



# DIGNITY, DIVERSITY AND POLICING

'Promotion and protection of human rights,  
dignity and safety for all'

**TRAINER MANUAL**  
FIRST EDITION | MAY 2017







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# FOREWORD

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The vision of South Africa's White Paper on Safety and Security (2016) is that by 2030, South Africa will be a society in which all people:

- Live in safe environments;
- Play a role in creating and maintaining a safe environment;
- Feel and are safe from crime and violence and the conditions that contribute to it; and
- Have equal access and recourse to high quality services if affected by crime and violence.

By supporting the translation of these recommendations into a training programme that the South African Police Service will implement, we confirm our commitment to the African Commission on Human and Peoples' Rights' guidelines on arrest, custody and pre-trial detention, the South African Constitution, the South African National Development Plan 2030, the South African White Paper on Safety and Security, and the South African National Strategic Plan on HIV, TB and STIs (2017–2022).

The Diversity, Dignity and Policing Training Programme aims to assist the South African Police Service in implementing its strategic objectives, while increasing the quality of the services they provide; reducing instances of human rights violations; avoiding potential civil suits; improving relationships with communities; and enhancing the health and well-being of service members.

We are confident that the knowledge and skills that learners have the opportunity to develop through this programme will assist in making South Africa a more inclusive place where the rights, safety and security of all are maximised.

Signed  
(Deputy) National Commissioner of Police

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# PREFACE

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Since 2015 the South African Police Service (SAPS) has participated in stakeholder consultations to enhance the quality of service delivery. During 2016, SAPS enabled a *Context analysis and needs assessment to guide sensitisation training of police on appropriate services for key populations in South Africa*. This process involved in-depth interviews and focus group discussions with police members from several divisions across three cities and civil society organisations working with lesbian, gay, bisexual, transgender and intersex (LGBTI) people, sex workers and people who use drugs. Key recommendations from the context analysis and needs assessment included:

- Training to enable non-judgmental service provision by SAPS and effective investigation of crimes related to sexual orientation and gender identity;
- Training of police around sex work to clarify the status of sex work and the obligations of police in relation to the Criminal Law (Sexual Offences and Related Matters) Amendment Act, of 2007, relevant by-laws, sex worker rights, the decriminalisation debate, and topics around policing of sex work;
- Training of police on drug use (including knowledge and information on drug manufacturing, properties, effects, methods of use etc.) and the increase in drug use despite increased arrests, the rights of people who use drugs, and conviction rates.

The findings from the context analysis and needs assessment were presented to police and other stakeholders at a workshop in Cape Town in November 2016. During this workshop the process of developing training materials and a training programme to implement the recommendations were refined. A group of writers developed the training material in early 2017, which was presented to SAPS representatives for review. Recommendations were incorporated and the training materials were used as part of a 'train-the-trainer' workshop in May 2017.



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Several government departments, civil society organisations, academic institutions and technical agencies participated in consultations, workshops and the situational assessment that informed this training programme, including the African Policing Civilian Oversight Forum; Association for Sex Workers Africa; Botswana Network on Ethics and Law; Centre for Criminology at the University of Cape Town; the Centre for the Study of Violence and Reconciliation; Gender Dynamix; Impact Consulting; Lambda Mozambique; Pathfinder Mozambique; South African National Department of Health; FHI360; OUT LGBT Wellbeing; SafAIDS; Sex Worker Education and Advocacy Taskforce; Sisonke Sex Workers Movement; TB/HIV Care Association; Rights not Rescue Trust Namibia; the Triangle Project; the Durban LGBT Centre; the United Nations Office on Drugs and Crime; the Open Society Foundation of Southern Africa; the Urban Futures Centre at the Durban University of Technology, and the Women's Legal Centre.

This training programme would not have been possible without the guidance and support of Munyaradzi Katumba and Bram Langen (COC Netherlands). Ingeborg van Beekum and Mariëtte Hamers (Aids Fonds) and Nick Crofts and Greg Denham (Law Enforcement and HIV Network) provided input to improve the materials and exercises. Support for this work was enabled through the Hands Off! programme, funded by the Ministry of Foreign Affairs of the Netherlands through Aids Fonds.

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The training materials were developed as part of a regional programme around policing, human rights and marginalised populations. These materials draw from existing training materials, including:

- The South African Department of Justice and Constitutional Development's guide for service providers on working with diverse communities and understanding sexual orientation, gender identity and expression.
- The Women's Legal Centre's Police Sensitisation Training Manual: A Guide for South African Police Service Officers to the Rights of Sex Workers and the LGBTI community, Cape Town.
- The South African National Aids Council's manual for health workers on health care provision for men who have sex with men, sex workers, and people who use drugs.
- The African Commission on Human and Peoples' Rights Implementation Toolkit for the Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa, The Luanda Guidelines.
- The United Nations Office on Drugs and Crime's training manual for law enforcement officials on HIV service provision for people who inject drugs.
- The police officer training kit on tackling LGBTI-phobic crime by the European Region of the International Lesbian, Gay, Bisexuals, Trans and Intersex Association.

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# INTRODUCTION

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The aim of the sensitisation training is to help police officers challenge stereotypes, biases and misinformation they might have about specific groups of people and improve how they respond to and treat people from vulnerable groups, specifically, lesbian, gay, bisexual, transgender and intersex (LGBTI) people, sex workers and people who use drugs. The training provides suggestions on how police members can be sensitive, respectful and appropriate when conducting body searches, receiving complaints, making arrests, doing a custodial investigation, and detaining LGBTI people, sex workers and people who use drugs.<sup>1</sup>

LGBTI people, sex workers and people who use drugs have the right to equal treatment in criminal procedures. In order to do their job effectively, law enforcement personnel are expected to treat all members of the community with respect.<sup>2</sup> As we become more aware of South Africa's diverse population, law enforcement personnel need to increase their awareness and understanding of the unique needs of each community.

## Vulnerability

While there is a lack of statistics on law enforcement and LGBTI people, sex workers and people who use drugs, we know that some groups of people are particularly vulnerable. In the past, bias, abuse, and negative profiling of LGBTI people, sex workers and people who use drugs by law enforcement meant that they were more likely to come into contact with the criminal justice system. In addition, while people end up in prison for many reasons, those that are poor or live or work on the street are more likely to end up behind bars. This includes LGBTI people, sex workers and people who use drugs.<sup>3</sup>

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1 [http://www.ilga-europe.org/sites/default/files/Attachments/types\\_of\\_crimes\\_bias\\_indicators.pdf](http://www.ilga-europe.org/sites/default/files/Attachments/types_of_crimes_bias_indicators.pdf)

2 J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

3 J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment* (2014); Washington DC: National Center for Transgender Equality.

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## ESSENTIAL POINTERS FOR TRAINERS

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The motto of a successful facilitator is 'BE PREPARED'. Familiarise yourself thoroughly with the material and understand the objectives and structure of the learning programme and each of the training sessions. Before presenting the training sessions, you should read through this guide and the learner guide, to familiarise yourself with the contents of the workbook as well as the participatory methods you will be using.

Be aware that the people you are training are adults. Adult learners hate to feel that they are being dragged back into the classroom or lecture theatre. Where possible, this course uses 'participatory' and 'experiential' methods to facilitate learning. That is, learning is grounded in the lived experience of learners and not based on theoretical concepts. These methods are 'hands on' and require learners to think, find answers to questions and, solve problems for themselves.

The science of teaching is known as 'Pedagogy', ped being Latin for child. Providers of adult education and training need to understand and practice 'Andragogy', andra being derived from the Latin for man – indicating adult learning. The table below shows the differences between Andragogy and Pedagogy.

<b>Pedagogy</b>	<b>Andragogy</b>
Teaching children	Helping adults to learn
Treats the learner as dependent	Treats the learner as independent
Learner expects to be told what to do	Learner makes own decisions
Does not use/accept learner's previous experience	Extensively and wherever possible, uses the learner's previous experience
All questions answered by teacher	Learners encouraged to answer from experience
Teacher directed	Learner directed
Emphasis on traditional teaching (chalk and talk)	Emphasises experiential learning

<b>Pedagogy</b>	<b>Andragogy</b>
Subject-centred	Problem-centred
Postponed application	Immediate application
Parent-child interaction	Adult-adult interaction
Teacher leads, learner follows	Joint leadership
Emphasis on control and prompting	Emphasis on creativity, freedom and individuality

Many barriers are associated with adult learning. They include:

- Previous bad experiences of learning, including:
  - Being criticised and made to feel small
  - Sarcastic remarks from teachers
  - Punishment for making mistakes
- Lack of self-esteem or doubt in their ability to learn
- Suspicion of new technology
- Feeling disadvantaged in relation to others
- Afraid of the unknown, change or hidden agendas
- Unfair treatment – not getting a fair go
- Problems or difficulties not related to work

Giving learners a fair opportunity means giving them a chance to prove themselves, regardless of age, race, gender, sexual orientation or religious beliefs. If you've ever been told that you can't do something because you are a woman, a homosexual, a non-national, too old, too young, do not have English as your first language, etc. you have experienced prejudice first hand, and these experiences can be barriers to learning. As a facilitator, you need to be aware of these barriers to adult learning. You also need to create a safe and trusting learning environment that allows equal opportunities for all learners to participate and contribute to the learning process.

In order to have an effective learning experience, adults need:

- To understand why the learning is needed – the BIG picture
- Encouragement and reassurance to allay their fears – feedback
- Opportunities to use their prior skills and knowledge to build on what they already know – opportunity for practice and using their 'lived experience' to inform their learning

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- To learn without pressure – at their own pace
  - To learn in a way that suits them – multi-sensory learning

To be a successful facilitator for this course, you need to:

- Understand how adults learn
- Start and finish all sessions on time, even if some learners are not present
- Take feedback and provide a summary of each session
- Know how to use and maximise the participatory and experiential methodologies in this manual
- Listen to all contributions with neutrality, remain non-confrontational and open-minded and interact with all learners in a friendly and honest manner
- Have the emotional capacity and skills to contain strong emotional responses from learners
- Be aware that that discussions about sex workers, LGBTI and people who use drugs, can bring out strong feelings of anger, disgust and embarrassment. Let learners know that this is a normal response
  - Decide how the group can show support: allow them to share feelings, take a break and/or give them time to talk to you or someone else privately
  - Make sure that you can refer learners to counselling if anyone feels the need to talk to someone after the course
  - Remember that people find it difficult to change their thinking and behaviour and that it is natural for them to resist it
  - To deal with resistance, hostility and emotional responses to the content, you need to be firm about the objectives of the course and remind learners of the ground rules (see ground rules section)
- Observe the power dynamics in the room to ensure all learners are comfortable to make contributions
- Be conscious of your own experiences and perceptions of sex workers, LGBTI, and people who use drugs
- Awareness of your own belief system will assist you to facilitate learning in a neutral and non-judgemental manner
- Present issues around culture, gender, sexual orientation and HIV status with sensitivity and understanding

Your job is to guide learners through the workshop and manage the group learning process. REMEMBER...facilitation is the process of enabling learners to solve problems themselves. Allow their knowledge, skills and lived experiences to come to the fore. In adult workshops, learners often know more about some of

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the topics than the facilitator. Celebrate this and encourage and affirm learners' participation and knowledge and contributions. NEVER be afraid to admit that you do not know the answers to questions they may have.

Facilitation involves using your personality and knowledge to encourage people to get involved. Be energetic, always encourage people to take part and acknowledge and respect all contributions.

## ***Tips to manage challenging situations***

- Stigmatising remarks
  - Be aware that learners may not be aware of the fact that they are behaving or talking in a stigmatising way.
  - Explain why the remark is or may be considered stigmatising.
  - Gently suggest an alternative way of behaving or talking.
- Conflicting perspectives
  - Remember that conflicting views can generate good discussion and are not a bad thing.
  - Remind learners that a range of perspectives is welcome as long as they are respectfully presented.
- Disruptive learners
  - If a learner is proving disruptive (talking over others, being particularly argumentative) give them a job that focuses their attention on something else. This could be time-keeping, or noting down questions.
- Hostility and emotional responses
  - Sex workers, LGBTI and people who use drugs and their behaviour can cause emotional and sensitive responses from learners. Because of this, some learners may not want to talk about these populations, and may not like the way you present the topics. It is often hard for people to confront their attitudes and behaviours, especially if it contradicts their belief system. Do not get drawn into arguments. Rather encourage learners to debate issues that arise within a context of acceptable guidelines and with respect for the facts.
- Learners losing concentration and looking tired
  - If learners are unable to concentrate, are falling asleep or seem lethargic, get them to
    - » drink water;
    - » open the windows;
    - » play a game like 'I spy';
    - » do some stretching exercises;

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- » throw a ball or beanbag to each other (all to receive and throw the ball) and to shout out the name of an animal they identify with as they catch the ball;
  - » take tea or lunch early.

## ***Planning for training***

- Ensure that the venue is big enough for the number of learners.
- Ensure that noise and other distractions are minimised.
- Create a comfortable learning environment, ensuring the correct number of seats and good ventilation.
- Check beforehand that you have the necessary equipment (listed below).
- Arrange the chairs and tables in a U-shape. This enables close interaction with all learners. You might have to request this from the venue the day before.
- Make sure you have a few energiser/refreshers for when the group needs refreshing! Get people to move around the room – make sure windows are open and that it is not too warm.

## ***Conducting the training***

- Dress appropriately, avoiding tight, revealing or uncomfortable clothing and any noisy jewellery that could be distracting.
- Be confident, open and friendly.
- Introduce yourself and explain a bit about your background.
- Don't make eye contact for too long as this can be intimidating for some people.
- Speak slowly and loudly enough for everyone to hear and understand you.
- Write legibly on the flipchart or board.
- Give learners enough time to ask questions, share their experience and raise their views.

## ***Materials needed***

- Baseline evaluations
- Post-course evaluations
- Learner feedback sheets
- Attendance register
- Name tags
- Training Manuals for all learners
- Flip chart paper, pens and stand
- Sticky tape or Prestik
- Ball/ball of string



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- Refreshments for breaks/lunch
  - Set of pictures for each group (Each set depicts different people in myriad contexts – need to include pictures of SW, LGBT and PWUD)
  - Print out of exercise instructions (hand out 1 – Appendix 4)
  - A4 paper (one page per participant)
  - Sticker labels
  - Marker or Koki
  - Pens
  - Poster paper
  - Masking tape or rope
  - A sign that says 'Truth' and another that says 'Myth'
  - Sticky notes
  - Copies of learner feedback sheets

**Be aware!** Facilitating content about sexuality is often a daunting task, even if you are a very experienced facilitator. Learners often impose their insecurities about the subject on facilitators. Be aware that this is not a personal attack, but a natural part of the process of learning and gaining a better understanding of sexual minorities. It is essential that you have already reflected on and understood beliefs about your own sexuality and that of others, especially sexual minorities, before you attempt to facilitate a workshop of this nature.

## ***Support for you, the facilitator***

The learners are not the only ones that will be examining and re-examining their personal values, beliefs, sexual identity and choices during the course. As the facilitator, you will also be doing so. However, you need to remain neutral and guide the group through the content and activities using a learning-appropriate tone. This means that even if you experience strong feelings in facilitating the sessions (which is perfectly normal); you will have to deal with these feelings outside of the learning environment.

Try to find ways to get the support you need. Take time to relax. Talk to someone you trust, or see a professional counsellor if you feel you need an unconditional ear. Remember to refer the learners to appropriate service providers if you are presented with problems that you are unable to deal with.

# TRAINING PROGRAMME

## Day 1

Session	Topic	Time frame
1.	Administration and welcome	08:00–08:15
2.	Baseline evaluation	08:15–08:30
3.	Introduction and expectations	08:30–09:30
4.	Morals and values	09:30–10:00
	<b>Tea break</b>	<b>10:00–10:30</b>
5.	Human rights	10:30–11:00
6.	South African policy, regulatory environment, rights and vulnerable people	11:00–12:00
	<b>Lunch break</b>	<b>12:00–13:00</b>
7.	Power, rank, stigma and discrimination	13:00–14:30
	<b>Tea break</b>	<b>14:30–14:45</b>
8.	Sexuality, gender, sex work and drug use	14:45–16:15
9.	Recap and closure	16:15–16:30

## Day 2

Session	Topic	Time frame
10.	Welcome, administration and recap of day 1	08:00–08:30
11.	The Luanda Guidelines and a Rights based approach to arrest and detention	08:30–10:00
	<b>Tea break</b>	<b>10:00–10:30</b>
12.	Rights and principle based policing and vulnerable groups	10:30–11:15
13.	South Africa's White Paper on Safety and Security	11:15–12:00
	<b>Lunch break</b>	<b>12:00–13:00</b>
14.	International lessons on crime prevention and community policing and vulnerable groups	13:00–14:15
15.	Police health and wellness	14:15–14:45
	<b>Tea break</b>	<b>14:45–15:00</b>
16.	Putting it into action	15:00–15:45
17.	Evaluations	15:45–16:15
18.	Closure	16:15–16:30



DAY ONE



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## SESSION 1

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# ADMINISTRATION AND WELCOME

**Time:** 15 minutes

### **Administration** (5 minutes)

- Ensure that learners sign the registration forms.

### **Welcome** (10 minutes)

- Welcome learners to the training
- Introduce yourself and provide some background about yourself – personal and relevant to the training and/or working with police
- Ask learners to introduce themselves to the group
- Tell people where the bathrooms are and where catering will be provided
- Briefly go through the two-day time table with learners

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## SESSION 2

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# BASELINE EVALUATION

**Time:** 15 minutes

## Introduction *(5 minutes)*

- Tell the learners that:
  - They need to answer a questionnaire (baseline evaluation) before beginning the training programme.
  - The evaluation will be anonymous.
  - They are not being judged, but a baseline evaluation helps the people who developed the programme to understand how much learning has taken place and any changes in trainee perceptions because of the training.
  - They will need to do the evaluation again on completion of the training.



## Activity – Baseline evaluation *(10 minutes)*

### Aim

To assess learners' knowledge, attitudes and practices around policing, rights, and marginalised groups at the beginning of the training.

### Materials

- Copies of baseline evaluation (one per participant)

### Process

1. Hand out copies of the evaluation.
2. Tell the learners that:
  - They need to be as honest as possible when responding.
  - The first answer that comes to mind is usually the most honest one.
  - They should not consult with one another during this activity.
  - They have *10 minutes* to complete the evaluation.
  - They should include the name of their favourite city and a pet's name.
  - That it is anonymous
3. Give learners *10 minutes* to complete the evaluation.
4. Collect the evaluation.

Favourite city: \_\_\_\_\_

Pet's name: \_\_\_\_\_

<b>Questions</b>	
<b>Knowledge</b>	<b>True/ false</b>
<i>Human rights, policing</i>	
1. Policing is primarily about enforcing the law.	
2. Detention starts the moment someone is held in a police cell/ police van.	
3. A female suspect should only be searched by a female police member.	
<i>LGBTI</i>	
1. It is legal for two men to marry in South Africa.	
2. Homosexuality is a mental illness, which is treatable.	
3. Biological sex and gender refer to the same thing.	
<i>Sex work</i>	
1. Sex work is criminalised in South Africa.	
2. People enter sex work for different reasons.	
3. Have to observe rights pertaining to arrested and accused persons.	
<i>Drug use</i>	
1. Drug use is criminalised in all countries.	
2. South Africa is a signatory to international Conventions on drug use.	
3. Long-term drug use can change the way the brain works.	

<b>Questions</b>	
<b>Attitude</b>	<b>Agree/ disagree</b>
<i>Human rights, policing</i>	
1. Some restrictions on human rights are justified.	
2. A violation of human rights is OK if it promotes the greater good.	
3. The community expects us to be tough on criminals.	
<i>LGBTI</i>	
1. Homosexuality is immoral.	
2. Women only become lesbian if they have been mistreated by men.	
3. People should be free to love whoever they want.	
<i>Sex work</i>	
1. Sex workers sell sex to feed drug habits.	
2. Sex workers are all involved in organised crime.	
3. Sex workers spread diseases.	
<i>Drug use</i>	
1. People use drugs because they are selfish.	
2. People who use drugs are a waste of public resources.	
3. People who use drugs have the same human rights as other people.	

