management policies need to integrate the promotion of mental health into all aspects of prison life in order to protect and promote the mental well-being of all prisoners. International standards require that prison authorities offer psychosocial consultations and psychiatric services (equivalent to those available in the community) for those prisoners who present particular treatment needs. Where necessary, prisoners who are in need of such treatment should be transferred to appropriate institutions in the community, with the requisite precautions to protect public security. Treatment should always be based on the informed consent of the prisoner<sup>99</sup> and respect other principles under international law applicable to persons with mental disabilities.<sup>100</sup>

As previously mentioned, the above is very relevant for high-risk prisoners, whose more restricted custodial settings and regimes risk contributing to a deteriorating of mental health or an exacerbation of existing mental health-care needs (see chapter 1.9). In response, the United Nations Standard Minimum Rules for the Treatment of Prisoners emphasize the role of health-care personnel with regards to prisoners held under any form of involuntary separation, be it imposed as a security measures or as a disciplinary sanction. Importantly, health-care personnel should also have the authority to recommend changes to their involuntary separation in order to prevent the worsening of a prisoner's medical condition or mental or physical disability.<sup>101</sup>

<sup>99</sup>Where the prisoner is unable to give informed consent due to their medical condition (for example, if he or she is psychotic), then normal medical ethical principles should apply as is the case in the community.

<sup>100</sup>See, in particular, the Convention on the Rights of Persons with Disabilities (2006).

<sup>101</sup>United Nations Standard Minimum Rules, Rule 46.



Some high-risk prisoners have severe mental disorders with co-morbid difficulties of substance misuse and/or personality disorder, which are linked to their offending. In some jurisdictions, these high-risk prisoners are held in secure psychiatric institutions rather than prisons—a practice in line with Rule 109 of the United Nations Standard Minimum Rules for the Treatment of Prisoners. These institutions provide a therapeutic psychiatric service that is aimed at the assessment and treatment of the mental disorder, as a means to reduce the risk of harm that the individual exhibits to others and to support recovery. Care and treatment should be provided by practitioners, expert in the field of forensic mental health, including consultants in forensic psychiatry and psychology. The eventual aim of the interventions is to enable these prisoners to return to prison, when and if they are successfully treated and a mental health and risk assessment determines that this is safe to do so.

 For further detail, see the *UNODC Handbook on Prisoners with Special Needs (chapter 1)*

## 7.7 Preparation for release

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 88

1. The treatment of prisoners should emphasize not their exclusion from the community, but their continuing part in it. Community agencies should, therefore, be enlisted wherever possible to assist the prison staff in the task of social rehabilitation of the prisoners.

#### Rule 108

1. Services and agencies, governmental or otherwise, which assist released prisoners in re-establishing themselves in society shall ensure, so far as is possible and necessary, that released prisoners are provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

2. The approved representatives of such agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence.

3. It is desirable that the activities of such agencies shall be centralized or coordinated as far as possible in order to secure the best use of their efforts.

### UNITED NATIONS RECOMMENDATIONS ON LIFE IMPRISONMENT

#### Release of prisoners

Consideration may be given to:

- Preparing and executing a pre-release programme for every life-sentence prisoners nearing release, emphasizing the prisoner's reintegration into society, with special reference to his or her family, social environment and employment;
- Providing post-release assistance emphasizing effective social support for all former life-sentence prisoners in need of it, in order to facilitate their return to normal life. This could be

achieved with a diminishing level of police and court control over the conditionally released prisoner.

See also the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders, Rules 43-47; European Prison Rules (2006), Rule 107; Council of Europe Committee of Ministers Resolution (76) 2 on the treatment of long-term prisoners, paras. 7-11.

Every high-risk prisoner nearing release should have a pre-release programme, with special emphasis on his or her reintegration into society, with reference to the family's social environment and employment. In order to enable high-risk prisoners to overcome the particular problem of moving from lengthy imprisonment to a crime-free life in the community, their release should be prepared well in advance.

Several years before the anticipated date of release, most high-risk prisoners should be suitable for transfer to a low-security prison. The purpose of moving them to open (low-security) conditions is to test them in more challenging conditions before being considered for release, and provide facilities for supervised outside activities and temporary release in preparation for full release. The transition to these open conditions is a significant change for all long-term prisoners, and help must be available for them to cope. When the date of release is known or can be presumed, sentence planning should focus more on identifying the risks and needs that are likely to present themselves in the immediate post-release period and making plans to deal with them.

It is also essential to consider whether it is necessary to continue any educational programme, vocational training, personal change course or other intervention that has been started during detention. Continued participation in such programmes can make a substantial contribution to maintaining the personal progress that has been made in the course of imprisonment and, at the same time, establish an important form of social control. It is clear that such arrangements cannot be made unless there is a close collaboration between the prison administration and the various authorities who are involved in post-release interventions. From the outset, any authority with direct supervisory responsibility for the released prisoner, such as the probation service, should be associated with the pre-release planning process.

The probation officer who is to be responsible for the supervision of a prisoner following release should visit the prison regularly well in advance of the prisoner's release date to help prepare him or her for release. If an integrated case management policy is being implemented, as recommended in chapter 4, relevant outside agencies would have been involved in the management of the prisoners' sentence and plans for social reintegration from early on in the prisoners' sentence. Such involvement should be intensified during the pre-release period. Regular meetings between all relevant agencies, such as the local authorities, probation staff, health and housing services, as well as, in some cases, the police should take place during this period.

## CASE EXAMPLE

### PREPARATION FOR RELEASE (GERMANY)

A key component of prisoners' preparation for release in Germany is that of prison meetings between probation officers and prisoners. In nine states of Germany, probation officers start visiting prisoners one year in advance of their release date to start the resettlement process.

In cases where a high-risk prisoner has committed violent offences against his or her family or a member of his or her own community, the safety and sensitivities of the victim(s) of the crime should be respected. In such cases, contact will need to be made with the victims some time prior to the release date and they should be informed, sensitively, of the forthcoming release of the prisoner.<sup>102</sup> In some cases, the offender might have to be resettled in an alternative place.

#### PREPARATORY ACTIVITIES PRIOR TO THE RELEASE OF A HIGH-RISK PRISONER:

- Liaising with the family to confirm the prisoner's release address
- Making alternative arrangements for the place of release, where necessary
- Making necessary referrals to community-based services (e.g. housing, health-care providers, services providing counselling or other special treatment programmes, if relevant)
- Liaising with supervisory bodies, such as the probation service or the police, to make plans for post-release supervision
- Motivating the prisoner to cooperate with supervisory bodies and to continue with any treatment that he or she may need in the community

One of the ways to help ease the transition to release into the community is to allow prisoners escorted and, subject to risk assessments, unescorted periods of temporary release.<sup>103</sup> Temporary release enables prisoners to maintain and/or renew family ties and links with the community; to participate in activities such as community service, employment, training, educational courses; to become re-orientated to developments in society; and to make suitable arrangements for accommodation, work and training upon release. Applications for temporary release will require careful consideration, be based on a proper assessment of risks and be linked with clear objectives. In countries with low resources or in post-conflict environments, where systems to track prisoners on leave are lacking and where the personal data of prisoners is either incorrect or unavailable, allowing high-risk prisoners to go on leave would comprise a high-risk strategy and should be avoided. Prison authorities may compensate for this by increasing the opportunities for high-risk prisoners' contact with the outside world, via visits, telephones and letters, especially during the period of preparation for release.

Work release programmes can be another effective way of facilitating prisoners' social reintegration into the community. In some jurisdictions, when prisoners have progressed through the system to the lowest security level and are serving the last months of their sentence, they are considered for work release programmes. Prison staff assist them in seeking employment and attending interviews in the community. The prisoner is allowed to go out to attend his or her work place and return to the prison each night. In some work release programmes, the prisoner is allowed to stay with his or her family during the weekend and spends the week nights after work in prison. Security checks and monitoring, as well as breath and urinalysis testing may be conducted by the prison personnel.

<sup>102</sup>In cases of violence against women, for example, international standards require the prioritization of the safety of victims, who have a right to be notified of the offender's release (see the Updated Models Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice (A/RES/65/228, annex), provision 17(c)).

<sup>103</sup>European Prison Rules, Rule 103; also see Resolution (76)(2) of the Committee of Ministers of the Council of Europe on the Treatment of Long-Term Prisoners, para. 8, which recommends to member States to grant periods of leave from prison not as a relief from detention but as an integral part of the programme of treatment.

The need for regular individualized risk assessments of high-risk prisoners is emphasized throughout this Handbook. Where there is no fixed release date, e.g. in the case of life-sentenced prisoners, a possibility of conditional release should always exist and prisoners' suitability for release should be decided on the basis of individualized assessments.<sup>104</sup> The body responsible for taking release decisions (such as a parole board) should be provided with all relevant information by specialist staff, including psychological assessment reports and information on the completion on any programmes relevant to the prisoner's offence, where applicable (e.g. programmes for sexual offenders). Release procedures should be subject to a right of appeal in the event that the release is continually refused.

In some countries, prisoners have indeterminate sentences or are held far beyond the minimum tariff set by the court for public protection for an indefinite period (indeterminate sentences for public protection). The prisoners must complete certain programmes and courses to be considered for release, but such programmes and courses are not always made available to them. This is not acceptable as a practice. States have a responsibility to offer the requisite programmes to prisoners, even more so if their release is dependent on completing them.<sup>105</sup>

#### EUROPEAN COURT OF HUMAN RIGHTS RULES THAT A LIFE SENTENCE WITHOUT A POSSIBILITY OF RELEASE IS INCOMPATIBLE WITH ARTICLE 3 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS

On 9 July 2013 the European Court of Human Rights ruled that there had been a violation of Article 3 (prohibition of inhuman and degrading treatment) of the European Convention on Human Rights in a case which concerned three applicants, who had complained that their imprisonment for life amounted to inhuman and degrading treatment.

The Court found that, for a life sentence to remain compatible with Article 3 there had to be both a possibility of release and a possibility of review. It noted that there was clear support in European and international law and practice for those principles, with the large majority of Convention Contracting States not actually imposing life sentences at all or, if they did, providing for a review of life sentences after a set period (usually 25 years' imprisonment).

Source: Case: *Vinter and Others v. the United Kingdom* (application nos. 66069/09, 130/10 and 3896/10).

Following release, supervision is highly important, especially in the early stages, and extensive contact is a means of managing and monitoring risks and of providing the necessary support. Pre-release reports on prisoners to be released, outlining possible risks still posed and continuing needs (such as the completion of any treatment or training started in prison) should

<sup>104</sup> Prisoners sentenced to life imprisonment without parole do not have the right to conditional release and must spend all their lives in prison. This type of sentence is used in many countries in different regions of the world. A life sentence without parole has been prohibited in some countries, such as Mexico, where the Supreme Court declared it unconstitutional. Similarly, courts in Germany, France, Italy and Namibia have recognized that those subject to life sentences have a right to be considered for release. (see Penal Reform International, Penal Reform Briefing No. 1, 2007 (1), pp. 4-5).

<sup>105</sup> On 10 December 2014 the Supreme Court in the United Kingdom held that all indeterminate sentence prisoners ("ISPs") must be given a reasonable opportunity to reform themselves and to demonstrate their safety for release, under Art. 5 of the European Convention on Human Rights. The Supreme Court was clear that the State's obligation to provide a reasonable opportunity for rehabilitation exists throughout the prisoner's detention and arises pre-tariff, i.e. prior to the prisoner's earliest release date (See Case: *R (Haney, Kaiyam, Massey and Robinson) v Secretary of State for Justice* [2014] UKSC 66, 10 December 2014).

be provided to bodies responsible for the management of released prisoners in the community. Some high-risk prisoners who are still considered to pose a possible danger to the public may be subject to supervision in the community for extended periods, sometimes for the rest of their lives.

 For further detail, see the *UNODC Introductory Handbook on the Prevention of Recidivism and the Social Reintegration of Offenders*.



# 8.

## Contact with the outside world

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### INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

#### Article 23

The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 106

Special attention shall be paid to the maintenance and improvement of such relations between a prisoner and his or her family as are desirable in the best interests of both.

#### Rule 107

From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and provided assistance to maintain or establish such relations with persons or agencies outside the prison as may promote the prisoner's rehabilitation and the best interests of his or her family.

See also the Universal Declaration of Human Rights, Art. 12; European Prison Rules, Rules 24.1-12., 99; Principles and Best Practices on the Protection of Persons Deprive of Liberty in the Americas, Principle XVIII; Kampala Declaration on Prison Conditions in Africa, para. 6.

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The ability of prisoners to maintain contacts with the outside world, in particular their families, is fundamental to their successful social reintegration, the importance of which is emphasized in Rule 4(1) of the United Nations Standard Minimum Rules for the Treatment of Prisoners. Therefore, enabling such contact is an essential part of strategies that aim to ensure that both the human rights of prisoners are respected, including their right to family life,<sup>106</sup> and that their prospects for leading a crime-free life upon release are strengthened. There is, of course, another important justification for allowing such contact, namely that the other members of the family, including spouses, children and others, who have not committed any crime, are entitled to have contact with the imprisoned family member.

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<sup>106</sup>International Covenant on Civil and Political Rights, Art. 23.

There are six basic ways in which contact can be maintained with the outside world that are covered in this chapter: letters and telephones; access to the media; visits; contact with civil society organizations working in prisons; and prison leave. There are also different types of outside contact: contact with family and friends, professional and institutional contact; and contact with third parties, such as the media.

High-risk prisoners, who will usually have been sentenced to long prison-terms, are at particular risk of losing touch with their family and friends over time due to the length of their sentence, due to the crimes they have committed and/or because they will often be held far away from their homes, in the few high-security prisons available in a country. For the same reasons, those prisoners have a particularly strong need to maintain links with their families and friends in order to counterbalance the desocializing effects of long-term imprisonment. Maintaining these links is also crucial to their ability to start a new life away from crime following their eventual release.

At the same time, the prison administration's duty to encourage contact with the outside world must be balanced against the risks which may be associated with the ability of high-risk prisoners to communicate with those outside. Communication must be managed to prevent crime, inhibit the trafficking of unauthorized items, ensure the protection of the public from unwanted communications, and prevent escapes. When first received into a prison, all high-risk prisoners should therefore be informed that their telephone and postal communications may be monitored and that calls will be recorded, with the exception of legally privileged conversations and calls. Good practice is to display a notice above/adjacent to all telephones with similar information regarding the monitoring of their calls. To subject high-risk prisoners to severe contact restrictions as a general policy (as opposed to restrictions based on the results of individual risk assessments) is counterproductive to the rehabilitative aims of imprisonment.

Prison administrations need to make special efforts to prevent the breakdown of family ties of prisoners serving long sentences, with visits, letters and phone calls being allowed to the maximum possible extent, while ensuring that the requisite security precautions are in place. On a number of occasions, the United Nations Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (SPT) and the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment (CPT) have both criticized the unjustified contact restrictions placed on prisoners with long prison terms and on those held in high-security settings.<sup>107</sup>

While it is well known that links with the family constitute the most solid basis for social reintegration, it would be wrong to restrict prisoners' outside contacts to just their families. Many prisoners are unmarried, divorced or separated from their spouses. In other cases, the prisoner may not wish to have contact with relatives. Therefore, prisoners' contact with the outside world should not be limited to families, but should also include partners and friends.

<sup>107</sup> See, for example, the Report on the visit of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to Brazil, United Nations Doc. CAT/OP/BRA/1, 5 July 2012, para. 117.



## 8.1 Letters and telephone calls

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 58

1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:

(a) By corresponding in writing and using, where available, telecommunication, electronic, digital and other means (...)

See also the European Prison Rules, Rules 24.1-2.; Principles and Best Practices on the Protection of Persons Deprive of Liberty in the Americas, Principle XVIII.