<b>Questions</b>	
<b>Practices</b>	<b>Agree/ disagree</b>
<i>Human rights, policing</i>	
1. Human rights are difficult to apply in practice.	
2. We don't have adequate resources to protect human rights all the time.	
3. Management doesn't take enough responsibility in preventing human rights violations.	
<i>LGBTI</i>	
1. Pre-op transwomen (biologically male people that have not yet undergone medical procedures to transition to women) detainees should be kept in the same cells as men because they have penises.	
2. A transwoman in a female cell is a security threat to the other women.	
3. If an individual who is biologically male (has a penis) identifies as a woman, that individual should be referred to as 'her/she' by police officers.	
<i>Sex work</i>	
1. The best way to end sex work is to teach them a lesson by arresting them.	
2. Dressing in a particular way and carrying condoms is an indication that the person has the intention to sell sex.	
3. Another way to deter people from selling sex is to chase them out of the area or fine them.	
<i>Drug use</i>	
1. The best way to reduce demand for drugs is a strong police presence.	
2. Carrying any material for the purposes of using drugs is illegal.	
3. Stop and search is always appropriate with known drug users.	

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## SESSION 3

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# INTRODUCTIONS AND EXPECTATIONS

**Time:** 60 minutes

### Session learning objectives

- To summarise the history of the course and how it was developed
- Establish ground rules and gain an understanding of learners' expectations
- Explain the objectives of the course

### Essential things for facilitators to know and convey to trainees

- Why and how the course was developed
- Appreciation of and commitment to the rules of engagement
- The course objectives and how these will be achieved

### Session learning outcomes

- Learners understand why and how the course was developed
- Learners appreciate and commit to the rules of engagement
- Learners are clear about what the course aims to achieve and how they will be capacitated

### Session summary

Learners will be given a summary of why the course was developed, how it was developed and what it aims to achieve. In establishing the ground rules and

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expectations, learners will get to know a little bit more about one another. They will also be made aware of how they will be capacitated to deal more consciously, effectively and empathically with LGBTI people, sex workers and people who use drugs.

## Course introduction

### **Introduction** (10 minutes)

- Welcome the learners to the course.
- Tell the learners that:
  - In South Africa, and around the world, police are working to improve the quality of their services. As SAPS becomes a more professional police service, relationships with civilians and communities are important. Increasing focus is being placed on highlighting the importance of human rights from a policing perspective.
  - This training is based on a needs evaluation conducted with police and other stakeholders that noted the need for more information on lesbian, gay, bisexual, transgender and intersex (LGBTI) people, sex workers and people who use drugs.
  - The baseline evaluation conducted with SAPS revealed:
    - » Limited understanding of LGBTI and sexual diversity among SAPS BUT interest/openness to learn more about these issues.
    - » Understanding and approaching drug use and sex work largely from a police perspective that classifies these practices as illegal. Mixed levels of understanding of factors contributing to drug use. Almost all police had experience with people who use drugs and sex workers. People with greater understanding and empathy had been involved in engagements and discussions around these practices, or organisations working with sex workers and people who use drugs.
- Set the rules for the course.
- Tell the learners that:
  - Issues will be discussed that may be taboo and sensitive.
  - The training should be a safe space.
  - If anyone feels uncomfortable with the discussion at any time, they should feel free to raise this in the group or privately with the facilitator. Ask the learners for any other rules that they would like to adhere to during the training.

## Activity – Ice breaker

(30 minutes)

### Aim

To enable learners to get to know one another and help them to think about policing and vulnerable populations, particularly LGBTI people, sex workers and people who use drugs.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Tell the learners that we will start with an icebreaker that will help us get to know one another, our experience of diversity and our expectations for the course.
2. Ask learners to pair with someone that they don't know.
3. Ask learners to find out the name of and where their partner is working and together to list why training for police on engaging with vulnerable populations, including LGBTI people, sex workers and people who use drugs is important for SAPS.
4. Ask them to note the benefits for SAPS and how this could be implemented.
5. Each pair should report back on their discussion, only including things that have not been said before.
6. Write down the benefits on a flip chart.
7. Review the benefits suggested by learners against the list on the next page and highlight any that were not provided.

<b>Benefit for SAPS</b>	<b>Mechanism</b>
Improved SAPS employee wellness	Strategies that respond appropriately to sexuality, drug use and gender-based violence.
Reduction in HIV infections among law enforcement officers	Training includes overview of HIV risks (violence, safer sex, preventing injuries from injecting needles etc.) and prevention and treatment methods.
Reduction in civil complaints and law suits against law enforcement	Improved skills to manage challenging situations (verbal abuse, intoxication, engaging with gender non-confirming people, managing withdrawal, overdose etc.).
Reduction in deaths in police custody	Increased knowledge around drug use and health issues, and benefits of increased access to health services while in custody.
Improved quality of law enforcement services	Deepen understanding of sex work, drug use, sexuality and rights and how these link to everyday police work. Practical skills to address gender-based violence and empower victims.
Improved relationships with community	Improved understanding of rights and ways to respect all people, and to work towards improving community health and safety.
Adaptation to changing legal environment	Knowledge and skills around hate crimes legislation (pending), and awareness of efforts to decriminalise sex work.



## Activity – Outlining training expectations

(30 minutes)

### Aim

To understand trainees' expectations and align these with the training objectives.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Ask each learner to state their expectations of the training.
2. Write these on flip chart.
3. If any of the course objectives are not covered, share them with the group. Core objectives include:
  - To increase police members' knowledge of priority health and social rights and safety issues affecting marginalised populations, including LGBTI people, sex workers and people who use drugs in the context of policing
  - To deepen police members' understanding of the lived realities of people from marginalised groups
  - To build police capacity to reflect on their attitudes, perceptions, assumptions and actions towards marginalised groups and the potential consequences of their actions on the health, rights and safety of such groups, police and the broader community
  - To improve police members' skills to manage challenging situations in their work environment and thus enhance their health, safety and wellbeing
  - To reduce stigma and discrimination by police against LGBTI people, sex workers and people who use drugs and other marginalised groups
  - To enable police to adopt behaviours that will promote and protect the rights and health of all people

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## SESSION 4

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# MORALS AND VALUES

**Time:** 30 minutes

### Session learning objectives

- To clarify professional conduct and enable learners to assess their own morals and values.
- Explore possible conflicts between personal views/beliefs/values and organisational/Constitutional values.
- Create empathy and recognition that those who are socially excluded or break the law still have the right to be respected as human beings.

### Essential things for facilitators to know and convey to trainees

- All people have morals and values, but we often don't recognise our own.
- While morals and values differ, members of SAPS are bound to provide services in line with the Constitution.

### Session learning outcomes

- Learners are aware that professional policing services respect human rights and follow the police code of conduct and that this may differ from personal morals and values.

- 
- Learners recognise how personal morals and beliefs that are in conflict with the police code of conduct can hamper effective service delivery and policing.
  - Learners recognise the importance of separating personal values from professional conduct in performing their duties.

## **Session summary**

This is an interactive session that explores morals and values and how these influence people's attitudes, including police. The goal is to help police members to provide a professional service that is not unduly influenced by personal morals or values.

## Activity – Clarifying morals and values

(30 minutes)

### Aim

This exercise explores learners' feelings and judgements about marginalised groups, particularly LGBTI people, sex workers and people who use drugs. The aim is to highlight that we are quick to judge other people's behaviours, without recognising that others might regard our own behaviours as bad.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Procedure

Part One: *Classifying behaviours*

1. Ask learners to suggest examples of behaviours that they consider to be 'immoral/unacceptable/'bad': write these on the flipchart.
2. Ask them to give examples of behaviours that they practice that other people may consider to be 'bad' or 'wrong', and those that others practice that they consider to be 'bad' or 'wrong': write these on the flipchart.
3. Once you have a list of behaviours, read through them with the group and explain that they will vote anonymously for three of the listed behaviours which they regard as the most 'immoral/unacceptable'.
4. Ask people to close their eyes (emphasise confidentiality and that everyone MUST keep their eyes closed for the voting).
5. Inform the learners that they can raise their hand three times when you read out behaviours that they think of as the 'worst'. Also ask them to make sure they do not touch the person next to them.
6. Read the list of behaviours out loud, count the number of hands raised for each and write the number of votes next to the behaviour on the list.
7. After all the listed behaviours have been voted on, people can open their eyes.
8. State which of the listed behaviours received the most votes.
9. Ask the learners:
  - What shapes our thinking about what is moral or immoral, acceptable or unacceptable?
  - Why are some behaviours acceptable to some people and unacceptable to others? (e.g., religion, culture, health, etc.)

10. Organise the behaviours on the list into the following categories:

- Religion/Culture
- Causes harm to others: emotional and/or physical harm
- Causes harm to self: unhealthy
- Against the law/illegal

11. Discuss:

- Some behaviours are acceptable to some people but unacceptable to others, e.g. drinking alcohol, eating pork, having more than one wife, etc.
- Acceptability sometimes depends on context (e.g., wearing a bikini to a funeral, a woman wearing a short skirt to church, kissing in public)
- How this relates to LGBTI/homosexuality/sex work/using substances with particular reference to:
  - a. same sex behaviour:
    - i. Two men having sex
    - ii. Two women having sex
    - iii. Which of these categories do these fall into?
      - 1. Judged due to religion and culture
      - 2. Assuming the sex is between two consenting adults, does it cause physical or emotional harm to anyone?
      - 3. Is it illegal?
      - 4. Should we judge two adults having sex in private?
  - b. someone selling sex
    - i. Which category does this fall into?
      - 1. judged due to religion and culture
      - 2. judged due to illegality
      - 3. Assuming the sex is between two consenting adults, does it cause physical or emotional harm to anyone?
      - 4. How is someone paying for sexual services different from someone paying for a pedicure or a massage?
      - 5. How is buying your husband/wife dinner and expecting sex afterwards different from paying for sex with someone else?
  - c. someone smoking dagga on their own in the privacy of their own home
    - i. which category does this fall into?
      - 1. judged due to religion and culture
      - 2. judged due to illegality
      - 3. judged due to harm caused to self
      - 4. how/why do we judge this differently to someone smoking a cigarette on their own in their own home?

## Notes for the facilitator

- During this activity, it is very important to emphasise that this training is not about telling people that their personal beliefs are wrong, but about highlighting that our personal beliefs and values can sometimes conflict with the work we do.
- Although we are free to hold any beliefs and say anything in our personal lives, at home, and with family and friends, in our work place we need to ensure that we behave and act in line with the values of the South African Constitution and the SAPS code of conduct.
- It is important to be aware that, at work we might sometimes be faced with people and situations where we think people are acting in an immoral or unacceptable way according to our personal belief system (religious or cultural), but we need to consider if it is appropriate or helpful to judge them.
- The important thing is to do our jobs properly, and treat people fairly and equally; it is thus sometimes necessary to put aside our personal beliefs in order to do our job.
- 'Leave your personal beliefs and values at home, they do not belong in the work space.'

## Conclusion: Morals and Values (5 minutes)

- Tell the learners that:
  - Valuing diversity within the community is integral to effective and responsive policing.
  - All interactions between the police and others, including LGBTI people, sex workers and people who use drugs should be positive and productive.
  - SAPS has a responsibility to ensure that individuals who utilise its services are treated professionally.

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## SESSION 5

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# HUMAN RIGHTS

**Time:** 30 minutes

### Session learning objectives

- To understand what human rights are
- To understand why human rights are important for police

### Essential things for facilitators to know and convey to trainees

- Human rights apply to ALL people
- Many international and national laws and policies support the rights of all people, even those engaged in illegal practices, and affect the police

### Session learning outcomes

- Learners understand what human rights are and understand why they are important for police and law enforcement

### Session summary

This session highlights that *human rights* refers to rights and values that are universal and cannot be taken away. These are the rights a person has simply

because that person is a human being. The session uses an exercise to emphasise that human rights apply to all people, whatever their nationality, place of residence, gender, national or ethnic origin, race, religion, language, or any other status; they are basic standards without which people cannot live in dignity; and in South Africa, human rights are guaranteed by law.

## **Activity – Human rights and policing** (20 minutes)

### **Aim**

To help learners understand the range of issues relating to human rights

### **Materials**

- Flipchart paper and stand
- Flipchart pens

### **Process**

1. Ask learners to brainstorm any ideas or concepts that come to mind when they think about human rights. Prompt them if necessary, write their responses on a piece of flip chart paper and discuss. They may come up with ideas and concepts like:
  - Freedom
  - Fairness
  - Justice
  - Laws
  - Access to justice
  - Rule of law
  - International law
  - The Constitution
  - Dignity, liberty, freedom of expression and movement, safety, protection of property.
2. Highlight that, the fact that they have identified numerous ideas and concepts shows that, the concept of human rights is very broad and interconnected.
3. Ask learners who human rights apply to.
4. Ask them if they think there are any benefits to policing through a human rights framework.
5. List any benefits the group mentions on the flipchart paper. These could include:
  - Promotes stability;
  - Promotes democracy;
  - Greater reliance on legal action;



- Less vigilantism;
  - Enhances people’s democratic, economic and social development/ respect for the law, enhances the authority of the law;
  - People become less hostile to police;
  - Police can really serve the community;
  - Community trusts police;
  - Community knows they will get equal treatment;
  - Pride in the country’s police services;
  - Increases safety of police if there is less hostility towards them; and
  - Greater cooperation with police.
6. Ask the group to identify the challenges of implementing a human rights policing framework. List these on the flipchart.
- Ask the learners whether the benefits and the challenges can be reconciled, and if so, how. Facilitate this discussion.

## Activity – Covenants, declarations and policies around human rights *(10 minutes)*

### Aim

To highlight relevant documents that relate to human rights and policing practice.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Introduce the session by telling the learners about written documents that are precursors to today’s guiding documents on human rights. These are:
  - The Magna Carta (1215)
  - The Petition of Rights (1628)
  - The US Constitution (1787)
  - The French Declaration of the Rights of Man and of the Citizen (1789)
  - The US Bill of Rights (1791)
  - The Freedom Charter (1955)
2. Ask learners to identify relevant guiding frameworks at international, continental and domestic level relevant to human rights and policing, particularly of marginalised groups.
3. List the guiding frameworks from the report back and then discuss the outline set out below.

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## **Background information:**

### ***Treaties, conventions and initiatives relevant to policing and rights***

The main sources of international human rights law are the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, they form the International Bill of Rights. They have inspired over 80 international treaties and declarations, both globally and regionally, and are a legally binding system for the promotion and protection of human rights. Details are provided in Appendix 1. Key items are listed below:

#### ***International conventions and treaties***

- The Universal Declaration of Human Rights (1948)
- The International Covenant on Civil and Political Rights (1976)
- The Convention on the Elimination of Discrimination Against Women (1979)
- The International Covenant on Economic, Social and Cultural Rights (ICESCR)
- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
- The United Nations Human Rights Council Resolution on Protection against violence and discrimination based on sexual orientation and gender identity 30 June 2016
- The United Nations Human Rights Council Resolution on Human Rights, Sexual Orientation and Gender Identity 26 September 2014
- Beijing Declaration and Platform for Action of 1995.

#### ***African treaties and conventions***

- The Protocol to the African Charter on Human and People's Rights on the Rights of Women of 2005
- African Charter on Human and People's Rights
- Protocol To The African Charter On Human And Peoples' Rights On The Rights Of Women In Africa
- Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa
- Principles And Guidelines On The Right To A Fair Trial And Legal Assistance In Africa

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## ***Southern African initiatives***

- South African Regional Police Chiefs Cooperation Organisation (SARPCCO) Code of Conduct
- SADC Strategic Indicative Plan of the Organ on Politics, Defence and Security Co-operation (SIPO II)
- SADC Protocol on Gender and Development 2008
- SADC Protocol on Health 1999
- SADC Protocol on Trafficking and Illicit Drugs 1996
- SADC Strategic Plan of Action to Combat Trafficking in Persons, Especially Women and Children (2009-2019)

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## SESSION 6

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# SOUTH AFRICAN POLICY, RIGHTS AND VULNERABLE PEOPLE

*Time: 60 minutes*

### **Session learning objectives**

- To help police understand that South African law and police rules support human rights for all

### **Essential things for facilitators to know and convey to trainees**

- The Constitution provides protection to ALL people in South Africa
- Dignity, respect and freedom from discrimination are important things for police to remember

### **Session learning outcomes**

- Learners should recognise that morals and values differ.
- Context, religion, culture and the law are some of the factors that influence morals and values.
- The SAPS Code of Conduct is aligned to the Constitution and the Batho Pele Principles that support professionalism, human rights and equality.
- How to apply this information to daily policing practices.

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## Session summary

This session enables police to think about human rights, problems relating to exclusion and why this is important for police. This is done through the use of exercises to help people better understand exclusion and links to rights.

### **Introduction:**

#### ***Marginalised groups in South Africa*** (5 minutes)

- Tell the learners that:
  - South African institutions are required to treat all people fairly regardless of race, gender, ethnicity, national origin, sexual orientation or religion. However, in reality many sex workers, people who use drugs, and LGBTI people in South Africa experience stigma, discrimination and abuse.
  - All people and communities rely on the police and law enforcement agencies to keep them safe, but police and law enforcement officers sometimes commit such abuse. This highlights the need for dialogue, engagement, policy and action that can make police protection for all a reality.
  - Police can reduce stigma and discrimination faced by marginalised groups (including those that engage in illegal activity) through the way they treat people in their daily interactions.
  - Understanding the impact of criminalisation, and the stigmatisation and discrimination faced by marginalised populations is a critical part of being able to work with all groups in a community. This can empower police and law enforcement agencies to fulfil their mandate while upholding the Constitutional principles that should be inherent in daily interactions with all people.
  - The way that police members interact with civilians has wide ranging implications for broader society. These interactions influence community relationships, social cohesion and human rights. Ultimately, they can reinforce or reduce cycles of violence. Similarly, they can increase or decrease the risk of HIV infection and transmission to others, as well as promote or prevent access to HIV prevention and treatment services for LGBTI people, sex workers and people who use drugs, their families and all community members.

## Activity – Understanding exclusion

(40 minutes)

### Part One (20 minutes)

#### Aim

To enable the group to identify people who may be marginalised, particularly LGBTI people, sex workers and people who use drugs and recognise that their law enforcement duties apply to all.

#### Materials

- Flipchart paper and stand
- Flipchart pens

#### Process

1. Ask the learners to come up with examples of people who are likely to be treated as if they do not belong, or are not welcome somewhere.
2. List the answers and explain that these people are often described as 'marginalised'. If necessary prompt the group to come up with the following: people who are differently-abled, foreigners/migrants, people who live on the street, people who are gender non-conforming, LGBTI people, sex workers and people who use drugs.
3. Ask the group if their responsibilities in terms of law enforcement towards these people are any different to those of anybody else. If so, ask why they think this is the case.
4. Affirm that everybody has the same human rights and right to protection.

### Part Two (20 minutes)

#### Aim

Show learners how laws can be enforced and human rights can be protected.

#### Materials

- Flipchart paper and stand
- Flipchart pens

#### Process

1. Ask the learners to identify illegal activities that could be regarded as legitimate under certain circumstances, for example, selling and buying sex, possession of drugs. Limit it to activities that are relevant to LGBTI, sex workers and people who use drugs.

2. Ask learners to identify the human rights that might be relevant in questioning, arrest, detention and trial.
3. Ask learners to work through the following scenario and identify the rights violations:

Priscilla is a homeless transgender person who lives in the CBD. She is often seen with known sex workers and drug users in this area. Police officers have been monitoring her and suspect that she may be engaged in sex work and drug use. One evening, the police officers see her standing in a sex work hot spot. They approach her and tell her that they have monitored her conduct and she is going to be arrested for 'prostitution'. Priscilla starts shouting and arguing. In response a police officer pepper sprays her and pushes her into the back of the police van. At the police station, she is not charged under any law, but is locked up. She is HIV positive with a fairly low CD4 count (indicating compromised immunity), but does not have access to her ARVs while she is locked up. While in detention, Priscilla is searched for evidence that she has been doing sex work. This is done by a male officer because there is no female officer on duty. Nothing incriminating is found. Police keep Priscilla in detention at the station for two days and then release her with a warning not to 'prostitute' herself again.<sup>1</sup>

4. Ask the learners to use the Constitution and other material to discuss how to enforce the law and adhere to the human rights framework at the same time. Ask learners to write down their ideas about what constitute best practices for police when dealing with sex workers.

<sup>1</sup> Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town: Women's Legal Centre, page 54. Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

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## **Vulnerable groups, rights and policing** (15 minutes)

Tell learners that:

- The Bill of Rights enshrined in the Constitution guarantees equality and prohibits unfair discrimination on several grounds, including gender, sex and sexual orientation.
- In terms of the law, LGBTI people in South Africa are equal to any other people.
- For LGBTI people:
  - According to a survey conducted by the Human Sciences Research Council in 2007, more than 80% of the South African population considered homosexuality as ‘always wrong’.
  - In many communities, heterosexuality (male-female relationships) is seen to be the only appropriate way to express love and sexuality.
  - These perceptions often expose LGBTI persons to hate speech and violent behaviour that sometimes costs them their lives.
- For sex workers:
  - Sex work is criminalised, but South Africa has signed several international human rights treaties that apply to sex workers.
  - There are no sex work-specific international or regional treaties. However, there are treaties that protect people who are forced to sell sex and exploited. This is different from sex work, which people choose to do.
  - South African research confirms frequent harassment and rights violations by police towards sex workers. These include rape, confiscation of condoms for evidence of sex work and excessive use of force.
  - Some court cases (e.g. the Kylie Case<sup>2</sup>) and reports to police management confirm sex worker rights in South Africa. Specific criteria have to be met for sex workers to be arrested under the Sexual Offences Act of 1957 and the Criminal Law Amendment Act of 2007.
  - The United Nations describes human trafficking as ‘the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of

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<sup>2</sup> Kylie v Commission for Conciliation, Mediation and Arbitration and Others, Labour Appeal Court Case No: CA10/08



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exploitation'.<sup>3</sup> In simple terms, for a person to be trafficked they must have been, firstly, taken across international borders or moved within a country; secondly, forced or lied to; and, thirdly, abused in some way. It is very important to understand the difference between sex work – which involves sex between consenting adults – and sex trafficking, which is a major abuse of human rights.<sup>4</sup>

- When policing minors engaged in sex work, social workers have to be involved. While they are committing an offence, these minors are vulnerable and should be offered assistance and not arrested. People who encourage minors to engage in sex work are guilty of commercial sexual exploitation.
- Relevant Acts:
  - » Criminal Procedure Act 51 of 1977
  - » South African Police Service Act 68 of 1995
  - » Standard Operating Protocol in relation to the detention of transgender persons
  - » Protocols relating to detention
  - » Sexual Offences Act 23 of 1957
  - » Criminal Law Amendment Act (Sexual Offences and Related Matters) Act 32 of 2007
  - » Municipal By-Laws relating to public spaces
- Relevant Police orders:
  - » Standard Operating Protocol in relation to the detention of transgender persons
  - » Standing Order General 361
  - » Standing Order General 349.2
  - » Standing Order General 341
- For people who use drugs:
  - South African law and policy is guided by:
    - » The Single Convention on Narcotic Drugs, 1961 as amended by the 1972 Protocol
    - » The Convention on Psychotropic Substances, 1971
    - » The Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988

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3 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Accessed online at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx> on 05 May 2017

4 Asijiki Fact Sheet: Sex Work and Human Trafficking. Accessed online at <http://www.sweat.org.za/wp-content/uploads/2016/02/Sex-work-and-Human-trafficking-Asijiki-1.pdf> on 05 May 2017

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- South African Acts governing drugs include:
    - » Medicine and Related Substance Control Act 101 of 1965.
    - » The Drugs and Drug Trafficking Act 140 of 1992.
    - » Prevention of and Treatment for Substance Abuse Act 70 of 2008.
  - **The Central Drug Authority** is a national body that oversees the design and implementation of the national response to substance abuse. The Act states that the response should be outlined in a National Drug Master Plan, which should be renewed every five years. In addition each province should develop a ‘Mini Drug Master Plan’ that sets out provincial implementation of national policy.
  - **The National Drug Master Plan** is the main national policy document. It outlines how drug use should be understood and responded to by a range of government departments. The current National Drug Master Plan (2013–2017) sets out the responsibilities of many departments in tackling drug abuse.

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## SESSION 7

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# POWER, RANK, STIGMA AND DISCRIMINATION

**Time:** 90 minutes

### Session learning objectives

- To enable learners to recall experiences of disempowerment and stigma and reflect on these, and how they relate to the lived experiences of sex workers, LGBTI people and people who use drugs.
- To show that power exists in relationships and that if it is abused, this can lead to violation and disempowerment of people regarded as different.
- To discuss the causes, behaviours and symptoms of stigma in relation to LGBTI people, sex workers and people who use drugs.
- To think about how our world view determines how we rank, profile and respond to others.

### Essential things for facilitators to know and convey to trainees

- Socialisation influences the way we engage with other people. When power is unequally distributed, those with less power are likely to be worse off.
- LGBTI people, sex workers and people who use drugs frequently experience stigma and discrimination from community members and police have a role to play in reversing this pattern.
- When people are marginalised (because they do not fit into socially

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constructed gender roles/norms, or because of their socially prescribed ranking based on sex, race, occupation, socio-economic status, health, religion, etc.), they are more susceptible to, and the target of discrimination, hate and violence.

- While police have legitimate rank, they need to own this and ensure that they do not abuse this power, particularly in dealing with marginalised and disempowered individuals and groups.

## Session learning outcomes

- Learners understand that their worldview/socialisation informs the way they think, feel about and respond to people, including marginalised and disempowered groups.
- Learners comprehend that power is held in relationships and if abused results in the violation and disempowerment of people regarded as different.
- Learners know what stigma and discrimination are and their pervasiveness.
- Learners can empathise with people from marginalised population groups and recognise the challenges they face.

## Session summary

Learners will re-live their experiences of being disempowered, stigmatised and discriminated against. Through sharing the challenges faced by marginalised populations; the causes, behaviours and symptoms of stigmatisation and discrimination and their pervasiveness, they will gain some understanding of the obstacles facing LGBTI people, sex workers and people who use drugs. Understanding through personal identification and reflection, will provide an opportunity for them to develop empathy for marginalised groups. In discussing and reflecting on their belief system, values and morals, learners will become aware that their thinking, feelings and behaviours about the world, and in particular about LGBTI people, sex workers and people who use drugs is determined by this worldview and should be challenged. They will also be made aware that power lies in relationships and that if abused can lead to the violation of others.

## Activity – Power and rank *(60 minutes)*

### Aim

To create an opportunity for learners to become aware of, and sensitive to, their own and others' pain in being marginalised and discriminated against, by reflecting on their personal lived experience(s).

### Materials

- Flipchart paper and stand
- Flipchart pens
- Set of pictures for each group (Each set depicts different people in myriad contexts – need to include pictures of SW, LGBT and PWUD)
- Print out of exercise instructions (hand out 1 – Appendix 4)
- A4 paper (one page per participant)

### Process

Part One *(20 minutes)*

1. Divide learners into mixed groups of five
2. Hand each group flipchart paper, flipchart pens, a set of pictures and instructions for the picture activity (hand out 1)
3. Instruct the groups to read through hand out 1
4. The facilitator should visit the groups and listen to what is being said – be unobtrusive and non-judgemental
5. Note the perceptions people have of the different people photographed in the picture sets
6. Remind learners that there are no right and wrong answers  
Hand out 1 reads as follows:
  - a) Rank your set of pictures from the person that you think is the most powerful to the one that you feel is the least powerful.
  - b) Discuss and agree on your final decision about the picture ranking.
  - c) Choose someone in your group to make notes on the discussion and reasons for your decision, to present to the larger group.
  - d) Paste your pictures onto the flipchart paper, with the picture of the most powerful person at the top and that of the least powerful at the bottom.
  - e) Paste your flipchart paper on the wall and present your selection to the larger group, explaining the reasoning behind your group's selection.

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Part Two (30 minutes)

1. While the groups present their reports, the facilitator should note on separate flipchart paper, the perceptions that learners have of power. The facilitator should use these to point out the inherent bias people have about gender, sex, race, occupation, etc.
2. When all the groups have presented, clarify with the learners that these are the characteristics that they think make a person powerful and not powerful.
3. Ask the learners:
  - What kind of power do the people selected as the most powerful have? Why?
  - When you look at the most and least powerful people on your flipchart papers, do you notice any similarities in terms of gender, race, class, able-bodied/disabled, age, occupational status, sexual orientation, in the groups' ranking of people?
  - What do we base our ranking system on? Where does the information that we use to 'judge' people come from? Is it true/correct?
  - What happens when we have negative perceptions about an individual, or members of a particular culture or group?
  - Of the characteristics that you perceive of as powerful, which were people born with/into and which were earned? Is this fair?
4. What can you do if you have power? Highlight that rank changes with different situations e.g., a disabled man may not have much power in relation to an able-bodied person in the workplace but the same man has more power than his wife or girlfriend in a domestic relationship.
5. Make it clear to the learners that as police they have legitimate rank and that this gives them power. Reiterate that they CANNOT abuse this power because of the negative consequences.

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Part Three (10 minutes)

1. In the larger forum, ask the learners to volunteer to speak about their experiences of being discriminated against by someone more 'powerful' than themselves and to share how it made them feel.

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## Background information:

### **Power**<sup>5</sup>

Power is complex, is held in relationships and is, in itself, not a bad thing. All human beings have some level of power, unless it has been taken away from them. However, oppression, domination and limiting people's potential is an abuse of power and leaves people disempowered, dependent and 'at risk'. The pattern of 'power over' people (dependent power) – where people use their power to get what they want through force, coercion and threats, often making it frightening and dangerous for others to use their own power – must be broken and replaced by 'power with' (interdependent power) which is shared power that is based on human rights principles and is devoid of bias and discrimination.

Power is defined as the ability to do something, including the ability to control or influence others. It is not possible to 'see' power in its raw form. We can, however, see power at work when, for example: people lift heavy objects, a parent tells a child to go to bed, the church forbids same sex marriages and legislation criminalises sex work. Many things can provide individuals with power, including:

- Special knowledge and expertise – e.g.: Scientists and doctors (people who have not had access to education will be at a disadvantage).
- Occupational status/role – e.g.: doctor, police (people who have a legitimate role or position in society or an organisation, have the power to make demands on others who are compelled to comply because they accept the legitimacy of their position, whether they agree with the demand or not). For example, a policewoman can arrest a citizen and a doctor can refuse to treat a sex worker. Furthermore, our society thinks that some jobs are better than others, for example, doctors get more respect than street cleaners.
- Positional or societal status – (often supported by policy and legislation) e.g.: Women being subordinate to men in a patriarchal society, LGBTI people being at greater risk of violence in a society where opposite sex relationships are viewed as the norm, white people having access to land and education under apartheid.

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<sup>5</sup> Adapted from The Barefoot Collective; 'The Barefoot Guide to working with organisations and social change' Community' (2009); p50 – 57. Accessed online at <http://www.barefootguide.org> on 10 October 2010



- Wealth/resources – e.g.: access to land, money, material rewards.
- Age – the very old and the very young in our country do not generally have much influence.

Power can also come from being a member of a particular group. For example, under apartheid white people had more power than black people through the laws and policies developed by the National Party (structural power). Men have also been given power through laws and policies and as a group, they hold more power than women as a group. Because this power is deemed legitimate and a 'truth' that differentiates men from women, women are perceived of as a 'lesser gender', and are therefore at greater risk of being treated as 'lesser than'. This structural imbalance in power, not only results in women being discriminated against because of their gender, but places them at greater risk of sexual violence.

People who have power can make decisions for other people who are dependent on them e.g., Nurse and patient, policewoman and sex worker, parent and child, husband and wife. The power position that we have relative to one another in a relationship, groups, community and the world is referred to as rank.

## **Rank<sup>6</sup>**

Some kinds of rank are earned and some are unearned. Unearned rank is acquired through birth or by membership of a particular race, class and gender. Relative benefits and advantages, or privileges, and power come with one's rank. Being aware of our relative rank and privilege is important, as human beings tend to be more aware of areas where they feel disempowered than those where they have power. The privilege that all people of ranks share is to NOT BE AWARE of the suffering of the other side.

When we are comfortable, or have received benefits, we rarely consider how it feels to be without those comforts or power. For example, a man might be unaware of his sense of safety walking down a dark street. A white person may be unaware that it is a privilege to go grocery shopping without being followed and suspected of being a criminal. A heterosexual is unaware that public affection with their partner is frowned upon and can lead to violence for same sex partners.

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<sup>6</sup> Mindell, Amy. 'Metaskills: The Spiritual Art of Therapy' (1995); Tempe, AZ: New Falcon.

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Unconscious power or privilege leads us to ignore or exclude those who are different. Having higher rank, power or privilege can even lead us to think that we are innately superior to those with less power or privilege. It usually takes someone in a lower rank to awaken those with higher rank. Those with lower rank are acutely aware of their lack of power. Those with higher rank might notice their privileges and become unconscious again, whereas those with lower rank are constantly reminded of their plight.

When rank remains unacknowledged or unconscious it perpetuates hurt, abuse, discrimination and violence. Mainstream groups project parts of themselves onto minority groups and vice versa. We need to help individuals and groups embrace parts of themselves that have gone unrecognised. Thus, racism, sexism, homophobia, anti-Semitism, xenophobia etc. require not only legal and political solutions, but inner work and healing, education and awareness.

Everybody, no matter how powerful their social rank, has once been marginalised through their lived experience of being a child. Remembering one's own marginalisation helps create sensitivity to others' pain. If you work through your own marginalisation you are less likely to marginalise others.

Everyone has relative benefits and advantages (privileges). For example:

- Heterosexuals in a heterosexist society have privilege;
- Males in a patriarchal society have privilege;
- White people in a white, Eurocentric society have privilege;
- English speakers in a predominantly English-speaking culture, have privilege;
- People who have university degrees have privilege, as education is tied to social class and earning power;
- People who have access to economic resources have privilege;
- Christians in a Christian-dominated society have privilege;
- People with good health and freedom of mobility have privilege.

If we can become aware of our rank and the power that comes with it, we can choose to use it for the benefit of the whole and not to abuse, violate and discriminate against those who may be different from us.

## **Socialisation**<sup>7</sup>

Socialisation is a process whereby we are taught (by our parents, siblings, peers, teachers, religious institutions, culture and tradition, media, etc.) about how we, as well as others, are expected to behave in society. It therefore, shapes the image that people have of themselves, informs the way they think and provides a system through which all information and experiences are filtered. In this way, human beings can make meaning and sense of the world. It shapes people's belief system, giving birth to perceived 'truth' about the world.

This internalised 'truth' includes social expectations, attitudes, values and actions deemed appropriate for one's self and others as members of a particular culture or group. If we are not conscious of the impact socialisation has on our development, we are more likely to perpetuate inequalities and injustice when confronted with information or people whose worldview does not tally with our own.

It is therefore essential for police to be aware of their world view, because the way they see and respond to problems in society, is informed by what they have learned. For example, if a policeman feels that sex work is morally unacceptable and deserving of punishment and ridicule, he will not respond effectively to a sex worker who has been violated.

## **Workplace Bullying**

One of the ways in which people are harassed at work is through workplace bullying. Workplace bullying has been linked to feelings of incompetence, alienation, anxiety, job insecurity, and inadequacy, tensions in personal relationships, and depression.<sup>8</sup>

Bullying refers to any unfavourable or offensive conduct on the part of a person or persons, which has the effect of creating a hostile work environment.

(Other terms that are used for workplace bullying are corporate bullying, workplace violence, moral harassment, emotional abuse, work rage, and mobbing).<sup>9</sup>

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7 Hope, A and Timmel, S: 'Training for Transformation: A Handbook for Community Workers' Book 1, (1989); Harare: Mambo Press.

8 <http://www.lexisnexis.co.za/pdf/1-1-Corporate-Bullying-Rycroft.pdf>

9 <http://www.lexisnexis.co.za/pdf/1-1-Corporate-Bullying-Rycroft.pdf>

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Adapting the definition of harassment in the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA):

Workplace bullying may be defined as unwanted conduct in the workplace which is persistent or serious and demeans, humiliates or creates a hostile or intimidating environment or is calculated to induce submission by actual or threatened adverse consequences.<sup>10</sup>

Employers can deal with bullying in the workplace by:<sup>11</sup>

- Developing their own policy or code of conduct on bullying
- Educating managers and employees on suitable workplace behaviours
- Establishing and advertising grievance procedures
- Educating human resource practitioners on effective investigation processes
- Reviewing the work culture
- Monitoring long absences from work
- Establishing suitable mechanisms to report workplace bullying
- Ensuring that senior management actively supports the introduction of procedures, policies and practices to alleviate workplace bullying.

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<sup>10</sup> <http://www.lexisnexis.co.za/pdf/1-1-Corporate-Bullying-Rycroft.pdf>

<sup>11</sup> <http://www.lexisnexis.co.za/pdf/1-1-Corporate-Bullying-Rycroft.pdf>

## Activity – Stigma and discrimination

(30 minutes)

### Aims

- To identify sex workers and drugs users as marginalised groups and understand the process and impact of stereotyping and stigma.
- To clarify definitions and dispel myths relating to sex work and drug use.
- To help the facilitator assess local attitudes to sex work to shape their later input to address these attitudes.

### Materials

- Sticker labels
- Marker or Koki
- Pens
- Poster paper
- Masking tape or rope
- A sign that says 'Truth' and another that says 'Myth'

### Process

1. On the sticker labels, write the names of groups of people (one name per label) who are stereotyped and/or marginalised. Add those on the list below that have not been included:
  - Druggie
  - HIV+
  - Moffie
  - Policeman
  - Farm Worker
  - Refugee (e.g. Zimbabwean)
  - Foreigner
  - Prostitute
2. Stick the labels on the backs of some members of the group (6 to 10 depending on size)
3. The person with the label on their back is not allowed to see or be told what it says
4. He/she stands up and turns around so that the others in the group can see
5. The group is then asked to describe that person
6. If the group members are reluctant to disclose their own perceptions, the facilitator can ask 'What do other people say about these people?'
7. If contrasting statements are made by group members (e.g. 'They protect us', and 'They are bullies' (about the label 'Policeman'), this is highlighted, and the group is encouraged to debate and argue

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8. Write these statements on the flip chart
  9. After each label has been discussed the person with the label is asked:
    - 'Who do you think you are?'
    - 'How did it feel when the group said those things?'
  10. Define the terms 'stigma', 'discrimination' and 'stereotype' for the group.
  11. Close by asking the group to draw on their experiences in the exercise to illustrate the negative effects of stereotyping, stigmatisation and discrimination.

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## Background information

### **Stigma**

**Stigma** refers to strong negative feelings or disapproval of a person, group, or trait. It develops because of many factors, but is often influenced by the values and beliefs of an individual or group, and in some cases laws. For example, in the past there was stigma towards those with mental illness or diseases such as HIV. It often leads to discrimination, which occurs when a person or group are treated unjustly or unfairly because of a specific trait. Stigma can be both internal and external.