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**Letters:** Correspondence as a means of maintaining outside contacts is mentioned explicitly in the United Nations Standard Minimum Rules for the Treatment of Prisoners. Traditionally, regulations in this area have been quite restrictive, whereas today, more liberal policies to receive and send letters are considered essential. It is good practice to supply prisoners with the necessary writing utensils and with stamps, if needed, to facilitate prisoners' correspondence. If all letters were to be read and censored by prison staff, delays in the flow of letters would occur and valuable time and resources would be wasted. It is now generally accepted that it is highly unlikely that a prisoner will discuss escape plans or conduct criminal activities via written correspondence.

While, as a rule, there should be no limits imposed on the number of letters a prisoner may send and receive and the number of correspondents he or she may have, there will need to be a list of approved correspondents in the case of some high-risk prisoners. Based on their risk assessments, incoming and outgoing letters of high-risk prisoners may also need to be read, with the exception of those which involve correspondence with legal representatives, higher judicial authorities (e.g. complaints), human rights bodies or parliamentarians. Such prisoners need to be informed that their private correspondence is subject to monitoring. Similarly, all letters and packages to high-risk prisoners need to be carefully checked in order to prevent contraband from entering the prison. Where the risk assessment of a prisoner does not justify reading his or her letters, good practice requires that the checking of letters for illegal items be undertaken in the presence of the prisoner, in order to avoid any appearance of invading the prisoner's privacy.

The prison administration should have the discretion to disallow any correspondence with a person or organization if there is reason to believe that the person or organization concerned is planning or engaged in activities which present a genuine threat to security or good order of the establishment or other prisons. When a high-risk prisoner has been prevented from writing to a person or an organization, or would not be allowed to do so, communication with any other person at the same address will also be stopped unless the other person is a close relative.

Correspondence between a high-risk prisoner and another convicted prisoner also requires careful consideration. It should normally be permitted where the prisoners are close relatives. In other cases, approval should be given unless there are reasons to believe that such

correspondence will seriously impede the rehabilitation of either prisoner, or where it would be desirable, in the interests of security or good order and discipline, that the prisoners should be prevented from communicating. Correspondence with ex-prisoners should be allowed, subject to any concerns there may be regarding threats to security or criminal activity.

If the recipient of correspondence from a high-risk prisoner requests the prison administration, in writing, that no further letters should be sent, the prisoner must be informed of the request, asked to cooperate by not writing and given the opportunity to discuss the matter with a member of staff. High-risk prisoners identified as presenting a risk to children should first apply to a member of staff in order to correspond with any child. Similarly, high-risk prisoners wishing to correspond with the victim of their offences, or the victim's family, should first apply to prison administration for permission to do so, which may be withheld if it is considered that the approach would add unduly to the victim's or family's distress.

In general, correspondence from or to high-risk prisoners should not contain the following:

- Material intended to cause distress or anxiety to the recipient or any other person
- Plans or material that could assist or encourage a disciplinary or criminal offence (including attempts towards the fabrication or suppression of evidence)
- Material which if allowed would jeopardize prison security (e.g. escape plans)
- Material that would jeopardize national security
- Descriptions of the making or use of any weapon, explosive, poison or other destructive device
- Obscure or coded messages that are not readily intelligible or decipherable
- Material that is indecent and obscene
- Material that would create a threat or risk of violence/physical harm to any person

**Telephone calls:** As an important means for prisoners to maintain contact with their families, the possibility to make and receive telephone calls should be made widely available to all prisoners. The normality of telephone communication can be stressed by having regular telephone booths in prisons. In many prisons, this is still considered impossible because the coins necessary for operating pay phones are not allowed. The invention of card telephones has, to a large degree, resolved that argument.

Obviously, talking over the phone is of particular importance for those prisoners who do not know how to read and/or write and for prisoners whose families and friends live far away from the place of imprisonment. In this regard, telephone contact is of particular importance for foreign national prisoners whose families do not reside in the country of imprisonment. Such prisoners should be allowed to make and receive telephone calls as frequently as possible to compensate for the lack of contact with families via visits.

The above notwithstanding, telephones can also be used to organize criminal activities, plan an escape or in some other way disturb prison security and order. In the case of high-risk prisoners, telephone conversations may therefore be routinely monitored by staff, and prisoners informed that monitoring will be undertaken. It may also sometimes be necessary for some prisoners to make and receive calls from an office under the supervision of a member of staff. In other cases, telephone calls may be recorded and retained for a specific period

of time. In the case of high-risk prisoners, there may further be public protection restrictions (including an identified risk of intimidating victims or witnesses). In such cases, a member of staff should make the call on the prisoner's behalf and check if the recipient is willing to receive the call in the first instance.

In many prison systems, prisoners are required to notify the prison administration of numbers they wish to call. Prisoners should also be required to differentiate between social numbers and legal and confidential access numbers. All legal and confidential numbers provided by high-risk prisoners should be checked and verified as bona fide. The checking of social numbers must be proportionate to assessed risks and checked, as necessary. High-risk prisoners should not normally be permitted to make any business-related calls, commercial enquiries or order goods using the telephone. They should also be prohibited from making calls to or via the operator or to other operator services and must not be given access to telephone directories. However, this should never hinder prisoners accessing telephone contact details of legal representatives (see chapter 8.4).

Telephone calls by high-risk foreign prisoners should be conducted in the local language. If the local language is not spoken or understood by the caller or receiver, another language may, at local discretion, be used, provided that someone is available to interpret the call. As discussed earlier, implementation will require prison authorities to employ staff representing the different nationalities held in prison, in order to monitor the phone conversations and letters of high-risk foreign prisoners and the prisoners should be informed that such monitoring is taking place. Where no such staff are available, restrictions may be placed on communication, always subject to individual risk assessments and justified in each case. For high-risk prisoners, this may involve the call being recorded and translated within 48 hours.

An important additional reason to enable prisoners' access to regular phones is to prevent any need or justification for their acquiring mobile phones, which bring with them many risks. Effective measures need to be in place to prevent high-risk prisoners' access to illicit and unmonitored mobile (cell) phones, as these can be used for bullying and disorder; planning escapes; and organizing criminal or terrorist activities. In some jurisdictions, blocking technology is used to prevent mobile phone calls being made from within the prison, but this may also impact on members of the public who live within the vicinity of the prison. Modern detection equipment allows prisons to identify unauthorized mobile phones and SIM cards being used within prisons. In some jurisdictions, the prison administration can apply to a court for an order to compel phone network providers to block the mobile phones and SIM cards being used in a prison without needing to seize the phone or prove it is being used by a specific prisoner. By ordering a phone to be cut off once it is identified, prison administrations are able to reassure victims and prevent further criminal activity faster and wider than ever before.

A good practice related to the above is not to allow staff to bring their personal mobile phones into the prison. This is to ensure that staff do not get distracted from their duties and that phones are not stolen by prisoners. It is also one measure to prevent staff being manipulated by prisoners to bring in mobile phones for them. All staff and prisoners entering high-security prisons and units should be searched in order to reduce the possibilities of mobile phones (among other illegal items) entering the prisons. Searching should also take place when prisoners and staff enter high-security units, even when they may have already been searched when entering the main prison.

## 8.2 Access to media

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 63

Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the prison administration.

### EUROPEAN PRISON RULES

#### Rule 24

10. Prisoners shall be allowed to keep themselves informed regularly of public affairs by subscribing to and reading newspapers, periodicals and other publications and by listening to radio or television transmissions unless there is a specific prohibition for a specified period by a judicial authority in an individual case.

12. Prisoners shall be allowed to communicate with the media unless there are compelling reasons to forbid this for the maintenance of safety and security, in the public interest or in order to protect the integrity of victims, other prisoners or staff.

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Television, radio and newspapers offer the possibility of keeping up with local, national and international events, as well as providing entertainment. It is good practice to allow prisoners, as a rule, complete access to all media that are legally available outside prison. Exceptions to this rule should be limited to reasons of safe custody, i.e. material that would facilitate escape from custody or insurrection inside the prison.