**External stigma** results from the actions of others. In certain situations, it may be very clear, but in others it may be more difficult to identify. In some cases, people might be unaware that they are stigmatising someone or that they are being stigmatised. It is therefore, important to understand the signs of both external and internal stigma so that proper action can be taken to address it. Most of the signs of external stigma can be seen in the way people interact with one another. These may include the following:

- **Avoidance.** When people spend less time with or do not want to be around stigmatised people. This might include a person who begins to avoid a close friend because he or she is stigmatised.
- **Rejection.** When people are no longer willing to associate with or welcome stigmatised people in their lives.
- **Moral judgement.** When people begin to see a stigmatised person as immoral or when they use their values to justify stigmatising someone.
- **Stigma by association.** When those who associate with a stigmatised person are also stigmatised.
- **Gossip.** When people begin to speak negatively about other people who are stigmatised.
- **Unwillingness to employ.** Not being willing to hire a person who is qualified for the job because of certain characteristics that may be stigmatised.
- **Abuse.** When a person physical, emotionally or verbally abuses someone, they may be doing so because of the stigma they feel towards that person.
- **Victimisation.** When someone is blamed for problems unrelated to them and singled out for cruel or unjust treatment.

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- **Internal stigma:** Unlike external stigma, the signs of internal stigma may be much harder to identify because many occur within the individual and focus on the way they feel about themselves. Internal stigma is experienced by the person who is being stigmatised. It can result in low self-esteem, shame, and low moral worth.

Signs of internal stigma include:

- **Self-exclusion from services** (including health services) or opportunities. The stigmatised person avoids opportunities due to fear of being further stigmatised, or feels that they do not deserve these opportunities.
- **Perceptions of self.** A person who experiences internal stigma may have low self-esteem and self-worth and lack self-confidence. They might also doubt their ability to perform a specific task, like accessing health care or asking for police assistance.
- **Social withdrawal.** People that experience internal stigma may withdraw from their social networks.
- **Overcompensation.** May occur when the person who is feeling internal stigma feels the need to overcompensate to make up for their perceived stigmatisation. For example, being excessively grateful when someone is kind to them.
- **Mental health issues.** Internal stigma may cause a person to become depressed or develop mental health issues.
- **Substance use.** Stigmatised people may turn to drugs or alcohol to cope with stigma.
- **Suicide or attempted suicide.** Some people may not be able to cope with their internal stigma and may turn to suicide in order to escape the pain.

## **Prejudice**

A **prejudice** is a preconceived idea or opinion of a person or group because of a personal trait or characteristic. Prejudices are usually negative and are generally connected to characteristics such as sex, age, ethnicity, or religious background.



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## Stereotyping

Stereotypes are fixed ideas or thoughts about a type of person or thing. They are usually negative and not necessarily accurate, and generally create an oversimplified view of a person or thing.

## Discrimination

Discrimination refers to treating people who are in a similar situation differently for no reason and without any justification.<sup>12</sup>

- **‘Fair discrimination’** occurs when there is discrimination but it is reasonable and allowed. The law sets out four grounds on which discrimination is generally allowed:
  - i. Discrimination based on affirmative action;
  - ii. Discrimination based on the requirements of a particular job;
  - iii. Compulsory discrimination by law; and
  - iv. Discrimination based on productivity<sup>13</sup>
- **‘Unfair Discrimination’** occurs when an employee is discriminated against on arbitrary grounds, including race, sex, disability, age and other factors. ‘Unfairness’ occurs when an employer’s actions violate an employee’s rights, are one-sided, unnecessary and/or inappropriate under the circumstances.<sup>14</sup>
- **‘Unlawful victimisation’** occurs when a person subjects or threatens to subject another person to negative consequences because they have lodged a complaint of unlawful discrimination.
- **‘Vilification’**, according to the law, is any public act that could incite others to hate, have serious contempt for, or severely ridicule a person or group based on their actual or perceived race (including colour, nationality, descent and ethnic, ethno-religious or national origin), homosexuality (lesbian or gay), HIV status or transgender status.

**Bias violence/bias motivated crime:** Bias violence refers to incidents triggered by prejudice and offences committed with a bias motive.<sup>15</sup>

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12 Article 14 of the European Convention on Human Rights . Accessed online at [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf) on 05 May 2017

13 [http://www.labourprotect.co.za/fair\\_unfair.htm](http://www.labourprotect.co.za/fair_unfair.htm)

14 <http://www.labourguide.co.za/discipline-dismissal/623-take-note-discrimination-is-not-always-unfair>

15 [http://www.ilga-europe.org/sites/default/files/Attachments/types\\_of\\_crimes\\_bias\\_indicators.pdf](http://www.ilga-europe.org/sites/default/files/Attachments/types_of_crimes_bias_indicators.pdf)

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Stereotypes, prejudice and discrimination are related but different concepts.

- Stereotypes are lodged in the **MIND**
- Prejudice concerns **ATTITUDES** and
- Discrimination is the **ACTION** taken as a result of prejudice.<sup>16</sup>

## ***The effects of stigma, discrimination, prejudice and stereotyping***

Discrimination and stigma add to a person's vulnerability:

- Being excluded from society, feeling devalued and ashamed
- Mental distress erodes self-esteem and ultimately affects psychological and, potentially, physical health
- Individuals may fear disclosing their behaviours, sexual identity or gender identity to members of their family or to support structures because of social stigma or discrimination
- Lack of disclosure prevents them from accessing the knowledge, skills and services they need
- Lack of disclosure also leads to isolation which increases the risk of mental illness
- Stigma, prejudice, and discrimination affect the ability of already vulnerable individuals to access support or services
- Stigma and discrimination against those who do not conform to society's expectations are often compounded by factors such as their legal status and barriers that affect their ability to access health information and services, and to practise safer sex or safer injecting
- Special efforts need to be made to ensure that those who fall outside of sociocultural gender and sexual norms can access life-saving information and services. We can achieve this by first becoming aware of the many ways in which sexual and gender norms affect everyone's sexual behaviour, health-seeking behaviour and access to services.

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16 <https://www.outrightinternational.org/sites/default/files/serveProtectFull.pdf>

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## ***Stigma, discrimination and prejudice against key populations***

'Marginalised' populations experience high levels of stigma, discrimination and prejudice. LGBTI people, sex workers and people who use drugs face the following challenges, which are worse in poor communities where access to resources is a problem for the entire population:

- Human rights violations
- Violence, abuse and ridicule
- Barriers in accessing education, livelihoods and health care
- Discrimination in education and the workplace
- Higher rates of unemployment, underemployment and poverty
- Limited access to education
- Rejection by families that would otherwise provide an economic safety net

Lack of Access to Support and Services:

LGBTI people, sex workers, and people who use drugs have less access to support and services than the general population, due to:

- Discrimination and harassment by providers
- Lack of insurance and inability to pay for private services
- Difficulties in finding service providers who respect their lifestyles, occupations, behaviours, sexual orientation and gender identity (e.g. by not assuming the gender of their sexual partners and referring to their gender correctly) and who understand their particular needs.

Discrimination against Transgender people in gender-segregated services:

- Trans\* people are discriminated against, harassed and abused in facilities where people are typically segregated by gender, including public restrooms, homeless shelters and prisons.
- Trans\* people in prison face challenges related not only to gender segregation and violence, but also the lack of access to proper clinical care and medication – especially transition-related medical care.

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Violence against LGBTI, sex workers and people who use drugs:

- Homophobic or trans phobic violence can lead to physical injury as well as sexual assault and rape.
- Social marginalisation associated with life styles, occupations, and behaviours increases exposure to violence, and the risk of sexual assault, rape, and physical violence.
- Many LGBTI people, sex workers, and people who use drugs experience violence, including harassment, verbal abuse, physical attacks, sexual abuse, murder and suicide.
- LGBTI people and sex workers around the world face an extraordinary amount of all forms of violence – much higher than the general population.

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## SESSION 8

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# SEXUALITY, GENDER, SEX WORK AND DRUG USE

**Time:** 90 minutes

### Session learning objective

- To help police understand key terms and issues around gender, sexuality, sex work and drug use.

### Essential things for facilitators to know and convey to trainees

- The difference between (biological) sex and gender
- Insights into the sex industry and the difference between sex work, trafficking and exploitation
- Police are able to do their work more effectively if they reduce stigma and discrimination towards LGBTI people, sex workers and people who use drugs

### Session learning outcomes

- Learners can explain the difference between sex, gender and sexual orientation
- Learners can dispel common myths around sex work and drug use based on facts

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## Session summary

This session is designed to increase knowledge around human sexuality, gender diversity, the sex industry and drug use. Facts are provided to dispel myths and discussions aim to highlight the importance of policing using correct terms.

### Activity – Human sexuality and gender diversity

(45 minutes)

#### Aim

Learners understand the concepts and start to see the complexity and diversity of human sexuality and gender.

#### Materials

- Flipchart paper and stand
- Flipchart pens

#### Process

1. Using the picture included below as a guide, draw the outline of a human body on the flipchart
2. Write the term: Biological Sex
  - Explain what biological sex is
  - Draw a large circle around the entire genital area
  - Off the circle draw the signs for a female, male, and intersex
  - Discuss what these mean and what they relate to
3. Draw a brain
4. Write the term Gender Identity
  - Discuss what Identity means
    - » How you think and feel about yourself, not how anyone else thinks about or sees you. Who YOU feel that YOU are
  - Discuss what Gender Identity means
    - » How you think about yourself in relation to masculinity and femininity, and in terms of maleness, femaleness and social gender roles
5. Write the term Sexual Identity
  - Discuss what Sexual Identity means
    - » How you think and feel about your own sexuality – related to lifestyle, sexual attraction, labels, sense of belonging, group identity

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- Discuss different Sexual Identity terms:
    - » Straight
    - » Gay
    - » Lesbian
    - » Bisexual
  - 6. Write the term Gender Expression
    - Discuss what Gender Expression means
    - Discuss social gender roles/societal expectations
      - » What society sees as masculine/feminine, how society expects men and women to act
      - » These often have no grounding in physical biology (i.e. cooking, cleaning, giggling versus fixing cars, playing soccer, not crying)
    - Discuss gender expression
      - » How you express your gender, what you wear, how you act, speak, interact with people
    - Discuss Transgender/Cisgender
      - » Transgender: your gender identity does not match your biological sex assigned at birth
      - » Cisgender: your gender identity matches your biological sex assigned at birth
    - Discuss gender non-conformity
    - Not feeling comfortable with the gender roles and expectations of your biological sex doesn't mean you are transgender
  - 7. Draw a Heart
  - 8. Write the term Sexual Orientation
    - Discuss what Sexual Orientation means
      - » Physical attraction, sexual arousal, 'who turns you on' (not 'chosen', is a biological/physiological reaction)
      - » Who you are 'romantically' attracted to, who you have a crush on, who you fall in love with
    - Discuss different Sexual Orientation terms
      - » Homosexual
      - » Heterosexual
      - » Bisexual
      - » Asexual
    - Discuss the difference between sexual orientation and sexual identity

9. Write the term Sexual Behaviour

- Discuss different behaviours
  - » Penile-vaginal penetrative sex
  - » Penile-anal penetrative sex
  - » Oral sex
- Discuss how behaviour is not determined by sexual/gender identity or orientation
  - » Discuss MSM/WSW (down-lows, 'after-9s' – men married to women with families, who secretly have sex with men)
  - » Discuss situational MSM/WSW (e.g. prisoners, people in the armed forces, in single-sex hostels or at boarding schools)
  - » i.e. not all MSM are gay

### Notes for the facilitator

- These terms and concepts can be very confusing, and you may be required to repeat them several times and clearly
- It helps to get learners to explain what they mean in their own words, to assess their understanding and grasp of the definitions
- Use the picture on the next page to guide your drawing.



### SEXUAL IDENTITY

How you think and feel about your own sexuality

*Gay/Lesbian  
Bisexual/Queer  
Straight*

### GENDER IDENTITY

How you think and feel about your own gender

*Man  
Gender Queer  
Woman*

### SEXUAL ORIENTATION

Who you are physically and emotionally attracted to

*Heterosexual  
Bisexual  
Homosexual*

### GENDER EXPRESSION

How you express your gender

*Feminine  
Androgynous  
Masculine*

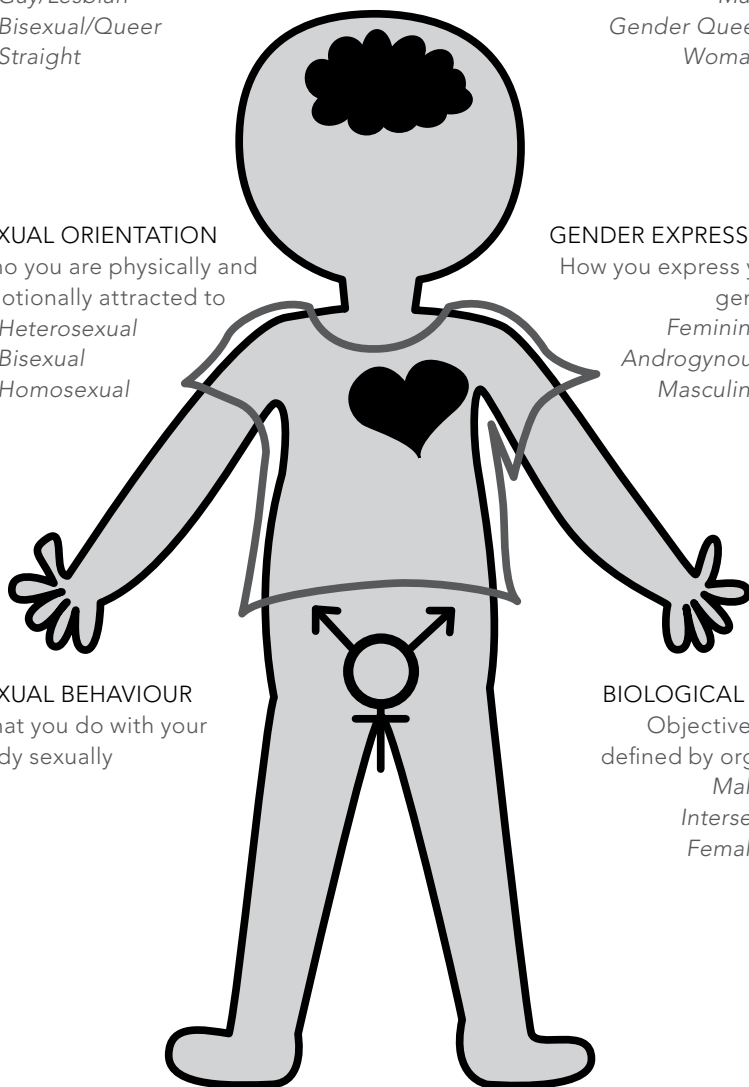
### SEXUAL BEHAVIOUR

What you do with your body sexually

### BIOLOGICAL SEX

Objective sex defined by organs

*Male  
Intersex  
Female*



Source: Duby, Z. (2017). An introduction to gender and human sexuality diversity: A sensitisation training manual (unpublished); Cape Town: South Africa.

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## **Background information:**

### **Sex, sexuality, gender and the South African context**

#### **Sex**

Sex refers to the biological difference between females and males present at birth. These include anatomical differences, such as a vagina or penis; genetic differences as in a person's chromosomal makeup; or physiological differences, such as menstruation or sperm production. Until recently, our sex was considered to be unchangeable. Now it can be changed through medical intervention (sex reassignment surgery).

Sex can also be used to describe physical acts of sex that include but are not limited to penetrative penile-vaginal intercourse, oral sex, anal sex, masturbation and kissing.

#### **Intersex people:**

While intersex people can, like anyone else, self-identify as transgender or be perceived as transgender (and hence experience transphobic discrimination and harassment), intersexuality is not the same as transgenderism. The medical establishment plays a role in fostering shame and secrecy, and the invasive and unnecessary genital surgeries routinely performed on children born with atypical sex anatomy are key issues for people who are intersex.

Intersex people may come into contact with the criminal justice system as victims of crime, as suspects/offenders, or as staff in a criminal justice facility. Some intersex people do not require any special accommodation within the criminal justice system; others have specific needs that must be accommodated as per human rights laws. Intersex people who have been criminally abused (by a partner, family member, etc.) because they are intersex may need specialised assistance to cope with the resulting trauma.<sup>17</sup>

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<sup>17</sup> J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

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## Sexuality

A number of definitions cover the various components of sexuality. The one below provides a basic and fairly comprehensive understanding of the concept.

Sexuality is:

- A central aspect of being human throughout life, and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction.
- Can be experienced and expressed in thoughts, fantasies, desires, beliefs, attitudes, values, behaviours, practices, roles and relationships. Sexuality is influenced by biological, psychological, social, economic, political, cultural, ethical, legal, historical, religious and spiritual factors.
- More than acts of sex. It is also different from gender, which refers to how societies view women and men, the differences between them, and the roles assigned to them.
- A complex and sensitive issue, and includes personal and social meanings as well as sexual behaviour and biology. It includes roles and personality, gender and sexual identity, biology and behaviour, and emotions, thoughts, feelings and relationships. It includes very positive aspects but also extremely negative ones. It is influenced by social, ethical, economic, cultural, spiritual and moral concerns.
- Reflected in the total expression of who we are as human beings. It encompasses our values, attitudes, behaviours, physical appearance, beliefs, emotions and personality, as well as the ways in which we have been socialised. It involves our sexual identity and orientation, begins at birth and lasts our lifetime.
- The expression of sexuality is influenced by ethical, spiritual, cultural and moral factors. Everyone does not experience sexuality in the same way. Being aware of these differences helps us cater to individual needs and provide effective services to people.
- Sexuality encompasses many ideas and is subjective. The definition of sexuality has been evolving along with our understanding of it.

**Sexual orientation** describes who we are romantically attracted to and love. A person's gender identity does not predetermine their sexual orientation. Multiple factors are influenced by and influence our sexuality. For example, we cannot assume that all people are motivated by the same reasons to have sex or be in a relationship – some might want children and others companionship.

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**Sex positivity** is an attitude that celebrates sexuality as part of life that brings happiness, energy and celebration. Sex-positive approaches strive to achieve ideal experiences, rather than working solely to prevent negative experiences. At the same time, sex-positive approaches acknowledge and tackle the various concerns and risks associated with sexuality without reinforcing fear, shame or taboo of young people's sexuality and gender inequality.

## Gender

Gender is socially constructed, which means that it is determined by our social, cultural and psychological surroundings and environment. It is not given in the same way that our biology (sex) is believed to be. It refers to how societies view women and men, how they are distinguished, and the roles assigned to them. People are generally expected to identify with a particular gender that has been assigned to them at birth, and act in ways deemed appropriate to this gender.

1. Gender is variable and can change from time to time, culture to culture, and sub-culture to sub-culture
2. The way girls and boys are socialised to be 'feminine' or 'masculine' is called **gendering**
3. It is important to distinguish between what society has constructed/created for each gender and what is biological. For example, the idea that men are strong and should not cry is created by society, whereas a woman giving birth is biological

**Gender identity** refers to a person's internal sense of being male, female or something else. For many people, their gender identity often corresponds to their biological sex. A person who identifies as transgender has a gender identity that does not correspond to their biological sex.

**Gender expression** relates to how a person chooses to communicate their gender identity to others through clothing, hair, styles, mannerisms and so on. This communication may be conscious or unconscious. While most people's understandings of gender expressions relate to masculinity and femininity, there are countless combinations that may combine both masculine and feminine expressions, or neither, through androgynous expressions.

It is important to understand that these are all on a continuum. One could begin life at one point and, depending on their circumstances, choices and bodies, change and move between the extremes on either side.

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People who change from one side of the gender identity continuum to the other are known as transgender. People who change from one side of the biological sex continuum to the other are known as transsexual (undergoing hormone replacement and/or surgery). People who are intersex are born with ambiguous genitalia, and often the doctor or parents decide for the infant which sex they should be. This choice could be wrong, therefore intersex people are advocating against doctors or parents making the choice for infants.

In order to counter the gender norms that are assigned to 'males' and 'females', there is also a movement to raise children in a gender 'neutral' manner. This means not making distinctions between boys' and girls' clothes, colours, toys and activities (for example, blue for boys, pink for girls; cars for boys, dolls for girls; football for boys, playing house for girls).

All of these points on the continuum are related to self-identification rather than labels that can be applied to us by others or by us to others. Just as you cannot force a person to fall in love with someone, you cannot force someone who identifies as homosexual to fall in love with or desire someone of the opposite sex, or vice versa.

### **The South African context**

In South Africa, over half a million adult women and men, across all population groups, in both rural and urban areas, and across all age groups identify themselves as homosexual, bisexual, or gender non-conforming – consistent with similar statistics in many different parts of the world. Almost six times that number of South Africans (3 million) present themselves in public ('dress and act') in a gender non-conforming way: about 430 000 men and nearly 2.8 million women.<sup>18</sup>

South Africa was the first country in Africa, and the world to protect its citizens on the basis of sexual orientation. Provision 9 (3) in the South African Constitution includes sexual orientation as a category protected from discrimination. South Africa is also the only country in Africa to have legalised same-sex marriage, and was the fifth country to do so worldwide.

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18 Progressive Prudes Report, (2016); HSRC: Cape Town.

## Activity – Sex Worker and Drug User Myths and Stereotypes *(45 minutes)*

### Part One: Busting Myths *(20 minutes)*

1. Place a long stretch of tape or rope along the ground. On the one end of the line place a sign that says 'Truth' and on the other end, one that says 'Myth'.
2. Tell the learners that:
  - You will read a statement.
  - They must run and stand on the end of the line that represents what they think about the statement.
  - If they think the statement is neither completely true nor false (a myth), they should stand in the middle of the line. If they feel the statement is mostly true, they can stand closer to the 'Truth' sign. If they feel is mostly false they can stand closer to the 'Myth' sign.
3. Read out the statements below one by one.
4. After each statement ask three people standing at different places on the line why they are standing where they are. Try to get opinions from as many people as possible.
5. When you have finished all the statements ask the group to sit down and provide the answers considered correct in best practice. Use the 'Myth Busters Guide' table provided below.

### Part Two: Explaining the use of terms *(10 minutes)*

1. Ask the group to brainstorm all the terms that they know of that are used to describe sex workers. Add these to the sheet.
2. Ask the group which terms are commonly used and circle these.
3. Explain why the term 'sex worker' is used and provide the definition (described below).
4. Ask the group to brainstorm all the words that are used to describe people who use drugs. Add these to the sheet.
5. Ask which terms are commonly used and circle these.
6. Explain why the phrase 'people who use drugs' is used (described below).

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### **Part 3: Clarifying definitions** (15 minutes)

1. Hand out the Developing Definitions worksheet.
2. Ask learners to work in pairs to create definitions for the terms on their worksheet.
3. Bring everyone together again and ask for two inputs on a definition, then provide the correct definition, clarifying stereotypes and common misconceptions. Use the 'Correct Definitions Guide' Table below to guide you.

### **Notes for the facilitator**

- A sex worker is any consenting female, male and transgender adult and young person over the age of 18, who receives a reward in exchange for sexual services.
- The term sex worker is intended to be non-judgemental and focuses on the type of work sex workers engage in. Other terms, such as prostitute or hooker are considered stigmatising and should not be used when addressing or referring to a sex worker. Sex workers can also be referred to as women/men/people who sell sex.
- Many terms are used to describe people who use drugs. These include 'junkie', 'addict' and 'drug abuser'. All of these are considered stigmatising because they define the person only by their drug use. It is best to use the full phrase – people/person who use/s drugs.
- The tables below provide the answers and discussion guides for the Developing Definitions and Myth Busters exercises. When providing the answers for these exercises you should:
  - Allow for discussion about alternative answers. Be sure to highlight common myths, stereotypes and derogatory language drawing on the information below. Allow for discussion where time permits.
  - Remind the learners that there are more detailed definitions in the glossary of their training manual.

## Correct Definitions Guide

Term	Short definition	Points to highlight in discussion
Human trafficking	The recruitment and transportation of a person for the purposes of exploitation.	All three elements should be present for it to be considered human trafficking. Children under the age of 18 who sell sex are considered to be victims of sexual exploitation.
Pimp	A person who solicits customers or provides protection for a sex worker usually in exchange for a portion of the sex worker's earnings.	Pimps are often viewed as people who are violent and exercise strict control of sex workers. Many sex workers choose to work with pimps because they solicit clients, and provide protection from dangerous clients and the police. Many pimps do abuse the amount of control that they have over sex workers.
Brothel	A place where the exchange of sexual services for reward takes place.	Brothels are found in houses and sometimes clubs. Many sex workers choose to work in brothels because it provides them with some safety and convenience. In some brothels, sex workers may not have complete control over their working hours and the kinds of clients.
Client	A person who purchases sexual services from a sex worker.	Clients might be male, female or transgender.
Addiction	When a person is dependent on a substance and is unable to function normally without using it. The dependence may be physical or psychological or both.	Most people use substances, including illegal ones, without developing an addiction. The likelihood of someone developing an addiction is influenced by many things, like their childhood and later life experiences, mental health conditions, access to appropriate services, stigma and discrimination etc.



Term	Short definition	Points to highlight in discussion
Opioid substitution therapy	An evidence-based intervention for opiate-dependent persons that replaces illicit drug use with medically prescribed, orally administered opiates such as buprenorphine and methadone.	OST reduces HIV risk behaviours and harms associated with injecting (such as abscesses, septicaemia, and endocarditis), overdose and participation in criminal activity, thereby improving the quality of life and health of people who inject drugs (PWID). It is endorsed by UNAIDS, UNODC and WHO as part of a comprehensive package of nine core interventions for PWID programmes that collectively maximise impact for HIV prevention and treatment.
Paraphernalia ('gear')	Any collection of tools that are used to facilitate drug use or drug-taking behaviour.	Can include items such as pipes, spoons, bottle tops, filters, needles, syringes and tourniquets.
Withdrawal	The symptoms that occur when a person with a dependence on a substance reduces or stops use.	Different substances have different withdrawal symptoms. These include sweating, vomiting, muscle pain, insomnia and shivering.
Overdose	The use of more of a substance than the body can process, possibly leading to death.	

## Myth Busters Guide

Statement <sup>19</sup>	Truth or Myth	Points to highlight in discussion
1. Sex work and human trafficking is the same thing.	Myth	While some victims of human trafficking are forced to sell sex, not all sex workers are victims of trafficking.
2. All sex workers use drugs.	Myth	Some, but not all sex workers use drugs.
3. People do sex work primarily for economic reasons.	Truth	It is often assumed that people do sex work because they have post-traumatic stress disorder, or were abused as children. However, most do so for economic reasons, including providing for their children.
4. All sex workers are immigrants.	Myth	Some sex workers are migrants from other places in South Africa or other countries, but not all sex workers are immigrants.
5. Sex workers do not use condoms.	Myth	Sex workers are put under pressure to engage in sex without condoms, but not all sex workers engage in unprotected sex. In fact, many use condoms with all their clients.
6. Sex workers are all uneducated.	Myth	Sex workers have a wide variety of education backgrounds. Some may have received little formal education, but many others are formally educated.
7. People of all ages do sex work.	Truth	While it is often assumed that only young people do sex work, this is incorrect.

19 Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town: Women's Legal Centre, page 25 . Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

Statement <sup>19</sup>	Truth or Myth	Points to highlight in discussion
8. Sex workers can have stable, loving relationships.	Truth	Many sex workers form long term relationships and partnerships. <sup>20</sup>
9. Marijuana is always a gateway drug.	Myth	Some people start using other drugs after smoking marijuana, but many don't. Some people start using tik, heroin or other drugs even though they have never smoked marijuana.
10. Heroin must be used consistently for a few months to develop a physical addiction.	Truth	Though people may want to use heroin again after the first time because they like the way it feels, physical dependence requires consistent use for at least a few months.
11. People who use drugs mostly do not develop addictions.	Truth	Most people who use drugs use them casually and do not become dependent.
12. People who use drugs don't care about their health.	Myth	International programmes have shown that people who can access sterile paraphernalia and use it without punishment generally take better care of their health.
13. All people who use drugs are involved in crime to pay for their habit.	Myth	While this is true for some people who use drugs, many people limit their drug use to what they can pay for through legal activities. These people are often less visible because they maintain a low profile.
14. Most people who use drugs manage to reduce use or stop when they really want to.	Truth	This is true even for heroin users. The reason this isn't obvious is that only those that can't stop go to treatment centres or become obvious publically as people who use drugs.

20 Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town: Women's Legal Centre, page 11 . Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

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## Background information:

### Sex work<sup>21, 22</sup>

#### What is sex work?

Sex work is the act of exchanging money for some type of sexual service. Selling sex is a regular income-generating practice for many people in South Africa. You may be familiar with the type of sex work that involves a man paying a woman to have sex with him. This is one example of sex work, but there are also many others. Many, but not all, sex workers define their service as penetrative sex with a condom in exchange for cash. Sex workers consistently emphasise that they perform a service for their clients' sexual pleasure. They identify their actions as legitimate work because they are providing a good or resource to their clients and receiving compensation. There is also an expectation that the sexual exchange will take place within a particular time frame and include certain agreed-upon standards between the sex worker and the client. Sex work should not be confused with transactional sex, which occurs when some type of sexual service is exchanged for gifts, money, shelter or drugs.

#### Why do people do sex work?

People become sex workers for many different reasons. Most are motivated by economic need. For example, a significant number of women in South Africa have difficulty finding employment or supporting their families. Many sex workers say that sex work has allowed them to survive and 'put food on the table' for themselves and their families. Education and training are other factors that can influence a person's decision to go into sex work. Sex work does not require the formal education or training that may be required to do other types of work. The reality is that there is a financial incentive for doing sex work; sex workers often can earn more money than if they were engaged in other forms of employment.<sup>23</sup>

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21 Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town; Women's Legal Centre, page 18 . Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

22 Brown, B; Duby, Z; Bekker, LG, Sex Workers: An introductory manual for health care workers in South Africa (2012); Cape Town: Desmond Tutu HIV Foundation, p. 6, 14.

23 Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town: Women's Legal Centre, p 19. Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

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## Should sex workers be considered victims of trafficking?

There are victims of human trafficking who are forced to engage in sex against their will but this differs from sex work. Victims of human trafficking (including child trafficking) are coerced and/or forced to travel from one place to another, usually by a syndicate. Sex work, on the other hand, is a deliberate choice that people make.

## Do sex workers use drugs?<sup>24</sup>

Not all sex workers use drugs, but some do. Many sex workers find themselves in circumstances where illegal substances are readily available. Sometimes managers (pimps) encourage sex workers to take drugs so that they become addicted and are easier to control. In such situations sex workers become dependent on pimps for drugs since the pimps control their supply. In this situation, sex workers will often become more compliant with the pimp's demands, even if those demands put their health at risk. In addition, some sex workers take drugs as a coping mechanism; they use them to forget about their difficult circumstances, to numb themselves to traumatic events they have faced, or to ease the shame or depression they may feel about what they are doing.

## Do all sex workers have HIV?<sup>25</sup>

Not all sex workers have HIV, but HIV prevalence among sex workers is significantly higher than in the general population. People that engage in sex work are at increased risk of acquiring HIV through exposure to more sexual partners, the higher risk of violence during sexual encounters, riskier sex, the use of substances during sexual encounters, and because of limited access to health care.

While many sex workers are committed to using condoms with clients, this requires clients to cooperate, which is not always easy. Some clients offer more money for sex without a condom, including riskier sexual practices such as anal sex without a condom, or threaten to go to other sex workers who will agree to sex without a condom. Sex workers are forced to weigh their need for clients and income against the risks to their own health. Sometimes, immediate survival needs take precedence over safer sex practices. For many sex workers, ensuring

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24 Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town: Women's Legal Centre, p. 54. Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

25 Manoek, S; Mbwana, J; Ludwig, S; Kheswa, S; Brown, B; van der Merwe, L; 'Trainers' Guide to the Police Sensitisation Training Manual: How to facilitate Trainings for South African Police Service (SAPS) Officers About the Rights of Sex Workers and the LGBTI Community' (2014); Cape Town: Women's Legal Centre p. 24 . Accessed on <http://www.wlce.co.za/index.php/2013-04-30-11-53-09/2013-05-08-11-48-14/sex-workers> Accessed on 11 January 2016

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that they are able to provide for themselves or those that depend on them can be more important than their long-term health.

Sex workers can also be put at risk for HIV if their boyfriends and husbands do not use condoms. Compounding these risks, sex workers are also vulnerable to violence by clients and partners, and have difficulty obtaining protection from the state or holding their attackers accountable when they experience violence.

## Background information:

### *Drug use*

#### **Why do people start using drugs?**

There are many different reasons people use drugs. Some, especially youth, start because of peer pressure and fears that they will be excluded from their social groups if they refuse to do so. Some people start because it is a common cultural or religious practice. Others start out of curiosity, rebelliousness, or because they are simply joining an activity their friends are doing.

#### **Why do people continue using drugs even when it has bad consequences?**

Drug use provides a pleasurable feeling, especially in the beginning. When people are intoxicated they can forget that they are tired, hungry, cold, sick, depressed or ashamed or that they have been through terrible experiences. Central nervous system stimulants (like 'tik') can give people energy and increase wakefulness and the desire for sex. Central nervous depressants (like dagga or heroin) can make people feel relaxed and as if nothing matters. This is why poor people who have had difficult lives are more likely to use drugs in a sustained way.

Sustained use can cause brain chemistry changes. When this happens, the person stops feeling normal when they have not used the drug for a while. Instead, they start to desire the drug and may feel physically or psychologically unwell, suffering what are called **withdrawal** symptoms. This is called **drug dependence or addiction**. People with drug dependencies find it very difficult to stop using drugs, especially without help. They may do things they would not normally do in order to get the drug. However, not everybody who uses drugs becomes dependent. Some people can stop on their own without too much difficulty when they want to.

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## SESSION 9

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# RECAP AND CLOSURE

### Activity – Recap and closure *(15 minutes)*

#### **Aim**

To sum up the key points of the day.

#### **Materials**

- A ball of string, or a ball.

#### **Process**

1. Hold the ball and say, 'The most important thing I learnt today is...'. Complete the sentence in any appropriate way.
2. Throw the ball to someone else and explain that the person who has caught the ball must also say 'The most important thing I learnt today is...'. and complete the sentence in a way that makes sense to them and then toss the ball to someone else.
3. Tell the learners that they are restricted to one sentence and that everyone must get a chance to catch the ball.
4. When everyone has had a turn, change the sentence to, 'Something I did not enjoy today is...'. and repeat the activity.
5. Review the list of key points below and remind learners of points that were not given as lessons learned.

## Key points from day 1

- Sex workers, LGBTI, and people who use drugs have human rights and are entitled to respect and dignity.
- Human sexuality is diverse, complex and fluid. It does not fit neatly into 'straight' or 'gay' – it is important to understand that each individual is different and that people are free to love whoever they want and express that love in whatever way they want, as long as they do not infringe other people's rights, freedom or safety.
- In order to enforce the law fairly it is important that as law enforcement agents you:
  - Know exactly what makes up an offence and are sure that the person has committed one before arresting or fining them.
  - Understand why people use drugs or do sex work.
  - Are aware of your own prejudices and are careful not to allow these to influence the way you treat or respond to people.
  - Know the Constitution and act in accordance with it even if it conflicts with your personal beliefs.
  - Remember that the duty to protect applies to all people.
  - Are aware of profiling and stereotyping and how you may be doing this.



PAY TWO



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## SESSION 10

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# WELCOME, ADMINISTRATION AND RECAP OF DAY 1

**Time:** 30 minutes

Welcome people to the second day of training. Complete relevant registration forms. Use the activity below to summarise key points from Day 1.

## Activity – Recap

(30 minutes)

### Aim

To remind learners of key points covered on Day 1 and to alert the facilitator to any areas that were poorly understood, or which may need to be emphasised during Day 2.

### Materials

- Four pieces of flipchart paper
- Flipchart pens
- Prestik

### Process

1. Make four signs that can easily be read from the middle of the room that say:
  - I'm not sure I believe that:
  - The most surprising thing I learnt was that:
  - The thing I would change if I could is that:
  - I can't really remember what was said about:
2. Stick the signs up in the four corners of the room before the start of the day.
3. When you are ready to start the exercise, get everyone to stand in the middle of the room. Tell them that on the count of ten they need to be standing next to one of the signs.
4. Count to ten starting slowly, and speed up to make people run to find a place. Anyone not standing at a sign on the count of ten is out.
5. On the count of ten, ask three to five people at each station to finish the sentence. Repeat what they say if the others in the room can't hear.
6. Repeat the exercise, but let people run from where they are standing. This time the count is only to eight and everyone must run to a sign they have not stood at before.
7. Repeat the exercise. This time the count is only to six.
8. Repeat the exercise. This time the count is only to four. The winners are the people still in the game, who can finish the sentences on the last round.

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## SESSION 11

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# THE LUANDA GUIDELINES AND A RIGHTS BASED APPROACH TO ARREST AND DETENTION

*Time: 90 minutes*

### Session learning objectives

- To understand the application of a rights based approach to arrest and detention

### Essential things for facilitators to know and convey to trainees

- South Africa has an obligation to implement the Luanda Guidelines with respect to arrest, police custody and pre-trial detention
- The key principles in these guidelines are:
  - Rule of Law
  - Non-discrimination
  - Proportionality and reasonableness
  - Procedural guarantees and rights of detainees
  - Accountability and transparency

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## Session learning outcomes

- Learners have an understanding of the principles underlying the international, African and domestic human rights framework with regard to police arrest, custody and pre-trial detention.
- Learners have a grounded knowledge of the Luanda Guidelines.
- Learners are able to identify where common practices in law enforcement in South Africa do not align with the Luanda Guidelines.
- Learners are able to identify where these practices particularly impact on LGBTI, sex workers and people who use drugs.

## Session summary

The facilitator first introduces learners to the Luanda Guidelines by outlining the areas that are covered and providing detail on the five principles in the guidelines. Content to be shared is provided below. After this the learners do a two-part exercise which clarifies what detention is, provides insight into all the possible ways in which detention processes in South Africa might contravene the Luanda Guidelines, and assists the learners to think about which of these contraventions might have the greatest impact on LGBTI, sex workers and people who use drugs. The facilitator uses the group discussions to provide key inputs on the legal frameworks for police detention.

## Introduction *(30 minutes)*

1. Tell learners that:
  - They are here to learn about human rights and police arrest as well as custody and pre-trial detention using the Guidelines on the Conditions of Arrest, Police Custody and Pre-trial detention in Africa (also known as the Luanda Guidelines).
  - These guidelines were adopted by the African Commission on Human and People's Rights at its 55th Ordinary Session, from 24 April to 7 May 2014 in Luanda, Angola.
2. Give learners a copy of the Luanda Guidelines and lead them through the brief introductory overview of the main headings (on the pages that follow)
3. Outline the five key principles in the Luanda Guidelines (on the pages that follow)

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# Luanda Principles

## Principle 1: RULE OF LAW

- grounds and procedures established by law NOT arbitrary
- authorised and competent authority
- sufficient legal reasons
- formally recognised and gazetted

## Principle 2: NO DISCRIMINATION

- no discrimination, no one is above the law and the law applies equally
- fair discrimination with end aim of equality – vulnerable people: children, the disabled, women, foreign nationals

## Principle 3: PROPORTIONALITY AND REASONABLENESS

- Police action proportional to the offence – alternatives?/last resort?
- Use of force
- Use of restraints

## Principle 4: PROCEDURAL GUARANTEES AND RIGHTS OF DETAINEES

- Prohibition against torture, cruel, inhuman and degrading punishment – confessions, disciplinary action (solitary confinement); interrogation
- Right to privacy – searches, consultation with legal representatives
- Right to dignity – cell conditions, exercise
- Right of access – to legal representation, families
- Right to information

## Principle 5: ACCOUNTABILITY AND TRANSPARENCY

- Records and registers – custody, arrest, searches, evidence, bodily harm
- Oversight mechanisms
- Remedies and sanctions

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## ***Principle 1. The Rule of Law***

For police action not to infringe human rights, the following need to be followed (If they are not, the person's human rights are violated):

**The action must be authorised in law.** In other words, the person must have the authority conferred upon them by some law.