Given that high-risk prisoners will typically serve long sentences, having opportunities to follow developments in the outside world is important to help them maintain a sense of being part of wider society, despite their physical isolation from it. It will also allow them to keep up-to-date with changes outside, which will be invaluable for their ability to readapt to society upon release.

The most important newspapers and other periodicals should be available in the prison library. It is also good practice to allow prisoners to subscribe to periodicals that are legally available outside the prison. One very efficient way of giving prisoners access to outside information is by providing them with the opportunity to listen to radio programmes or to watch television. This means that the prison will have to provide radios and/or television sets. Usually, this is done in communal rooms, where prisoners can spend their time after work together. In countries where radios and/or TV sets are normal equipment in most households, allowing prisoners to have their own radio/TV sets in their rooms or cells, as well as in communal areas, would do much to minimize the difference between the community and prison life.

High-risk prisoners, on occasion, request access to the media by means of correspondence, telephone calls and face-to-face interviews by means of a visit. Many jurisdictions allow such contact, provided that anything which is intended for publication or for use by radio or television or for posting on the Internet must not contain material, which (a) is for publication in return for payment, unless the prisoner is unconvicted; (b) is about the prisoner's crime

or past offences or those of others, the processes of justice or the penal system; (c) refers to individual prisoners or members of prison staff in such a way that they might be identified; or which (d) is likely to appear in a publication associated with a person or organization to whom the prisoner may not write as a result of the restriction on correspondence.

High-risk prisoners should not be given access to the Internet other than for educational or resettlement purposes (and then only under strict supervision). Prisoners should not be permitted to access or contribute via a third party to any social networking site (e.g. Facebook) while in custody.

## 8.3 Visits

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 43

3. Disciplinary sanctions or restrictive measures shall not include the prohibition of family contact. The means of family contact may only be restricted for a limited time period and as strictly required for the maintenance of security and order.

#### Rule 58

1. Prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals:

(b) By receiving visits.

2. Where conjugal visits are allowed, this right shall be applied without discrimination, and women prisoners shall be able to exercise this right on an equal basis with men. Procedures shall be in place and premises shall be made available to ensure fair and equal access with due regard to safety and dignity.

#### Rule 59

Prisoners shall be allocated, to the extent possible, to prisons close to their homes or their places of social rehabilitation.

#### Rule 62

1. Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.

2. Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.

### UNITED NATIONS RULES FOR THE TREATMENT OF WOMEN PRISONERS AND NON-CUSTODIAL MEASURES FOR WOMEN OFFENDERS (the Bangkok Rules)

#### Rule 23

Disciplinary sanctions for women prisoners shall not include a prohibition of family contact, especially with children.

**Rule 26**

Women prisoners' contact with their families, including their children, their children's guardians and legal representatives shall be encouraged and facilitated by all reasonable means. Where possible, measures shall be taken to counterbalance disadvantages faced by women detained in institutions located far from their homes.

**UNITED NATIONS RECOMMENDATIONS ON LIFE IMPRISONMENT****Paragraph 11**

To provide life sentence prisoners with opportunities for communication and social interaction with the outside community and in particular, to allow fixed regular visits with their relatives and other persons that would promote the best interests of the prisoners and their families, utilizing community agencies, social workers and volunteers to assist the prison staff in maintaining and improving these social relations.

See also the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principles 19-20; United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders, Rule 53; European Prison Rules, Rules 24.4-9., 99; Principles and Best Practices on the Protection of Persons Deprive of Liberty in the Americas, Principle XVIII; Kampala Declaration on Prison Conditions in Africa, para. 6.

Visits are a more powerful medium of external social relations than letters or telephone. They are the closest prisoners can get to having normal human contact with their families, partners and friends. Visits are extremely important to the mental well-being of prisoners and their families, including their children. Both their frequency and the conditions in which visits take place need attention in this respect. Visits also assist in maintaining good order. Good quality visits in a relaxed environment make a significant contribution to the well-being and attitude of high-risk prisoners and generally help to build better relationships between families and staff to the point where families are encouraged to share sensitive information which may have an impact on the welfare of the prisoner.

On the other hand, as already discussed in chapter 6, illicit items entering prisons may arrive via social visits. Therefore, prison authorities need to maintain a proper balance between encouraging visits to high-risk prisoners and taking appropriate security precautions to prevent illegal items being infiltrated into prisons as well as to prevent the planning of escapes or the conduct of criminal activity.

There are a number of practical steps prison authorities can take to facilitate and encourage visits from families. The first and most important of these is to allocate prisoners, as often as possible, to prisons that are geographically near to their families or close relatives, so that the distances to be travelled and the costs involved do not present additional barriers to maintaining links. This may not be possible in the case of many high-risk prisoners due to the likelihood of there being a small number of high-security prisons in some countries. Usually, having high-security units within prisons of a different security level allows allocating prisoners closer to their homes, as stated in the discussion on concentration and dispersal policies in chapter 3.2.2 (see chapter 5.7 for exceptions). Alternatively, a good practice is to

allow longer visiting hours or to accumulate visits if the visitors have to travel a long distance and are unable to visit on a regular basis.<sup>108</sup>

Visitors of high-risk prisoners in many countries are required to be registered on an approved visitors' scheme, which involves the police checking the identity of the visitor in advance. All visitors, other than accompanied children, whether visiting for social, professional or official purposes, should be required to prove their identity at the gate. Furthermore, they will normally be asked to submit to a search, be photographed and, where available, provide a personal electronic biometric (e.g. a fingerprint) as part of the entry procedures for visits. Visitors should be treated courteously and with respect at all times, striking a sensible balance between this requirement and those relating to the maintenance of security, good order and discipline and the prevention of crime. Refusal to comply with any of the above requirements could result in either the cancellation of the visit or the imposition of a closed visit. Both prisoners and visitors need to be informed in advance about visiting procedures, including searching procedures and the consequences of refusing a search. Where a visitor refuses to undergo a search or withdraws consent at any time during a search, he or she should not automatically be refused access to the prison. Preference should be given to a closed visit as the alternative option.

It is good practice for all prisons holding high-risk prisoners to have a visitor recognition scheme in place, to aid staff in preventing prisoners from attempting to escape by posing as visitors leaving the prison. A visitor recognition scheme might consist of staff either physically marking the visitor on entry by some means not easily imitated by the visitor or prisoner (e.g. ultraviolet stamping), or making a descriptive record of the visitor on entry (photograph, digital or video image, biometric measurement(s)) and comparing this record with the person seeking to leave.

Visits from relatives and others should not be subject to unjustified restrictions. Any restrictions that are placed on such visits should be based on individual risk assessments and should be justified in each case. Rarely would prison authorities need to place restrictions on family visits, but often they will need to restrict or prohibit visits from others, such as prisoners' former associates or suspected members of the same criminal organization. High-risk prisoners identified as presenting a risk to children will normally receive visits only from their own children and their siblings. Unaccompanied children under the age of 18 will normally not be allowed to visit such prisoners.

Conditions in which visits are conducted are of great importance to maintaining social links and for preserving prisoners' dignity. If visits are to play a real part in maintaining a prisoner's connection with the community and in his or her eventual rehabilitation, then they need to be of reasonable length. They should take place in decent conditions where visitors and prisoners can sit comfortably, should take into account the needs of children and have adequate sanitary facilities. Staff should be specially trained for conducting visits in an atmosphere of human dignity—visitors are not criminals, and should be treated with courtesy. Preferably, visits should allow for physical contact, especially where children are concerned. Visits between mothers and children should always allow for physical contact.

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<sup>108</sup>In some prison systems, virtual visits via Skype or video conferencing may be arranged in the case of prisoners whose families live far away from the prison and who are unable to visit on a regular basis, to enable prisoners to have both visual and verbal contact with them. Such arrangements are especially pertinent to foreign national prisoners. Prison authorities should support and facilitate such means of communication for prisoners who fall into this category. However, Skype conversations and video conferencing should never be introduced to replace actual visits by families and others, which provide for a much more meaningful and immediate human contact between the prisoners and his or her loved ones.