**Places must also be authorised in law:** places of detention must be formally recognised and gazetted.

Police powers are **subject to the law**. Because you are depriving someone of their freedom, or invading their right to privacy or dignity, there are limitations on when and how you can detain someone. You can only do it in a particular way, in a particular set of circumstances.

There must be a **legal ground**. If it is an arbitrary action, it would constitute an unlawful infringement on rights.

## ***Principle 2. No Discrimination***

No discrimination must take place throughout the arrest, custody and pre-trial detention processes. No one is above the law and the law applies equally to all. At the same time, no one should be targeted for reasons of discrimination on the grounds of sex, race, disability, nationality or any other characteristic.

Special provision is made for the protection of vulnerable people. These include:

- Children
- women (especially pregnant and breastfeeding women)
- persons with albinism
- the elderly
- persons with HIV/AIDS
- sex workers
- people vulnerable due to their gender identity
- refugees and asylum seekers
- non-citizens, stateless persons
- racial or religious minorities
- other categories of persons with special needs



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The guidelines state that ‘Special measures shall be applied in accordance with the law, and shall be subject to periodic review by a competent, independent and impartial authority.’

### **Principle 3. Proportionality and Reasonableness**

All police action should be proportional and reasonable. Police custody is viewed as an exceptional measure and one of last resort, and should only be used if absolutely necessary, and if it is reasonable and in proportion to the offence. Minor and petty crimes should be diverted from the criminal justice system and be dealt with using recognised and effective alternatives aligned to applicable international law and standards.

Proportionality and reasonableness should be considered with regard to:

- Whether to arrest or fine a person
- Force used to arrest a suspect. When force is used, it must not be more than necessary.<sup>26</sup>

#### **Can police use force when arresting a suspect?**

Section 49 of the Criminal Procedure Act states:

- If a suspect resists arrest, and/or flees an officer’s attempted arrest and the arrest cannot be made without force, the officer can use the degree of force reasonably necessary and proportional in the circumstances to overcome the suspect’s resistance or to prevent him or her from fleeing.
- The use of deadly force is only justified if the officer has reasonable grounds to believe that:
  - It is necessary for the officer to protect himself or herself or another person from imminent or future death or grievous bodily harm;
  - There is a substantial risk that the suspect will cause imminent or future death or grievous bodily harm if the officer delays;
  - The offence for which the arrest is sought is in progress and is of a forcible and serious nature and involves the use of life threatening violence or a strong likelihood that it will cause grievous bodily harm.

The arrestor’s belief of imminent harm must be based on ‘reasonable grounds’. This means that the situation with putative defence, for an arrestor, is a bit more restrictive than it is at common law.<sup>27</sup>

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<sup>26</sup> [http://www.gov.za/sites/www.gov.za/files/force\\_0.pdf](http://www.gov.za/sites/www.gov.za/files/force_0.pdf)

<sup>27</sup> [http://www.gov.za/sites/www.gov.za/files/force\\_0.pdf](http://www.gov.za/sites/www.gov.za/files/force_0.pdf)

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## What does this mean in practical terms?

When dealing with a fleeing suspect, a warning should be shouted and a warning shot fired into the ground. Thereafter, there should be no attempt to shoot to kill, but rather to shoot to stop the person, but only in respect of serious offences. Even a shot in the leg would not be appropriate for an unarmed person suspected of a minor offence.<sup>28</sup>

Where there is any real danger of serious harm to anyone, including the police officer, he or she is justified in shooting at the suspect to halt the harm. But at all times, the belief in the danger of harm must be reasonable. And where he or she can shoot to injure rather than to kill in halting the harm this should be the action taken. Killings in the reasonable belief that there was no other way of avoiding harm may succeed in being justified; however, it remains to be seen whether the Constitutional Court would find even such killings justified because they infringe on the right to life.<sup>29</sup>

## ***Principle 4. Procedural guarantees and rights of detainees***

### **Guarantees during arrest**

If a person is arrested, police must follow the procedural guarantee for arrest, which is for police officials to clearly identify themselves. Should police want to conduct a search of an arrested person the police official must first inform the person why they are conducting the search.

### **Rights of an arrested person**

The arrested person has the right:

- Not to be tortured or subjected to cruel, inhuman and degrading treatment and punishment
- To be informed of the reasons and charges, at the time of arrest, in appropriate language
- To remain silent and free from self-incrimination
- To have access, without delay, to a lawyer, or legal service provider (state or non-state)
- To humane and hygienic conditions
- To contact and access a family member or another person
- To urgent medical assistance
- To information in accessible formats, for example, an interpreter

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<sup>28</sup> [http://www.gov.za/sites/www.gov.za/files/force\\_0.pdf](http://www.gov.za/sites/www.gov.za/files/force_0.pdf)

<sup>29</sup> [http://www.gov.za/sites/www.gov.za/files/force\\_0.pdf](http://www.gov.za/sites/www.gov.za/files/force_0.pdf)

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- To apply for release on bail or bond
  - To promptly challenge the lawfulness of their arrest before a competent judicial authority
  - To freely access complaints and oversight mechanisms
  - To access reasonable accommodation

### **Safeguards for police custody**

If police custody is absolutely necessary, the suspect has:

- a right to prompt access to a judicial authority to review, renew and appeal decisions;
- to be denied bail or bond;
- the right to no more than 48 hours in police custody (extendable – this applies in instances where one is arrested on a Friday and will then appear before a Magistrate/Judge on a Monday or when one is arrested and the next day is not an ordinary Court day, i.e. a public holiday); and
- the right to access confidential and independent complaints mechanisms

### **Detainees' rights to legal access:**

- Access, without delay, prior to and during any questioning by an authority, and thereafter throughout the criminal justice process
- Confidentiality of communication – within sight, but out of the hearing of officials (if confidentiality is broken, information is inadmissible as evidence)
- Means to contact a lawyer or similar
- Access to case files
- Adequate time and facilities to prepare a defence
- No unlawful or unreasonable restrictions on access
- Access to qualified legal service providers

## ***Principle 5. Accountability and Transparency***

One of the ways that police can be accountable and transparent is by keeping accurate records. The reasons are that:

- It is important for shift changes, so that incoming officials know what it is going on.
- It gives the commander a bird's eye view of everything that is going on.
- It gives lawyers and family members access to this kind of information.
- It is a way for other organisations, e.g. human rights organisations, to carry out oversight.

- It is a way of measuring improvements in the system.
- It is a way of finding out if there was any mistreatment and on whose shift it occurred. More importantly, it is a way of ensuring that police have done everything 'by the book' – procedurally correctly, in terms of human rights – which is a form of protection for police in case of any accusation or investigation into their conduct.
- Accurate records protect police.

## **Activity – Detention, the Luanda Guidelines and LGBTI people, sex workers and people who use drugs in South Africa** *(60 minutes)*

### **Aim**

For learners to reflect on the challenges in South Africa related to detention processes

### **Materials**

- Flipchart paper and stand
- Flipchart pens
- Sticky notes
- Prestick

### **Process**

#### **Part One: Challenges in detention in South Africa** *(20 minutes)*

1. Divide the group into groups of 5–6.
2. Ask the group to brainstorm problems that may be involved in detention processes in South Africa and specifically where South African legislation and implementation might not align with the Luanda Guidelines.
3. Each problem should be written on a sticky note.
4. Stick five sheets of flipchart paper up in the front of the room. Write one of the Luanda guidelines principles as a heading on each piece.
5. Bring the group back together and ask a representative from each group to provide feedback on the issues they have identified and, as a whole group, decide which principle the issue raised challenges/violates. (Choose the most pressing one)

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**Part Two: Identifying violations/challenges to the Luanda Guidelines that particularly affect LGBTI people, sex workers and people who use drugs** (30 minutes)

1. Ask the learners to look at all the sticky notes and, in their individual groups to decide which of the issues are particularly relevant to LGBTI people, sex workers and people who use drugs.
2. Ask a representative from each group to:
  - Circle any issue particularly relevant to LGBTI people
  - Underline any issue particularly relevant to sex workers
  - Put a star next to any issue particularly relevant to people who use drugs (Some issues will be underlined, circled and starred).
3. Ask the groups to write any additional issues that they can think of that might affect these groups on new sticky notes.
4. Ask the groups to stick their new sticky notes in the right categories, underlined, circled or starred to indicate which people this issue might particularly affect.

**Part Three: Reflection and knowledge inputs** (10 minutes)

1. Survey the picture which has developed and reflect back on it to the group.
2. Add any extra problems listed in the table below that have not already been raised. The table also provides a guide on which problems may particularly affect which population.
3. Use the facilitator input information to highlight key points related to detaining marginalised people.

Possible problems in detention processes	LGBTI	Sex Workers	People who use drugs
Arbitrary or excessive police custody	X	X	X
Arrest for carrying drug use paraphernalia, even if it is sterile and required for HIV prevention purposes			X
Arrest for condom possession		X	
Being chased out of areas where they are known to live or work	X	X	X
Being ignored, disregarded, or not taken seriously when reporting crime or police misconduct	X	X	X
Being photographed and having their personal details taken even if they have not been arrested		X	X
Being unfairly targeted for stops, searches and arrests	X	X	X
Bribery and extortion in the form of money or sexual services	X	X	X
Derogatory or degrading language used	X	X	X
Disproportionate use of force	X	X	X
Extended custody periods	X	X	X
Having condoms confiscated or destroyed		X	
Having drugs planted on them			X
Having sterile injecting equipment (such as water, alcohol swabs, or needles) confiscated or destroyed			X
Hostile attitudes	X	X	X
Humiliating lack of care for gender needs (searches by opposite gender, having to undress in front of opposite gender, having to use the toilets of the opposite gender, incorrect gender recorded)	X		
Jail for petty crimes	X	X	X
Lack of access to legal representation	X	X	X

Possible problems in detention processes	LGBTI	Sex Workers	People who use drugs
Lack of response to poor health conditions	X	X	X
No or incomplete processes to capture and keep records	X	X	X
On-going harassment even when the person does not have an intention of committing an offence	X	X	X
Profiling	X	X	X
Sexual assault and harassment	X	X	X
Unlawful arrests and fines	X	X	X
Use of torture			
Verbal or physical assault and sexual abuse	X	X	X

### Facilitator input:

1. Detaining transgender people
  - Personal searches should only be conducted when appropriate.
  - Searching must be done in a manner appropriate to the searched person's gender.
  - Transgender people should not be subjected to unnecessary undressing.
  - Remember that transgender people in detention are vulnerable to abuse by fellow detainees. Take steps to avoid such abuse such as detaining transgender people in separate detention facilities.
  - Transporting and housing people should be based on safety and gender identity.
  - Record gender according to the person's self-identified gender.
  - Refrain from removing wigs and prosthetics of transgender people, unless this is required for the purposes of searching the detainee. Any removed items must be returned to the person, unless it is required as evidence.

## 2. Detaining people who use drugs

- The law does not clearly state that it is illegal to carry sterile injecting equipment. There is no clear mandate to confiscate or destroy such equipment or arrest someone for carrying it. Using sterile injecting equipment stops the spread of infectious diseases. People who inject drugs who are carrying sterile injecting equipment are behaving in a responsible way in relation to their own health and that of others.
- Be aware that people who inject drugs may be carrying used needles. For the protection of their own health, law enforcement agents should take appropriate care to avoid a needle stick injury during searches.
- People who use drugs are likely to go into withdrawal if they cannot access drugs after arrest. They are likely to be irritable, struggle to sleep, and be restless. They may have stomach cramps and diarrhoea, vomiting, seizures, sweating, depression, and muscle cramps. Ensuring access to water, a toilet and privacy preserves dignity. Where symptoms are severe be sure to monitor and provide medical assistance if required.
- Fear of arrest means that people who use drugs may be reluctant to call for assistance when someone overdoses.

## 3. The use of photographs and fingerprints

- The Criminal Procedure Act provides guidelines about when photographs and fingerprints can be taken:
  - » Photographs. Section 37(1) of the Act states that a police official may only take a photograph or cause a photograph to be taken of a person who has been arrested on a charge.
  - » Finger prints. Sub-sections (1)(a)(iii) to (v) of the Act outline when fingerprints may be taken. This is limited to people against whom proceedings are pending, and those convicted of an offence.
  - » Any photographs or fingerprints must be destroyed if no criminal proceedings with reference to which such prints or photographs were taken are instituted against the person in question, or if the prosecution declines to prosecute him or her.



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#### 4. What is Profiling?

- At a general level, profiling involves categorising individuals according to their characteristics, whether these are ‘unchangeable’ (such as sex, age, ethnicity, height) or ‘changeable’ (such as habits, preferences and other elements of behaviour).
- Although in and of itself a valuable tool, profiling may lead to mistakes when connecting certain characteristics to certain preferences or behaviours.
- Social psychology research has shown people tend to apply stereotypes to ‘others’ and jump to rapid and inaccurate conclusions on this basis.
- Individual police officers may apply stereotypes or generalisations. These may be consciously motivated by personal prejudices, or it may be that officers are not conscious of the degree to which they are applying generalisations and stereotypes.<sup>30</sup>

#### 5. Discrimination and harassment by police

- Discrimination and harassment by police, based on sexual orientation and gender identity, is an on-going and pervasive problem. It impedes effective policing by breaking down trust, inhibiting communication and preventing officers from effectively protecting and serving the communities they police.
- Due to lack of trust and fear of discrimination, harassment and violence by police officers, LGBTI people, sex workers, and people who use drugs are discouraged from co-operating with police.
- Because marginalised people are reluctant to report crimes, effective policing is thwarted, and this puts individuals and communities at continued risk. When police officers exhibit explicit or underlying prejudice, homophobia/homoprejudice and transphobia, they are not able to support and help the communities they are supposed to protect and serve.
- Discrimination, harassment and abuse by police undermine effective policing by:
  - » Weakening community trust
  - » Reducing the number of crimes reported against, and by LGBTI people, sex workers and people who use drugs, as they feel uncomfortable seeking police assistance
  - » Impeding the ability of the police to effectively meet the needs of community members

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## Background information:

### ***Crimes affecting LGBTI people, sex workers and people who use drugs***

Every South African is granted certain rights by the Constitution, including the right to dignity, freedom from violence, bodily integrity, and to choose one's profession. It is the role of police officers to ensure that these rights are promoted and protected in such a way, that all citizens feel they can approach police officers for assistance or to report crimes committed against them, or ones they have witnessed. Discriminatory attitudes of police personnel towards sex workers, people who use drugs and LGBTI people can prevent equal treatment, and promotion and protection of the law and services.

Where LGBTI people, sex workers and people who use drugs are the victims of crime and violence, empathy, support and an understanding of law enforcement is critical.

Some key points to remember when responding to crimes committed against LGBTI people, sex workers and people who use drugs include:

- People may be reluctant to report the crime, especially if it means they have to reveal drug use, sex work or their gender identity.
- People may find it difficult to trust that police have their best interests at heart, because they have previously had bad experiences, or heard bad things about police treatment.
- People may fear that inappropriate comments will be made, or that their privacy won't be maintained and that their sexuality or drug use is open to public commentary.
- Be aware of any prejudices you may have and refrain from letting these affect the way you treat people. Take care with the language used. Refrain from using abusive or insulting language.

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Special considerations with regard to transgender and intersex people:

- Transgender and intersex people may fear negative or inappropriate gender comments, references and treatment. Always ask what pronoun (he/she) someone prefers and only use this pronoun.

Special considerations with regard to people who use drugs:

- Understand that waiting for assistance for long periods may be difficult for people in withdrawal.
- Do not treat the person reporting the crime or victimisation like a potential criminal. Offer them the same respect you would offer any person reporting a crime.
- Do not assume that because someone has used drugs they cannot remember what happened, or that they are not telling the truth.

Special considerations when sex workers report crimes or victimisation:

- Understand and acknowledge that any previous experience with police was probably negative, and therefore she/he might be hesitant to provide you with full information. You will need to take extra measures to ensure that the person's complaint is important and that she/he can trust you.
- The sex worker might also be afraid to reveal to you the full details of the business transaction because she/he might be afraid of arrest or discrimination. You will need to assure the person that she/he will not be criminally charged for offering this information.

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## SESSION 12

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# POLICING SCENARIOS

**Time:** 45 minutes

### **Session learning objectives**

- To apply human rights principles from the Luanda Guidelines to everyday policing
- To help learners think about alternative approaches and police actions to protect human rights

### **Essential things for facilitators to know and convey to trainees**

- The Luanda Guidelines need to be well known and implemented in all policing work

### **Session learning outcomes**

- Learners will be able to recognise behaviours which do not conform to the Luanda Guidelines.
- Learners will be able to generate responses to LGBTI people, sex workers and people who use drugs that do conform to the Luanda Guidelines.

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## Session summary

The learners will be presented with four case studies where policing actions have been taken which affect LGBTI people, sex workers or people who use drugs. They are required to use the lessons learnt about the Luanda Guidelines to assess the law enforcement responses and think about practical alternatives to any problematic ones.

### **Activity – Scenario Discussion** (45 minutes)

#### **Aim**

To apply the concept of human rights, diversity and dignity in encounters with persons often perceived as 'opponents' of the police, such as marginalised and/or socially excluded persons, LGBTI people, sex workers and people who use drugs.

#### **Process**

1. Tell the learners that they will now be using the information learned about the Luanda Guidelines and applying it to case studies in order to think through police responses which do or do not comply.
2. Divide learners into small groups of four or five (or less if it is a small group).
3. Assign each group a different scenario.
4. Ask one person in each group to read the scenario to the whole group.
5. Ask the group to finish the scenario by adding at least three actions that might commonly occur that contravene (go against) the Luanda principles and two that follow the Luanda principles (These can be added in any order).
6. Ask each group to practice acting out their scenario.
7. Bring all the groups back together.
8. Get a selection of groups to act out the scenarios making sure each scenario is represented.

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9. After each role play ask the learners to:

- Point out all the actions that go against the Luanda Principles.
- Point out which actions adhere to the Luanda Principles.
- Suggest ways to make the whole scenario follow the Luanda Principles.

### **Scenario 1**

A woman is dressed in a short skirt. It is after 9 pm. She is on a busy road. She has a small bag in her possession. Police officers approach her and tell her to get off the street. She says, 'I am waiting for my friend'. The police officers are upset that she talks back. They get out of the vehicle and tell her that they want to search her...

### **Scenario 2**

A transgender woman, dressed as a woman, is in an area known for sex work. She has had some alcohol but is not drunk. Some police officers call her to their van and when she asks them why they need to speak to her, they do not provide a reason. Instead they start harassing her by pulling at her clothes and touching her body. They take her to the station and...

### **Scenario 3**

A sex worker negotiates with her client to use a condom, but the client refuses and assaults her. She goes to the police station to report the assault and the police tell her that...

### **Scenario 4**

A man and a woman are walking down the street together. They don't look clean and both carry backpacks and wear old and torn clothing. The man is known to use drugs. They are walking close to where a known drug dealer is operating. Two male law enforcement agents stop the couple because they suspect they have just bought drugs and are carrying them. One law enforcement agent searches the man. He has two used syringes in his pocket with the needles attached...

Additional content relating to transgender people is included Appendix 3.

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## SESSION 13

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# SOUTH AFRICA'S WHITE PAPER ON SAFETY AND SECURITY

**Time:** 45 minutes

### Session learning objectives

- To familiarise learners with the six key themes that inform the White Paper's focus on crime and violence prevention
- To get learners to reflect on their own interactions (preventative or reactionary) with the public, and in particular, with LGBTI people, sex workers and people who use drugs
- To create an understanding that the role of police is preventative and not just reactionary

### Essential things for facilitators to know and convey to trainees

- The White Paper focuses on creating safer communities and suggests that this requires a change in the policing environment – police must no longer respond reactively and punitively
- The White Paper informs all policies and practice related to safety and security across sectors; it is thus an important document for learners to familiarise themselves with

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- The White Paper asserts that for police to create safer communities requires improved communication between police and individual community members and the use and development of more proactive strategies in responding to them

## **Session learning outcomes**

- Learners have an understanding of the policy on the policing environment
- Learners are aware of the six themes that inform the White Paper on crime and violence prevention
- Learners are aware of the importance of, and how to contribute to, crime and violence prevention
- Learners are aware of their policing role and how it aligns, or deviates from, their role mandated in policy

## **Session summary**

This session should make learners aware that the notion of policing has changed. Reacting with force and violence is only partially effective in reducing crime and violence and is counterproductive to building safe communities. Through the activity learners will become aware that their role is to prevent crime and violence, which requires developing good relationships with ALL people and communities. Learners will become mindful that they need to be equally responsive to ALL people and communities and that they need to respond in a preventative, professional and non-judgmental manner.



## Activity – Understanding the themes that inform crime and violence prevention policy (45 minutes)

### Aim

Learners begin to understand the cornerstones of crime and violence prevention policy, their role as members of the criminal justice system in creating effective and conciliatory relationships with people in communities and their mandated response to people irrespective of their sex, gender, sexual orientation, occupation, health, etc.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Explain to learners that the White Paper on Safety and Security departs from the 1998 White Paper, in that it focuses on changes required in the policing environment. These changes are based on research that suggests that reactive policing approaches to crime and violence are insufficient in eradicating or effectively reducing crime and violence. Furthermore, research suggests that reactive approaches encourage punitive and oppressive responses by police (and hence negative public perceptions of police), and fail to achieve long term results in building safe communities.
2. Tell learners that the White Paper has six key themes which inform the overarching policy on crime and violence prevention across the population, government departments, civil society and the private sector and that they are going to discuss these key themes in small groups and then report on their discussions to the larger forum.
3. Write the six themes on a piece of flipchart paper:
  - Effective criminal justice system
  - Early intervention to prevent crime and violence, and promote safety
  - Victim support
  - Effective and integrated service delivery for safety, security and violence and crime prevention
  - Safety through environmental design
  - Active public and community participation
4. Divide the learners into six groups
5. Give each group one key theme and a piece of flipchart paper
6. Tell learners they have *20 minutes* to complete the activity

7. Ask learners to discuss what information they think fits under the key theme assigned to them
8. Ask learners to also discuss what the role of police might be in relation to the key theme they have been given
9. Explain that one person from the group will report back on their discussions
10. After *20 minutes* call learners back to the larger group
11. Ask groups to report back on their discussions
12. In the larger forum ask learners what the six themes say about the role of police in relation to the broader public (note these down on flipchart paper)
13. Ask if these themes on safety and security reflect the work they engage in, and the way they perceive and respond to people (including LGBTI people, sex workers and people who use drugs). If not, ask why and discuss.

### Facilitators note

The learners should reflect on the fact that their primary role is to protect, provide safety and security, build relationships with people and communities and offer effective and professional intervention strategies.

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## **Background information**

### **Summary of the White Paper<sup>30</sup>**

The vision of the latest White Paper on Safety and Security – a policy on Safety, Crime and Violence Prevention, is that, by 2030, people in South Africa will be living in safe environments. People will feel, and be safe, from crime and violence. This will be achieved through collaboration between civil society and the state. The state and civil society will be vigilant ensuring that any conditions that could contribute to, and breed crime and violence are quickly identified and shut down. Should people be affected by incidences of crime and violence, there will be high quality services to which all people are entitled and can easily access, regardless of who they are and where they come from.

This vision of the White Paper is aligned to the values and rights of people in the South African Constitution and one of the National Development Plan's (NDP) primary objectives, which is to build safer communities.

The reason for developing this White Paper was to address the gaps in the 1998 White Paper that failed to consider two fundamental issues: 1. The policing environment's (this refers to the current criminal justice system) response to crime and violence is limited and punitive. Limited, because it is only partially effective in preventing crime and violence – being reactionary only achieves short term results, and punitive, because it favours and uses oppressive and punitive approaches in reaction to crime and violence. 2. The need for an integrated and holistic approach to crime and violence prevention (this recognises that safety goes way beyond the ambit of the police alone and requires a co-ordinated, participatory and intersectoral approach based on development principles, with the capacity to achieve longer term results).

In complementing reactive responses with longer term strategies to reduce the number of incidences of crime and violence, the White Paper argues, that building safer communities becomes more viable.

The White Paper outlines its predominant policy for safety, crime and prevention – with a clear legislative and administrative framework for aligning policies on safety and security (objective one) and highlights institutional arrangements that are necessary to achieve its objectives.

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<sup>30</sup> <http://www.saferspaces.org.za/blog/entry/new-white-paper-on-safety-and-security-an-integrated-approach-to-preventing>

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It states that the Civilian Secretariat for police will coordinate the implementation of the policy – which would include engaging with civil society and government on community safety. The Department for Planning, Monitoring and Evaluation (DPME) will establish a Directorate for Safety Crime and Violence Prevention which will be responsible for developing an oversight mechanism to monitor, evaluate and report on the implementation of crime and violence prevention strategies across sectors (objective two).

The White Paper is the overarching policy to which all safety and security prevention policies will be/are aligned. As police, it is important that you familiarise yourself with its contents, but more importantly, that you understand the human rights framework on which it was based, as this provides a mandate for how you are required to engage with the public, irrespective of their sex, gender, occupation, health, sexual orientation, etc. It also outlines what is required of you to ensure that you contribute to building safe communities

Six key themes inform the White Paper’s focus on crime and violence prevention. They are:

1. Effective criminal justice system
  - Efficient, responsive and professional criminal justice sector.
  - Effective diversion, rehabilitation and reintegration programmes.
  - Effective restorative justice programmes and interventions.
  
2. Early intervention to prevent crime and violence, and promote safety
  - A healthy start for infants and children, including the first 1000 days of life, pre-school and school children, and their parents, caregivers and guardians.
  - A safe and supportive home, school and community environment for children and youth.
  - Context-appropriate child and youth resilience programmes.
  - Substance abuse treatment and prevention.
  - Context-appropriate interventions for ‘vulnerable’/at risk groups.
  
3. Victim support
  - A comprehensive framework that promotes and upholds the rights of victims of crime and violence.
  - Delivery of high quality services for victims of crime and violence.

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4. Effective and integrated service delivery for safety, security and violence and crime prevention
    - Access to essential crime and violence prevention and safety and security services.
    - Professional and responsive service provision.
  5. Safety through environmental design
    - The integration of safety, crime and violence prevention principles into urban and rural planning and design that promotes safety and facilitates feeling safe.
  6. Active public and community participation
    - Sustainable forums for coordinated and collaborative action on community safety.
    - Public and community participation in the development, planning and implementation of crime and violence prevention programmes and interventions.
    - Public and private partnerships to support safety, crime and violence prevention programmes and interventions.

# INTERNATIONAL LESSONS ON COMMUNITY POLICING AND VULNERABLE GROUPS

*Time: 75 minutes*

## Session learning objectives

- To introduce learners to international best practice related to working with vulnerable and marginalised populations
- To develop an understanding of alternative ways of policing related to LGBTI people, sex workers and people who use drugs
- To help learners think about ways to improve policing that affects LGBTI people, sex workers and people who use drugs in South Africa

## Essential things for facilitators to know and convey to trainees

- There are feasible and effective ways of improving police responsiveness to LGBTI people, sex workers and people who use drugs. These include harm reduction and harm minimisation.
- Internationally, alternative approaches are being implemented with positive results.
- These ways of responding to LGBTI people, sex workers and people who use drugs challenge many assumptions about what good law enforcement is and how it is practiced.

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<sup>31</sup> <http://www.emcdda.europa.eu/country-data/harm-reduction/Netherlands>

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## Session learning outcomes

- Increased awareness of successful alternative policing approaches to working with LGBTI people, sex workers and people who use drugs, even where practices are still illegal
- Increased knowledge of harm reduction
- Ability to think differently about the available options to respond to vulnerable people through community policing

## Session summary

This session draws on international police experience around harm reduction. Information is provided, supplemented by case based discussions.

### ***Introduction: Harm reduction best practice*** (15 minutes)

- Tell the learners that:
  - Harm reduction is an approach to drug use that focuses on reducing the consequences of drug use, rather than stopping it.
  - It is an approach widely used in public health round the world, particularly in relation to preventing the spread of blood borne infections, such as HIV and hepatitis C, which are very easily spread through the use of non-sterile drug injecting paraphernalia.
  - A harm reduction approach for injecting drug users includes supplying sterile injecting equipment, HIV and hepatitis counselling and testing, and providing information and education on safer injecting.
  - If PWID use sterile equipment and inject in the correct way every time they use drugs they less likely to contract and transmit blood borne diseases such as HIV and hepatitis B and C. They are also less likely to suffer from other infections at the injecting site, such as abscesses. There are now 90 countries, including South Africa, around the world with active needle and syringe exchange programmes.
  - Another harm reduction strategy for people who use drugs is providing an alternative, less dangerous and more easily controllable substance to people with opioid dependencies. Opioid substitution therapies (OST) or medically assisted therapy (MAT) help people to function on a day-to-day basis using controlled substances.

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- OST is available in South Africa through private doctors and some non-governmental organisations. In countries where medically assisted therapy is available, crime related to drug use drops dramatically.
  - Both the Prevention and Treatment of Substance Abuse Act and the NDMP emphasise harm reduction, but it is understood as reducing the social, economic and health-related harm resulting from the use of alcohol and other drugs. This is a more narrow understanding of the term than the way it is used internationally.
  - Harm reduction for sex workers includes, but is not limited to: the provision of condoms, education around safer sex, improved personal safety and HIV counselling and testing services.
  - International treaties provide some leeway as to whether countries need to prohibit or control the use of drugs through regulation. In the face of increasing evidence that criminalisation of drug use increases, rather than reduces harm, and does not promote public health goals, a number of countries are taking alternative approaches to drug use. Portugal and Czech Republic, for example, have decriminalised all drugs. Some states within the United States have legalised marijuana use.
  - A number of international bodies have recently published documents supporting the decriminalisation of drugs, including the World Health Organisation (WHO), the United Nations Development Programme (UNDP), and the Joint United Nations Programme on HIV/AIDS (UNAIDS). The medicinal properties of some substances are also being increasingly recognised internationally and locally. In late 2016 the South African Department of Health announced that marijuana would change from being a Schedule 7 (illegal) substance, to a Schedule 6 (highly regulated medicinal) one. This is expected to come into effect in 2017.
  - A 2016 United Nations Office on Drugs and Crime report also emphasised the need to adopt a human rights approach to drug use and the importance of treatment, especially as an alternative to entry into the criminal justice system.



## Activity – Best practice case studies

(15 minutes)

### Aim

Learners are introduced to alternative ways of responding to LGBTI people, sex workers and people who use drugs. They are required to think about how different policing approaches could be useful in South Africa.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Divide the room into groups consisting of four to five learners and give each group the case studies worksheet.
2. Ask each group to work through each case study and discuss:
  - Possible consequences (positive and negative) of the approaches described. What would be the barriers and facilitators in implementing these harm reduction approaches in current day-to-day policing?
  - Whether there is anything in the case studies that could be used in current day-to-day policing practice.
3. The groups should take five minutes per case study.
4. Bring the larger group back together for a facilitated discussion.
5. Using newsprint, ask the groups to report back on aspects of the case studies they think could be implemented in day-to-day policing and how.
6. Ask each participant to choose one harm reduction action they could practice in the coming week.
7. Ask for volunteers to describe:
  - What their chosen harm reduction action is
  - When, where and how they expect to implement it
  - What they think the effects of their action could be

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## Best Practice Case Studies Worksheet

### **Case Study 1: New South Wales Police Force GLLO Programme (Australia)**

The New South Wales (NSW) Police Force has a policy and programme area supporting members of sexuality, gender diverse and intersex communities. Under the 'GLLO' program, Gay and Lesbian Liaison Officers are located in many police stations across NSW. It aims to build respect, trust and cooperation between the NSW Police Force and lesbian, gay, bisexual, transgender and intersex people.

#### **Key Components:**

- Customer service and responding to victims of violence and crime.
- The Gay and Lesbian Liaison Officer Program.
- Sexuality, Gender Diversity and Intersex Region sponsors.
- School Liaison Police, Youth Liaison Officers and Case Managers.
- Domestic Violence Liaison Officers.
- Other liaison and specialist contact officers.
- Community safety.

## **Case Study 2: *Pink in Blue, Amsterdam Police Force (Netherlands)***

The Pink in Blue network is part of the Amsterdam police unit, and consists of LGBT police officers who represent the interests of LGBT people within and outside the police environment. The network contributes to LGBT safety, providing support for people who want to report discrimination, insults, assault or theft because of their sexual orientation. Victims of homophobic offences can call a dedicated telephone number to report crimes against LGBT people. The network is entirely funded by the Police Department. Its members carry out their regular duties as well as those relating to the network.

### **Key Components:**

- **Transparency:** One of the main tasks of the Pink in Blue network is to monitor the number of LGBT related incidents in Amsterdam. This data enables police and security partners to control or intervene in security issues within the LGBT community.
- **Visibility:** Pink in Blue Amsterdam attends various national and regional LGBT events, where they wear regular police safety vests with the addition: 'Pink in Blue'. This makes the network visible and directly accountable to the LGBT community.
- **Accessibility:** Pink in Blue Amsterdam makes themselves as accessible as possible to the LGBT community. The network has a dedicated telephone line, a Facebook page and a Twitter account.
- **Reliability:** As a reliable partner the network tries to find answers and solutions to any LGBT related issues.
- **Recognition:** The LGBT community is diverse. The Pink in Blue network needs to reflect this diversity so that the community can identify with the police as much as possible. Pink in Blue Amsterdam is a network consisting of men, women, transgender people, and homosexual, bisexual and lesbian people.
- **Continuity:** In order to guarantee the continuity of the work, the network provides training at the Amsterdam Police Academy. Training prepares police officers to work in Amsterdam's diverse society.

### **Case Study 3: Building positive interactions between police and sex workers (Kenya)**

The KASH programme<sup>33</sup> works towards better, rights framed interactions between police and sex workers.

#### **Key Components:**

- Training police about HIV, sex work and the effects of police practices on the health and safety of sex workers. Facilitated by sex workers, these sessions accommodate open questions and discussions between police and sex workers.
- Sex workers and police have become peer educators about sex work, legal frameworks, human rights and appropriate law enforcement responses.
- A paralegal service for sex workers who have been arrested.
- An SMS system which gathers information from sex workers about abuses committed by police.
- Community events which bring police and sex workers together, for example, to play volley ball so that they learn to know one another as people.

32 [www.kash.or.ke](http://www.kash.or.ke) and [www.opensocietyfoundations.org/about/program/public-health-program/grantees/keeping-alive-societies-hope](http://www.opensocietyfoundations.org/about/program/public-health-program/grantees/keeping-alive-societies-hope)

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## **Case Study 4: Service Workers in Group (SWING) (Thailand)<sup>34</sup>**

Thai police cadets have been undertaking special training with SWING.

### **Key Components:**

- The training takes police cadets to the bars and streets of male sex workers, delivering a message of safe sex in the fight against AIDS.
- The cadets report back to the graduating classes at cadet school.
- Building mutual respect to enable sex workers to access STI and HIV prevention and treatment without fear of arrest.
- The police cadets do the same work as SWING staff. They educate sex workers working on the streets and in bars.
- Giving out condoms and encouraging sex workers to take care of themselves.
- Sensitising future police officers to the needs of sex workers to foster a supportive environment for sex workers.

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33 <http://www.radioaustralia.net.au/international/radio/onairhighlights/thai-police-cadets-spread-safe-sex-message> <http://66.147.244.77/~leahnorg/wp-content/uploads/2013/08/Sex-work-and-Law-Enforcement-Collaborations-that-Work-3.pdf>

### **Case Study 5: Harm minimisation the basis of the National Drug Strategy (Australia)**

Harm minimisation has guided the National Drug Strategy in Australia since 1985. It includes supply reduction, demand reduction and harm reduction.

#### **Key Components:**

- School-based education that follows a harm reduction approach.
- Encouraging people who use drugs to enter treatment programmes.
- Implementing diversion programmes with people who have committed minor crimes (sending them to programmes that help them with their drug use, rather than charging them).
- Reducing policing around needle and syringe exchange programmes or methadone maintenance programmes so that people are not fearful to attend.
- Discretion in attending to overdoses. This means that police do not necessarily investigate if overdoses are non-fatal so that people feel free to call on police for help if they occur.
- Informing people who use drugs about dangerous batches of drugs currently being sold on the streets.

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### **Case Study 6: *Holistic harm reduction approach (Netherlands)***

The Netherlands takes a holistic approach to harm reduction. This requires that different public service sectors collaborate and work towards the same goal, which is to motivate drug users to participate in some kind of treatment to prevent their individual and/or social situation from worsening. If this is not feasible, support is given to help them reduce drug-related harm.

#### **Key components include:**

- Daytime shelter in drop-in centres for street-based problem drug users.
- Drug consumption rooms for chronic drug users.
- Targeting drug users who have been imprisoned, for example by offering pre-release counselling.
- Needle exchange programmes in all major cities (some of which are run from supportive police stations).
- A free hepatitis B vaccination campaign for drug users (this is no longer operational due to its success in reducing hepatitis B rates).
- Peer education services.
- Education programmes in places where young people meet.

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## SESSION 15

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# POLICE HEALTH AND WELLNESS

**Time:** 30 minutes

### Session learning objectives

- To highlight the importance of acknowledging, supporting and embracing LGBTI people within SAPS.
- To highlight the importance of a supportive, rather than a punitive response to people who use substances and how this may apply to members of SAPS.

### Essential things for facilitators to know and convey to trainees

- The lessons over the past few days are relevant to the way in which law enforcement personnel treat one another.
- Creating a supportive and accepting environment is beneficial to all.

### Session learning outcomes

- Ability to recognise problematic behaviours and responses to LGBTI and people who use substances within law enforcement.
- Ability to apply the lessons learnt over the past two days to their work environment and colleagues.



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## Session summary

Learners will undertake two exercises that require them to reflect on diverse sexual identities and substance use within the police sector. The first is a whole group discussion which requires them to think through the current approaches to diversity within SAPS. It should reinforce the idea that the lessons learnt about responding to LGBTI members of the public are also relevant to the ways in which they respond to colleagues. The second exercise should be used to remind police that drug use is very similar to using cigarettes or alcohol and that the lessons they have learnt over the past two days are also relevant to colleagues who may use drugs.<sup>34</sup>

### Activity – Reflection on sexual identity within SAPS

*(15 minutes)*

#### Aim

Learners are able to reflect on the way that their new understandings are relevant to their own behaviour and the general environment within SAPS relating to LGBTI law enforcement colleagues.