**CASE EXAMPLE****HIGH-SECURITY PRISONERS—DEDICATED CHILDREN'S VISITS (United Kingdom)**

The Independent Monitoring Board at Frankland High-Security Prison in the United Kingdom praised the introduction of monthly dedicated children's visits to help families face the formidable difficulties in maintaining contact.

*Source:* Independent Monitoring Board of HMP Frankland Annual Report, 2006-2007, quoted in the Howard League for Penal Reform, High Security Prisons, Prisoner Perspectives, Prison Information Bulletin 4, p. 21.

Physically separating visitors should be resorted to only based on the assessment of the potential risk posed by a particular prisoner. Closed visits impact on the right to private and family life and as such (a) cases must be considered on an individual basis; (b) any decision to impose closed visits must be proportionate; and (c) any measures imposed must be reviewed on a regular basis. In applying closed visits, the prison administration should consider the following:

- Type of prohibited item suspected of being smuggled and the threat it poses to the establishment
- Previous history of involvement with that item, e.g. pattern of drug use, passing of messages to/from criminal associates, evidence from the prisoner's security file, etc.
- Whether an incident in the course of a visit is an isolated example or a repeat offence
- Analysis/use of intelligence or incidents indicating patterns of misuse of drugs or use/trafficking of mobile phones, or other contraband
- Evidence or actual possession of prohibited items on a post-visit search
- Correspondence/telephone monitoring evidence of attempted or actual smuggling through visits
- Findings from cell searches
- The prisoner's offence and criminal record

As visits are an obvious opportunity to smuggle drugs, mobile phones and other illegal items into prisons as well as to exchange messages with criminal associates, it is of utmost importance that the visitors of high-risk prisoners are searched before the visit takes place, and that high-risk prisoners are searched following each visit. The searching of visitors should always be undertaken in a humane, sensitive and courteous manner and visitors should never be humiliated during this process (see chapter 5.2.1).<sup>109</sup> As mentioned, some countries use specially trained dogs to detect drugs, mobile phones and guns.

In addition to searches, visits in high-security prisons will also need to be properly supervised, a balance being maintained between allowing prisoners and their visitors' sufficient privacy, while also ensuring that no exchange of illicit items takes place. Covert recording of visits to high-risk prisoners should only take place if approval has been given in accordance with the relevant national law. In case of inappropriate behaviour, visits to high-risk prisoners may need to be terminated to maintain good order and prison discipline.

<sup>109</sup>United Nations Standard Minimum Rules, Rule 60.



Social visits should take place in full view of staff. The designated manager's workstation should be on a raised platform so they can easily oversee the whole visiting room at all times when seated. Prison management must decide the ratio of fixed to mobile staff within the visits room according to local circumstances and staff requirements. The furniture should be arranged so as to enable appropriate levels of supervision by staff and should be fixed to the floor. Where resources allow, the visiting room in prisons holding high-risk prisoners should be equipped with CCTV, recording either full time or multiplex. Where such technology is not available, staff supervision will need to be increased accordingly.

Prisoners' contact with the outside world must be seen as entitlements rather than privileges. The right of a prisoner to be visited by his or her family should therefore not be used as either reward or punishment. To deprive prisoners of such contacts as a disciplinary sanction is not acceptable (except where a specific abuse of the exact contact was the offence), in particular in the case of women prisoners and their children; nor is the coercive practice of using contact restrictions as a tool to put pressure on high-risk prisoners to cooperate with authorities or to dissociate themselves from organizations to which they belong. It may sometimes be necessary, however, to temporarily limit the conditions in which visits take place. For example, if there is proof of a previous attempt to smuggle goods into the prison during a visit, the prisoner or visitor involved may be required to have future visits without physical contact.

#### CONTACT WITH THE OUTSIDE WORLD FOR SPECIAL SECURITY PRISONERS (Hungary)

"As regards contact with the outside world, prisoners held in the KBK at Satoraljaújhely Prison had the same entitlements as other prisoners accommodated in that establishment. Access to a telephone was allowed four times a week, for up to eight minutes each time, and the visit entitlement was one monthly visit of up to one-and-a-half hours. Special efforts were made to facilitate prisoners' contacts with their families; for instance, one inmate interviewed by the delegation was escorted to Budapest Prison every two months to receive visits from relatives. The CPT trusts that the Hungarian authorities will pursue their efforts to provide prisoners held in special security conditions with appropriate contact with the outside world."

Report to the Hungarian Government on the visit to Hungary carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 24 March to 2 April 2009, CPT/Inf (2010) 16, para. 78

As they progress through the system to prisons with lower security levels, high-risk prisoners may also be allowed conjugal visits, depending on their risk assessments and if other prisoners in their jurisdiction enjoy this right. This restriction is based on the higher risk of smuggling drugs or other illicit items into prisons within body cavities in the course of conjugal visits, and takes into account the requirement to avoid body cavity searches of visitors.

**Foreign national prisoners:** Immediately on admission to prison, foreigners should be informed of their right to contact their diplomatic representatives. Prison authorities should enable contact without delay, unless the prisoner expressly opposes such action, and facilities should be provided for communication. In line with the Vienna Convention on Consular Relations, foreign national prisoners have the right to communicate with their consular representatives on a regular basis throughout their imprisonment, including by letter, visits and telephones.<sup>110</sup>

<sup>110</sup>Vienna Convention on Consular Relations, article 36.

## 8.4 Contact with legal advisers

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### UNITED NATIONS STANDARD MINIMUM RULES FOR THE TREATMENT OF PRISONERS (the Nelson Mandela Rules)

#### Rule 54

Upon admission, every prisoners shall be promptly provided with written information about:

- (b) His or her rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints.

#### Rule 61

1. Prisoners shall be provided with adequate opportunity, time and facilities to be visited by and to communicate and consult with a legal adviser of their own choice or a legal aid provider, without delay, interception or censorship and in full confidentiality, on any legal matter, in conformity with applicable domestic law. Consultations may be within sight, but not within hearing, of prison staff.
2. In cases in which prisoners do not speak the local language, the prison administration shall facilitate access to the services of an independent competent interpreter.
3. Prisoners should have access to effective legal aid.

#### Rule 119

2. If an untried prisoner does not have a legal adviser of his or her own choice, he or she shall be entitled to have a legal adviser assigned to him or her by a judicial or other authority in all cases where the interests of justice so require and without payment by the untried prisoner if he or she does not have sufficient means to pay. Denial of access to a legal adviser shall be subject to independent review without delay.

#### Rule 120

1. The entitlements and modalities governing the access of an untried prisoner to his or her legal adviser or legal aid provider for the purpose of his or her defence shall be governed by the same principles as outlined in rule 61.
2. An untried prisoner shall, upon request, be provided with writing material for the preparation of documents related to his or her defence, including confidential instructions for his or her legal adviser or legal aid provider.

See also Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, Principle 18; European Prison Rules, Rules 23 and 98; Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines), Guideline 14(c).

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Many prisoners, including high-risk prisoners, need to have access to their legal advisers for a variety of reasons. While this is particularly pertinent in the case of pre- or under-trial detainees, those who have already been sentenced may also need access to lawyers. For example, prisoners should have the right to challenge decisions regarding their assessment and allocation via judicial means; they may also need to have access to lawyers to challenge deportation decisions, other matters relating to their sentence and imprisonment as well as issues that are unrelated to their imprisonment. The United Nations Standard Minimum Rules for the Treatment of Prisoners explicitly acknowledge the right of all prisoners to be visited by and to communicate and consult with legal advisers (or legal aid providers) on any legal matter and in full confidentiality.

In the case of pretrial prisoners, security considerations are sometimes raised as a reason to prevent or severely curtail access of a high-risk prisoner to his or her lawyer. This can never be justified, as all pretrial prisoners, including high-risk prisoners, should have access to proper legal representation. All prisoners should be informed of this right upon admission. Some of them will already have a lawyer. In that case, their concern will be about access, i.e. when, where and under what circumstances they may have contact with their lawyers. Many other prisoners will not yet have arranged legal representation. In that case, they should be allowed to contact a legal adviser or legal aid provider as soon as possible in order to discuss their legal position and to begin to prepare their defence, if applicable. The proper authorities should make sure that arrangements are in place so that prisoners who have no financial resources can still have adequate legal representation.<sup>111</sup>

The prison authorities should not delay or interfere in any way in the communication and consultations between high-risk prisoners and their legal advisers.<sup>112</sup> Meetings with lawyers should take place out of hearing of prison staff, though it is normal procedure to have them within sight of staff. Correspondence between the prisoners and his or her lawyer should always be treated as confidential and in no circumstances be monitored. Only in exceptional cases, such as there being a reasonable and justifiable suspicion that such correspondence is being used for illegal purposes, should a senior member of staff be permitted to open incoming letters in the presence of the prisoner concerned in order to check for any illegal items. The letter should not be read. Similarly, documents carried by legal representatives into prison should be treated as confidential and the searching of lawyers should be undertaken with particular sensitivity. Visits by legal representatives may only be restricted in very exceptional circumstances, i.e. serious crime or major breaches of prison safety and security, which must be ordered by a judicial authority.<sup>113</sup>

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<sup>111</sup>United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, A/RES/67/187, annex, Principle 3.

<sup>112</sup>In countries where the death penalty is still applied, prison authorities should be particularly careful to make sure that high-risk prisoners who are under sentence of death have full access to the lawyers or legal aid providers who are dealing with any appeal against their conviction or sentence.

<sup>113</sup>See, for example, the European Prison Rules, Rule 23.5.



# 9.

## Summary of key principles for the management of high-risk prisoners

### Chapter 1. The management of high-risk prisoners

- High-risk prisoners should always be treated with the respect due to their inherent dignity and value as human beings. They should never be subjected to torture or other ill-treatment, and should have access to adequate living conditions, nutritious food, adequate water, sanitation, health care and contact with their families.
- All prisoners, including high-risk prisoners, should be subject to the least restrictive measures necessary for the protection of the public, other prisoners and staff. The number of prisoners held in high-security conditions, and even more so in special maximum security conditions, should be as low as possible.
- In order to determine the appropriate level of security, individual risk and needs assessments should be undertaken for each prisoner upon admission. Risk assessments should cover the escape risk of prisoners, the risk they would pose to the public should they escape, the risk they pose to good order and discipline in prison and the continued risk they may cause to the public while in prison.
- Risk and needs assessments should be repeated at regular intervals and adjustments made to security measures and regimes applied to high-risk prisoners, as appropriate, depending on the assessment findings.
- The risk which high-risk prisoners pose should be managed by applying a range of measures aiming to reduce their risk of perpetrating violent acts while in prison as well as of reoffending upon release. Such risk management strategy should include both rehabilitative and restrictive measures, and be regularly reviewed. Where appropriate, it should have the long-term aim of high-risk prisoners' return to the community.
- A balance should be maintained between the legitimate use of security measures and respect for the human rights and fundamental freedoms of prisoners. Limitations on certain rights should never go as far as undermining the human dignity of prisoners.
- Prisoners held in special maximum security conditions should have continued access to exercise, activities, association with other prisoners and communication with the outside world, in particular with their families.
- A proper balance should be maintained between physical, procedural and dynamic security in the case of all prisoners, including high-risk prisoners.

- Discrimination against any prisoner based on their gender, race, ethnicity, nationality, sexual orientation, gender identity or any other status should be prohibited, and prison management policies should include concrete measures to reduce and eliminate all kinds of such discrimination in the management of high-risk prisoners.
- High-risk pretrial prisoners must always be presumed to be innocent and prison administrations must ensure that their unconvicted status is reflected in their treatment and management.
- Prison management should make special provisions for high-risk women prisoners in order to meet their gender-specific needs. If gender-sensitive risk and needs assessment tools are applied, very few women may be justifiably required to be held in high-security settings.

## Chapter 2. Prison staff

- Prison staff should respect and protect, maintain and uphold the human dignity of all prisoners, including high-risk prisoners.
- Prison staff should be carefully selected for their integrity, humanity, professional capacity and personal suitability. The conditions of service for prison staff should be adequate to attract and keep the best candidates.
- All staff should receive prison-specific training prior to beginning work in the prison and receive regular in-service training throughout their employment. Staff should be specially selected and trained to work with high-risk prisoners, which is a responsibility that poses particular and diverse challenges.
- Prison managers should make sure all staff are aware of their duties and responsibilities, regulate the interface between prisoners and staff and act as role models.
- Prison staff should have a high level of interpersonal skills, and should maintain high levels of professional standards and ethics at all times. Steps should be taken to prevent staff boredom, stress, manipulation, intimidation and conditioning.
- The staffing level for each prison should be set at the level required to ensure the security, safety and stability of the institution. The number of staff required will depend on a range of factors including the category and number of prisoners being held in the prison; the layout of the prison; the condition of the physical fabric of the prison; and the availability and functioning of technical equipment.

## Chapter 3. Assessment, classification and allocation

- Prisoners need to be separated according to gender, legal status, offending history and age so that they can be placed in appropriate facilities, taking into account their vulnerabilities and needs in terms of treatment and self-development.
- In addition, prisoners need to be categorized according to the appropriate level of security they will need to be held in. High-risk prisoners, like all other prisoners, should be held in the least restrictive setting necessary for their safe and secure custody.
- Upon admission of a prisoner, a thorough, evidence-based risk and needs assessment should be undertaken by specially trained prison staff, including specialist staff, to

determine the risk this prisoner poses to him- or herself and others as well as to identify his or her individual needs.

- A physician or other qualified health-care professional should undertake a separate health assessment as soon as possible upon admission of a prisoner, identify any health-care needs, including as related to mental health, and take all necessary measures for treatment.
- The findings of risk and needs assessments should be used to develop comprehensive sentence plans for each prisoner, which should include measures to minimize risk as well as interventions to enable prisoners' social reintegration by addressing criminogenic and basic needs, such as education and job skills.
- Good practice suggests the development of an integrated case management system for all prisoners, and especially high-risk prisoners, as it provides a regular forum for sharing information across criminal justice and other agencies to assess and manage risk in a collaborative manner. It ensures that the prisoner is at the centre of the process and that a focus is maintained on issues both internal and external to the prison system.
- There are no specific rules as to whether high-risk prisoners should be concentrated in one or more institutions or dispersed within the prison system, but generally dispersal with partial concentration is the preferred option, as it avoids the number of disadvantages and concerns associated with total concentration.
- Generally, prisoners identified as high risk should be held in high-security units within prisons or in separate high-security prisons, taking into account the vulnerabilities of prisoners with gender-specific or special needs.<sup>114</sup> The aim should be to have them held in progressively less secure conditions, subject to their periodic risk assessments.

## Chapter 4. Accommodation and general living conditions

- Prison authorities must ensure that high-risk prisoners are provided with all general living conditions addressed in international minimum standards, which includes their accommodation, access to adequate nutrition and drinking water, natural and artificial light, personal hygiene and sanitation facilities, clothing and bedding, among others.
- It is good practice to house high-risk prisoners in single cells, although in some cases, depending on the nature and level of risk posed, two or more prisoners may be housed in one cell, provided that its space, ventilation, furnishing and sanitation facilities are sufficient for their needs.
- In all cases, prisoners must be able to spend the maximum possible time out of their cells, usefully occupied in regime activities.
- Prisoners should not be required to wear uniforms or humiliating or degrading clothing. Where prisoners do not have adequate clothing, prison authorities should provide them with suitable clothing, taking into account the climatic conditions and seasonal changes.

<sup>114</sup>Including pretrial detainees, children, women, prisoners with mental illness or other disabilities, LGBT prisoners, older prisoners, foreign national prisoners or prisoners belonging to ethnic and racial minorities and indigenous peoples.

- Women prisoners' special hygiene requirements should be catered for, including regular access to water and sanitary towels. This is especially important in the case of pregnant women, breastfeeding mothers and women who are menstruating.
- High-risk prisoners with life sentences or under sentence of death retain all the rights to which prisoners in general are entitled. They must not be subjected to a lower standard of treatment in terms of conditions of accommodation, nutrition, health care, hygiene or any other matter covered in international minimum standards.
- No prisoner should be accorded special conditions or other privileges on the basis of their status or wealth. Written policies should specify standard conditions and facilities in cells, rooms or dormitories, limitations on the amount of personal property a high-risk prisoner may have in his/her possession and procedures for managing prisoner property.

## Chapter 5. Security

- Sufficient physical security should be in place to deter and prevent prisoners from escaping (physical security); a robust system of security procedures should be established and applied in a consistent manner (procedural security); and staff should be encouraged to build up effective professional relationships with prisoners (dynamic security).
- Each prisoner should be held in conditions of security which correspond to the level of risk posed in terms of escape. Appropriate security arrangements should be put in place to ensure high-risk prisoners cannot escape while at the same time ensuring that their human rights are respected at all times.
- Prisoners should be correctly held and accounted for throughout their custody. Access to and movement within the prison and items that may present a risk to security should be effectively managed.
- Concentric circles of protection should be used to reduce the risk of escape, as they increase the opportunity to detect, deter, delay and respond to escape attempts.
- Searching procedures for prisoners, in particular high-risk prisoners, are crucial to detect and deter threats to the security or control of the prison. Searches should, however, not be used to harass or intimidate prisoners, and should include invasive searches (such as strip and body cavity searches) only if absolutely necessary.
- A national security framework should be in place as the source document to provide prisons with the information and guidance needed to maintain high levels of security and to meet the aim of preventing escapes.
- A local security strategy should be in place at each prison which takes account of local risk analysis; reflects local physical and procedural security; considers the categories of prisoners held in the prison; and identifies staff, equipment and resources necessary to carry out each of the main security tasks (categorization and assessment; accounting and control; searching; and communications and surveillance).
- A comprehensive security auditing programme should be established at local and national level to check security systems and their operational implementation, complemented by arrangements to test security processes, procedures and equipment.



## Chapter 6. Operating safe and orderly prisons

- Prison authorities have an obligation to ensure that prisons are safe places, where prisoners, staff, service providers and visitors can go about their daily business without fear for their physical well-being. Maintaining control in prison through situational and social control methods is key to ensuring safety and order.
- Prison managers should ensure that prisoners and staff view the operation of the prison as being legitimate, just and fair, and that the security, order and justice are held in balance. No prisoner should be employed in the services of the institution in any disciplinary capacity.
- Physical force against prisoners should only be used as a last resort—when strictly necessary for the maintenance of prison security and order or when personal safety is threatened—and only to the minimum extent necessary.
- Staff should be trained in non-violent methods of dealing with intransigent prisoners, e.g. negotiation and mediation, and be given clear instructions about the circumstances in which weapons, including firearms, may be used. In general, prison staff performing duties which bring them into direct contact with prisoners should not be armed.
- Upon admission, every prisoner should be provided with written information about his or her rights, including procedures for making requests/complaints and access to legal advice, as well as on his or her obligations, including applicable disciplinary sanctions. If necessary, these regulations should be explained orally.
- A breach of disciplinary rules in prison may be dealt with in a number of ways, including informal advice to the prisoner to keep to the rules; formal disciplinary process by the prison administration internally; and, where the breach is also a crime under law, by the formal sanction of criminal prosecution.
- Disciplinary punishment should always be just and proportionate to the offence in question, and should be the consequence and culmination of a disciplinary process imposed after a complaint or allegation against a prisoner is established. Prison authorities should keep a proper record of all disciplinary sanctions imposed.
- Solitary confinement should be used only in exceptional circumstances as a last resort, for as short a time as possible to ensure security and safety, and be subject to independent review. This principle applies regardless of whether solitary confinement is imposed as a security measure, e.g. in super-maximum prison facilities, or as a sanction for a disciplinary offence.
- The material conditions in solitary confinement cells should comply with all provisions in the United Nations Standard Minimum Rules for the Treatment of Prisoners that relate to prisoner accommodation and basic needs.
- Practices which amount to torture or other cruel, inhuman or degrading treatment or punishments should be completely prohibited as restrictions or punishments for disciplinary offences, including indefinite solitary confinement;<sup>115</sup> prolonged solitary confinement (in excess of 15 days); placement of a prisoners in dark or constantly lit cells; corporal punishment; and collective punishment.
- Instruments of restraint, such as handcuffs and strait jackets, should never be applied as a disciplinary sanction. Chains, irons and other instruments of restraint which are inherently degrading or painful should be prohibited for whatever purpose.

<sup>115</sup> Solitary confinement being understood as the confinement of prisoners for 22 hours or more a day without meaningful contact.

- Every prisoner should have the right to make a complaint regarding his or her treatment to the staff, the prison director or the central prison administration, and have it dealt with promptly (and in a confidential manner, if requested). Prison authorities should establish safeguards to prevent any risk of retaliation, intimidation or other negative consequences on prisoners as a result of having submitted a request or complaint.
- High-risk prisoners should have access to judicial authorities for complaints and appeals and their correspondence with such authorities should never be subject to censorship or subsequent reprisals. They should also be allowed to talk to representatives from national or international monitoring and inspection bodies freely and in full confidentiality.
- All prisons should have intelligence systems in place to enable security and related information to be gathered and evaluated, consistent with national legislation. All prison staff should have a responsibility to actively gather information and pass this information to the security department.
- Incidents should be managed in an effective and well-practiced manner, based on clear roles and responsibilities, an incident management strategy and clear incident management plans that are regularly reviewed.

## Chapter 7. Constructive regimes

- An essential component of sentence management is the provision of a balanced programme of constructive activities to all prisoners, including high-risk prisoners.
- High-risk prisoners should not be barred from access to work or other programmes on the basis of their security classification. They should be offered (a) work and vocational training opportunities that will equip them with useful skills upon release; (b) opportunities to improve their educational levels; and, as much as possible (c) programmes to become aware of their criminogenic needs, including guidance on steps to neutralize them.
- High-risk prisoners should have access to recreational and cultural activities which may include learning crafts, dancing, singing, acting, training in musical instruments, yoga, writing stories and poems. They should also have access to prison libraries, which they should be encouraged to use.
- Regardless of their regime, high-risk prisoners should have at least one hour of exercise in the open each day. They should have access to sports facilities and equipment to protect and promote their physical and mental health, and to counterbalance the damaging effects of their restricted custodial settings.
- Prison authorities should respect all prisoners' freedom of thought, conscience and religion, including to have, adopt and manifest a religion or belief of one's choice, and cater for special dietary or hygiene requirements, as applicable. A prisoner's religious beliefs should not be used against them by the prison authorities.
- Prison management policies need to acknowledge the potentially harmful effects of long-term imprisonment and of additional security measures to which high-risk prisoners may be subjected, and incorporate measures to protect and promote the mental health in their prison management policies, including through psychosocial and, where appropriate, psychiatric support services equivalent to those available in the community.

- All high-risk prisoners nearing release should have access to a pre-release programme, with special emphasis on their social reintegration into society. Preparation for release must be undertaken in close collaboration between the prison administration and the various authorities who are involved in post-release interventions, including probation services, social services, housing, health authorities and, where necessary, the police.

## Chapter 8. Contact with the outside world

- Facilitating and supporting prisoners' contact with the outside world is an essential part of human rights—compliant prison management strategies that aim to strengthen their prospects of successful social reintegration upon release.
- While, as a rule, there should be no limits imposed on the number of letters a prisoner may send and receive and the number of correspondents he or she may have, there may be a list of approved correspondents in the case of high-risk prisoners.
- Based on their risk assessments, letters of high-risk prisoners may need to be monitored, except for those which involve correspondence with legal representatives, higher judicial authorities, human rights bodies or parliamentarians.
- All letters and packages need to be checked to prevent contraband from entering the prison.
- The possibility to make and receive telephone calls should be made available to high-risk prisoners, but will be usually monitored by staff—prisoners should be informed that monitoring will be undertaken. Effective measures need to be in place to prevent high-risk prisoners' access to mobile phones.
- Prison authorities should try to allocate prisoners to prisons that are near to their families or close relatives, so that the distances to be travelled and the costs involved do not present additional barriers to maintaining links.
- Visits are extremely important for the mental well-being of prisoners and their families, including their children, as are conditions in which visits are conducted.
- Visits from families, relatives and others should not be subject to unjustified restrictions. During visits, a balance needs to be maintained between allowing prisoners and their visitors sufficient privacy while ensuring that no exchange of illicit items takes place. Visitors should be searched before a visit takes place, whereas high-risk prisoners should be searched following each visit.
- All high-risk prisoners, whether pretrial or sentenced, are entitled to be visited by and to communicate and consult with their legal adviser without delay, interception or censorship and in full confidentiality, on any legal matter.
- Meetings with lawyers should take place out of hearing of prison staff, although it is normal procedure to have them within the sight of staff. Correspondence with lawyers should always be treated as confidential.
- Organizations of civil society should be encouraged to deliver programmes and activities in prisons where high-security prisoners are held, following a proper vetting process and an induction programme to familiarize them with prison rules and regulations. All precautions to protect security and safety, such as searching and supervision should be in place.

- High-risk prisoners should have access to television, radio and newspapers, which offer the possibility of keeping up with local, national and international events as well as providing entertainment.
- Prison authorities should consider allowing high-risk prisoners escorted and, subject to risk assessments, unescorted periods of temporary release, especially during the period of preparation for release.
- Foreign national prisoners should, upon admission, be informed of their right to contact their diplomatic representatives. Foreign national prisoners should be enabled to communicate with their consular representatives on a regular basis, including by letter, visits and telephones.

## Annex

### INTERNATIONAL INSTRUMENTS, STANDARDS AND PRINCIPLES (cited in the Handbook)

*African Charter on Human and People's Rights* (Banjul Charter) (Adopted 27 June 1981, entry into force on 21 October 1986)

*American Convention on Human Rights* (Pact of San Jose, Costa Rica) (Adopted on 22 November 1969, entry into force on 18 July 1978)

*Basic Principles on the Use of Force and Firearms by Law Enforcement Officials* (Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, 27 August to 7 September 1990)

*Basic Principles for the Treatment of Prisoners* (Adopted by General Assembly resolution 45/111 of 14 December 1990)

*Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* (Adopted by General Assembly resolution 43/173 of 9 December 1988)

*Code of Conduct for Law Enforcement Officials* (Adopted by General Assembly resolution 34/169 of 17 December 1979)

*Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Adopted by General Assembly resolution 39/46 of 10 December 1984, entry into force on 26 June 1987)

*Convention on the Elimination of All Forms of Discrimination against Women* (Adopted by General Assembly resolution 34/180 of 18 December 1979, entry into force on 3 September 1981)

*Convention on the Rights of the Child* (Adopted by General Assembly resolution 44/25 of 20 November 1989, entry into force on 2 September 1990)

#### *Council of Europe*

- *Resolution (76)2 of the Committee of Ministers to member states on the treatment of Long-Term Prisoners* (Adopted by the Committee of Ministers on 17 February 1976)
- *Recommendation Rec(82)17 of the Committee of Ministers to member states concerning custody and treatment of dangerous prisoners* (Adopted by the Committee of Ministers on 24 September 1982)
- *Recommendation Rec(97)12 of the Committee of Ministers to member states concerned with the implementation of sanctions and measures* (Adopted by the Committee of Ministers on 10 September 1997)

- *Recommendation Rec(98) 7 of the Committee of Ministers to member states concerning the ethical and organisational aspects of health care in prison* (Adopted by the Committee of Ministers on 8 April 1998 at the 627th meeting of the Ministers' Deputies)
- *Recommendations CM/Rec(2003)23 of the Committee of Minister to member states on the management by prison administrations of life-sentence and other long-term prisoners* (Adopted by the Committee of Ministers on 9 October 2003)
- *Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules* (Adopted by the Committee of Ministers on 11 January 2006)
- *Recommendation CM/Rec(2012)5 of the Committee of Ministers to member states on the European Code of Ethics for Prison Staff* (Adopted by the Committee of Ministers on 12 April 2012)
- *Recommendation CM/Rec(2012)12 of the Committee of Ministers to member States concerning foreign prisoners* (Adopted by the Committee of Ministers on 10 October 2012)
- *Recommendation CM/Rec(2014)3 of the Committee of Ministers to member states concerning dangerous offenders* (Adopted by the Committee of Ministers on 19 February 2014)
- *Guidelines for prison and probation services regarding radicalisation and violent extremism* (Adopted by the Committee of Ministers on 2 March 2016)

*Convention on the Rights of Persons with Disabilities* (Adopted by General Assembly resolution 61/106 of 13 December 2006, entry into force on 3 May 2008)

*Convention on the Rights of the Child* (Adopted by General Assembly resolution 44/25 of 20 November 1989, entry into force on 2 September 1990)

*Declaration on the Elimination of Violence against Women* (Adopted by General Assembly resolution 48/104 of 20 December 1993)

*European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*

- *CPT Standards* (CPT/Inf/E (2002) 1—Rev. 2015)
- *Living space per prisoner in prison establishments: CPT standards* (CPT/Inf (2015) 44)

*Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa (the Luanda Guidelines)* (Adopted by the African Commission on Human and Peoples' Rights during its 55th Ordinary Session, 28 April to 12 May 2014)

*Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas* (Adopted by resolution 1/08 of the Inter-American Commission on Human Rights, 13 March 2008)

*International Covenant on Civil and Political Rights* (Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force on 23 March 1976)

*International Covenant on Economic, Social and Cultural Rights* (Adopted by General Assembly resolution 2200A (XXI) of 16 December 1966, entry into force on 3 January 1976)

*Kampala Declaration on Prison Conditions in Africa* (Economic and Social Council resolution 1997/36 of 21 July 1997, annex)

*Model agreement on the transfer of foreign prisoners and recommendations for the treatment of foreign prisoners* (Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Milan, Italy, 26 August to 6 September 1985)

*Recommendations on Life Imprisonment* (United Nations Office at Vienna Crime Prevention and Criminal Justice Branch, Life Imprisonment (UNITED NATIONS Document ST/CSDHA/24), 1994)

*United Nations Rules for the Protection of Juveniles Deprived of their Liberty* (Adopted by General Assembly resolution 45/113 of 14 December 1990)

*United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules)* (Adopted by General Assembly resolution 65/229 of 16 March 2011)

*United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* (Adopted by General Assembly resolution 70/175 of 17 December 2015)

*United Nations Model Strategies and Practical Measures on the Elimination of Violence against Children in the Field of Crime Prevention and Criminal Justice* (Adopted by General Assembly resolution 69/194 of 18 December 2014)

*United Nations Standard Minimum Rules for Non-custodial Measures* (Adopted by General Assembly resolution 45/110 of 14 December 1990)

*Universal Declaration of Human Rights* (Proclaimed by General Assembly resolution 217 A (III) of 10 December 1948)

*Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice* (Adopted by General Assembly resolution 65/228 of 21 December 2010)

#### *World Medical Association*

- *Declaration on Hunger Strikers* (Adopted by the 43rd World Medical Assembly in November 1991; editorially revised in September 1992; revised in October 2006)
- *Guidelines for Physicians Concerning Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in Relation to Detention and Imprisonment* (Adopted by the 29<sup>th</sup> World Medical Assembly in October 1975; editorially revised in May 2005 and in May 2006)
- *International Code of Medical Ethics* (Adopted by the 3rd General Assembly of the World Medical Association in October 1949; amended by the 22nd World Medical Assembly in August 1968, the 35th World Medical Assembly in October 1983 and the 57th World Medical Assembly in October 2006)

*Yogyakarta Principles on the Application of International Human Rights Law in relation to Sexual Orientation and Gender Identity* (Adopted by an International Panel of Experts in International Human Rights Law and on Sexual Orientation and Gender Identity, Yogyakarta, Indonesia, 6 to 9 November 2006)









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