#### Materials

- Flipchart paper and stand
- Flipchart pens

#### Process

1. As a group discuss any ways in which LGBTI people in law enforcement face pervasive discrimination. This may include:
  - Employment discrimination
  - Firing or demotion
  - Severe verbal harassment
  - Sexual harassment
  - Discriminatory comments and taunting
  - Indecent exposure
  - Inappropriate touching
  - Threats and bribes<sup>35</sup>

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<sup>34</sup> Sears, *Discrimination against Law Enforcement Officers on the Basis of Sexual Orientation and Gender Identity* (2013) | Los Angeles: Williams Institute.

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2. Ask the group to discuss what they think the consequences of the listed behaviours might be for the individuals affected and the police force as a whole. List these on the flipchart paper. Ask the group to come up with ideas on how to create a culture of respecting and protecting all sexual identities within law enforcement and responding to abuse, stigma and discrimination.
  3. Suggest any of the following strategies if they have not been mentioned:
    - Be supportive of LGBTI officers and staff and deal with any discrimination or harassment.
    - Ensure a diverse workplace. This is crucial in enhancing employee satisfaction. It also enables police effectiveness, especially in community policing environments.
    - Apply non-discriminatory policies that protect all law enforcement staff.
    - Adoption of zero tolerance harassment policies.
    - Conduct regular training.
    - Designate specific officers as LGBTI liaisons as a way to send a clear message of support and inclusion to LGBTI officers, as well as improve community policing.
    - All members of the police force can play a part in creating fair, diverse, and representative work environments for LGBTI officers.
  4. List these on the flipchart paper as you facilitate the discussion.

## Activity – Reflection on substance use within SAPS

(15 minutes)

### Aim

Learners are able to reflect on the way that their new understandings are relevant to their own behaviour or cases they may come across among colleagues. They should be encouraged to think through the benefits of non-discriminatory, supportive responses.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Ask the group which substances may be used by police officers (in public or secretly), and when and how these might be used. Include both legal substances (cigarettes and alcohol) and illegal ones (marijuana, tik, mandrax, heroin). List all of these on the flipchart paper.
2. Ask the group to brainstorm possible punitive responses to substance use amongst law enforcement personnel. List these on the flipchart paper.
3. Ask the group to brainstorm possible supportive responses to substance use among law enforcement personnel. List these on the flipchart paper.
4. Divide the room in half. Ask the one side to justify a punitive response to substance use by law enforcement officers. Give them three minutes to make a case. Anyone in the group can talk, but each person may only make a maximum of two points.
5. Tell the other side of the room to justify supportive responses to substance use by law enforcement officers. Give them three minutes to make a case. Anyone in the group can talk, but each person may only make a maximum of two points.
6. Close by reminding learners that law enforcement personnel have the same human rights as any other person and noting that international data shows that a supportive approach is critical in reducing demand for drugs.

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### Facilitators note

- Be clear that the discussion should not refer in any way to particular names or groups within law enforcement.
- Note that it is important to remember that people in law enforcement may be concealing their sexuality, gender identity or substance use for fear of being ridiculed, judged and discriminated against. This is not a healthy environment.

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## SESSION 16

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# PUTTING IT INTO ACTION

**Time:** 45 minutes

### Session learning objectives

- Learners understand and reflect on the ways in which they can translate the information, knowledge and skills acquired during the training into action in their work as police.
- Learners recognise concrete, feasible, realistic and achievable ways in which they can implement and enact policing practices that ensure diversity and dignity.

### Essential things for facilitators to know and convey to trainees

- Any prejudice and discrimination by police officers should be reported and addressed.
- Prejudices and biases are not always conscious or malicious. However, when they are identified and reflected on, they can be addressed in constructive ways.

### Session learning outcomes

- Learners learn techniques and skills for police work that is in line with the principles of diversity and dignity and Constitutional principles.
- Create an emotionally based insight that those who are socially excluded, critical of the police or break the law, have the right to be respected as human beings.

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## Session summary

This session provides an opportunity for learners to reflect on the training content and think about how they can use their newly acquired knowledge, information and skills in their work. Learners are encouraged to identify existing barriers or obstacles preventing dignity and diversity in their work; once identified, they are encouraged and supported in coming up with solutions to overcome such barriers.

## Activity – Identifying barriers and finding solutions

(45 minutes)

### Aim

To enable learners to reflect on what has been covered in the training, and think about how to put it into action in their work. This session should also help learners to identify existing barriers/obstacles to ensuring diversity and dignity in the police force and identify solutions to overcome them.

### Materials

- Flipchart paper and stand
- Flipchart pens

### Process

1. Tell the learners that this exercise brings together the lessons learned over the past two days by asking them to reflect on if and how they can apply what they have learned in their everyday work.
2. Ask each participant to jot the following down on a piece of paper – allow five minutes, and then give feedback to the group (write comments on the flipchart):
  - Different ways you could engage sex workers, LGBTI people and people who use drugs in your community on an individual, organisational, and community level.
  - Why it might be difficult to contact or interact with LGBTI people, sex workers and people who use drugs in your communities and why these barriers exist.
3. What can you and the police force in general do to help minimise these barriers to improve dignity and diversity in policing?

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## Background information:

### ***Maximising Dignity and Diversity in the Police Service***

#### **Demeaning Language<sup>35</sup>**

- Staff and volunteers should always use respectful language and terminology when talking to, or about detainees and should not use language in the workplace that is demeaning or conveys bias or hatred towards any group of people.
- Information about a detainee's sexual orientation and gender identity is considered private and sharing this information broadly could create unnecessary risks to a detainee's physical safety and emotional wellbeing.

#### **Equal and Respectful Treatment of detainees<sup>36</sup>**

- Staff must apply consistent behavioural standards to all detainees.
- Staff may not punish or prohibit behaviour that is perceived to defy gender norms.
- Staff must respect the affirmed gender of all people, including transgender people, for all purposes.
  - All people must have access to sex-segregated housing, programmes, and privileges consistent with their gender identity. This standard is applied without question to most people whose assigned sex and physical characteristics align with their gender identity.
- The facility must have an accessible grievance procedure that permits people to confidentially report harassment, discrimination, retaliation or abuse.
- As part of the initial safety evaluation, intake staff must not make assumptions based on appearance or stereotypes.

#### **Facility staff should:<sup>37</sup>**

- Model respectful, affirming treatment toward people and other staff.
- Intervene promptly and consistently to stop name-calling, bullying or other forms of harassment or mistreatment.
- Respond to violations of the policy as teaching moments and opportunities to reiterate the facility's policy and address the underlying issues.

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35 J Marksamer, HJ Tobin, *Standing with LGBT Detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment* (2014); Washington DC: National Center for Transgender Equality.

36 E Casey, *A Guide to Juvenile Detention Reform: Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System* (2015); Baltimore: Juvenile Detention Alternatives Initiative.

37 E Casey, *A Guide to Juvenile Detention Reform: Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System* (2015); Baltimore: Juvenile Detention Alternatives Initiative.



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- Support the right of all people to self-expression, and object to any suggestion or requirement that LGBTI or gender-nonconforming people hide their identities or suppress their gender expression to prevent abuse by other people.
  - Hold other staff accountable when they use derogatory language or make homophobic or transphobic remarks.

### **Privacy and Dignity<sup>38</sup>**

- Staff must defer to people about when and with whom to disclose information internally about their status as a LGBTI person, someone who works as a sex worker or someone who uses drugs.
- Staff must conduct searches of transgender and intersex people professionally and respectfully, and in the least intrusive manner possible, consistent with security needs.
- Staff must accommodate any people, including transgender or intersex people, whose physical or emotional condition justifies privacy while showering, performing bodily functions or changing clothing.

### ***Being inclusive of diversity***

The police force should endeavour to be inclusive, particularly in recognising the rich diversity within sexuality and gender diverse communities. In addition to the external focus on engaging communities and ensuring that all those they come into contact with are treated with respect, courtesy and fairness, there should be an internal focus on supporting inclusive and respectful workplaces. There should be a commitment to the police workforce being inclusive of diverse sexuality, gender and intersex status, thereby creating a more harmonious workplace.

### ***Building trust***

Police should contribute to feelings of personal and public security. The police must take the public's feelings of insecurity seriously with a view to tackling the underlying causes, responding to different needs and interests, and managing fears. The police must build trust with communities, an important task which affects how they communicate and interact with the population. Without this trust, the public will not be willing to report crimes or provide police with

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<sup>38</sup> E Casey, *A Guide to Juvenile Detention Reform: Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System* (2015); Baltimore: Juvenile Detention Alternatives Initiative.

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the information they need to perform effectively. It is important to note that marginalised people in society often experience a lack of trust.<sup>39</sup>

It is also important to build relationships of trust with sex workers and people who use drugs as they have proven to be useful allies in providing intelligence on other crimes.

## ***Respect and Dignity***

It is of utmost importance to recognise that respect for individuality impacts on a person's self-worth and inherent dignity. The use of inclusive terminology respects individuality and enables visibility of important issues. People's right to identify their sexual orientation, gender identity or intersex status must be supported. It is recognised that terminology in this area is strongly contested, particularly terms used to describe gender identity.

Furthermore, it is important to acknowledge that even though broader communities might place pressure on police to 'get rid of all the sex workers' in the area, sex workers' human rights should be recognised and they should be treated with dignity.

## ***Being responsive to needs***

A police force that is sensitised to the needs of LGBTI persons, sex workers and people who use drugs means better service and protection when these members of society seek police assistance. Improving police responses to LGBTI people, sex workers and people who use drugs can improve their perceptions and attitudes to police officers and encourage reporting of crimes. It helps build trust between LGBTI persons, sex workers, people who use drugs and the police. Furthermore, it sends a message to perpetrators of crimes against LGBTI people and sex workers that they will be held liable.

Treating a victim with respect and dignity often helps to overcome the issues outlined above. Acknowledging the experiences of a victim in a sensitive manner will make them more comfortable when talking with police. It may also encourage future reporting of similar incidents and assistance in other non-related investigations by LGBTI people, sex workers and people who use drugs. These are all integral to maintaining and enhancing the reputation of the police

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<sup>39</sup> European Union Agency for Fundamental Rights. Fundamental rights-based police training: A manual for police trainers (2013); Vienna: European Union Agency for Fundamental Rights.

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force. It is well known that it only takes one negative interaction to significantly damage the reputation of police, especially in the context of a history of negative police relations.

## ***Working with diverse people***

When working with diverse populations, especially individuals who may regularly experience discrimination and prejudice, it is important to ensure that your own attitude enables them to feel safe.

Important strategies to ensure diversity and dignity in the police force:

- Maintain confidentiality: Should the behaviours or identity of sexual minority groups or non-hetero individuals be made public, they could face significant stigma and discrimination.
- Do not judge.
- Do not include judgemental or personal values in your interaction.
- Personal bias and stigma can negatively impact people's experience and willingness to open up and comply with processes. It is therefore essential to keep an open mind and withhold judgement of anyone's behaviours.
- Create an enabling and welcoming environment.
- Use appropriate language.
- Do not make automatic assumptions about people's behaviour, identity, or experiences.
- Ask for clarification if there is a term/wording or behaviour you are discussing that is unfamiliar or unclear.

## **Equality**

- Treat all people with the same respect and dignity.
- Constantly ask yourself if your responses or level of service delivery is the same across people – this offers an opportunity to evaluate your work and achieve heightened awareness of your actions and internal biases.

## **Establish a trusting and supportive relationship**

- Establishing a trusting relationship is necessary in order to engage people.
- People should be informed that, by being honest, they will be able to receive the most effective and appropriate support and services.
- Remain professional when asking people sensitive questions – do not laugh, make jokes about questions, or be otherwise dismissive.

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## **Proactive strategies for more inclusive policing:**<sup>40</sup>

**Sensitivity:** In order for sex workers, LGBTI people, and people who use drugs to feel comfortable reporting incidents of assault and other violent crimes, they need to trust that they will not be dismissed, told they 'had it coming', or otherwise traumatised by insensitive comments.

### **Police Liaison Officers:**

- Internationally, LGBTI police liaison programmes have become the key model for building relationships between police and LGBTI communities, dominating other approaches.
- Police departments can take the proactive step of designating LGBTI people/sex workers/people who use drugs as liaison officers, to establish a relationship of trust with these communities and thereby reassure victims that they will be dealt with respectfully and sensitively.
- Appoint police liaison officers with a mandate to develop more positive working relationships with sex worker advocacy groups, LGBTI organisations, and groups that work with people who use drugs.
- The designation of one or more members of the force as liaison officers does not mean that other officers are not equally responsible for responding respectfully to all victims of crime. It simply creates a mechanism for community members and police to work together to encourage victims of crime to come forward and to educate the police about community members' concerns.

### **Police Liaison Officers can do the following:**<sup>41</sup>

*Internally:*

- Capacity building – inform and educate police and staff.
- Champion LGBTI inclusion in the workplace. Easily identifiable as a source of support.
- Be role models for other officers by demonstrating supportive and inclusive practice.

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40 J M Goldberg *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

41 [http://www.police.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0007/421495/Sexuality,\\_Gender\\_Diversity\\_and\\_Intersex\\_Policy\\_2016-2020\\_July\\_Intranet.pdf](http://www.police.nsw.gov.au/__data/assets/pdf_file/0007/421495/Sexuality,_Gender_Diversity_and_Intersex_Policy_2016-2020_July_Intranet.pdf)

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*Externally:*

- Maintain contact with key organisations, groups and services working with LGBTI people, sex workers, and people who use drugs, including local contacts.
- Provide follow up support to victims of crime in conjunction with the investigating officer.
- Promote the liaison officer role within the local community, encourage contact and interaction as an easily identifiable source of support.

### **What can I do in the police workplace?<sup>42</sup>**

- Respect people's right to privacy and confidentiality.
- Challenge homophobic/transphobic/prejudicial jokes and comments in the workplace and use them as an opportunity to educate and dispel prejudice and misinformation. Follow up with a private conversation for more in-depth discussion. Your silence signals your approval of discriminatory acts.

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<sup>42</sup> [www.rhvp.ca](http://www.rhvp.ca)

# EVALUATIONS

**Time:** 30 minutes

## **Introduction** (5 minutes)

- Tell the learners that:
  - They need to answer a questionnaire (end line evaluation) at the end of the training programme.
  - Learners should include the same favourite city and pet's name as they did on the baseline evaluation. This allows the tests to be linked to assess any changes due to the training.
  - A learner feedback sheet also needs to be completed, which asks about their experience of the training, how it will be applied in their work, and for suggestions for improvement.
  - The answers are provided in Appendix 5. A copy of the answers and comments should be handed out to learners.

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## Activity – End line evaluation *(10 minutes)*

### Materials

- Copies of evaluation (one per participant)

### Process

1. Hand out copies of the evaluation (Note that this is the same questionnaire that was completed at the beginning of the training). Facilitators should remind learners that they were told at the beginning of the training that the questionnaire would be repeated to assess what they learned to improve the programme.
2. Request that learners include their name on the evaluation.
3. Give learners *10 minutes* to complete the evaluation.

Favourite city: \_\_\_\_\_

Pet's name: \_\_\_\_\_

<b>Questions</b>	
<b>Knowledge</b>	<b>True/ false</b>
<i>Human rights, policing</i>	
1. Policing is primarily about enforcing the law.	
2. Detention starts the moment someone is held in a police cell/ police van.	
3. A female suspect should only be searched by a female police member.	
<i>LGBTI</i>	
1. It is legal for two men to marry in South Africa.	
2. Homosexuality is a mental illness, which is treatable.	
3. Biological sex and gender refer to the same thing.	
<i>Sex work</i>	
1. Sex work is criminalised in South Africa.	
2. People enter sex work for different reasons.	
3. Have to observe rights pertaining to arrested and accused persons.	
<i>Drug use</i>	
1. Drug use is criminalised in all countries.	
2. South Africa is a signatory to international Conventions on drug use.	
3. Long-term drug use can change the way the brain works.	



<b>Questions</b>	
<b>Attitude</b>	<b>Agree/ disagree</b>
<i>Human rights, policing</i>	
1. Some restrictions on human rights are justified.	
2. A violation of human rights is OK if it promotes the greater good.	
3. The community expects us to be tough on criminals.	
<i>LGBTI</i>	
1. Homosexuality is immoral.	
2. Women only become lesbian if they have been mistreated by men.	
3. People should be free to love whoever they want.	
<i>Sex work</i>	
1. Sex workers sell sex to feed drug habits.	
2. Sex workers are all involved in organised crime.	
3. Sex workers spread diseases.	
<i>Drug use</i>	
1. People use drugs because they are selfish.	
2. People who use drugs are a waste of public resources.	
3. People who use drugs have the same human rights as other people.	

<b>Questions</b>	
<b>Practices</b>	<b>Agree/ disagree</b>
<i>Human rights, policing</i>	
1. Human rights are difficult to apply in practice.	
2. We don't have adequate resources to protect human rights all the time.	
3. Management doesn't take enough responsibility in preventing human rights violations.	
<i>LGBTI</i>	
1. Pre-op transwomen (biologically male people that have not yet undergone medical procedures to transition to women) detainees should be kept in the same cells as men because they have penises.	
2. A transwoman in a female cell is a security threat to the other women.	
3. If an individual who is biologically male (has a penis) identifies as a woman, that individual should be referred to as 'her/she' by police officers.	
<i>Sex work</i>	
1. The best way to end sex work is to teach them a lesson by arresting them.	
2. Dressing in a particular way and carrying condoms is an indication that the person has the intention to sell sex.	
3. Another way to deter people from selling sex is to chase them out of the area or fine them.	
<i>Drug use</i>	
1. The best way to reduce demand for drugs is a strong police presence.	
2. Carrying any material for the purposes of using drugs is illegal.	
3. Stop and search is always appropriate with known drug users.	

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## Activity – Learner feedback (15 minutes)

### Materials

- Copies of learner feedback sheets (one per participant)

### Process

1. Give each participant a copy of the learner feedback sheet
2. Request that learners include their name on the sheet
3. Give learners *15 minutes* to complete the sheet

## DIVERSITY, DIGNITY AND POLICING LEARNING PROGRAMME

<b>PURPOSE</b> <ul style="list-style-type: none"><li>• To provide the developers and facilitators of the programme with valuable information on how the learner perceived the training.</li><li>• To ensure continual improvement of the programme as well as quality training.</li></ul>
<b>INSTRUCTIONS</b> <ol style="list-style-type: none"><li>1. Complete this form by ticking the appropriate box to indicate how you rate each statement.</li><li>2. Hand the completed form to the trainer.</li><li>3. The trainer must submit all the completed forms to the co-ordinator.</li><li>4. The co-ordinator must consolidate the information to the Reaction Summary Sheet.</li></ol>
<b>PARTICULARS OF THE LEARNING PROGRAMME</b>
<b>Learning Programme Title:</b> <i>Diversity, Dignity and Policing</i>
Module Name:
Date:

A. ABOUT THE FACILITATORS		Excellent	Very Good	Good	Fair	Poor
		5	4	3	2	1
1. Learning outcomes were explained in an understandable manner.						
2. Learning outcomes were achieved during presentation.						
3. Sessions were kept alive and interesting.						
4. The manner in which training aids were used promoted learning. E.g. writing board, flip chart video, etc.						
5. Key learning points were emphasised and summarised during the session.						
6. Learning points were illustrated and clearly defined.						
7. Your overall rating of the facilitators.						
Average Score for Category A						
8. If you were the trainer, what would you have done to make the programme more effective?						

<b>B. ABOUT THE CONTENT AND LEARNING</b>					Excellent	Very Good	Good	Fair	Poor
					5	4	3	2	1
1.	The level of the programme in relation to those it is intended for – target group.								
2.	The content in relation to learning expectations.								
3.	The organisation of the content matter.								
4.	The applicability of the exercises and activities.								
5.	The use of relevant practical exercises to highlight theory.								
6.	The content in relation to your learning needs in your work situation.								
7.	Your overall rating of the programme.								
	<i>Average Score for Category B</i>								
8.	If you were to re-design the programme, what changes would you make? For instance what would you add or remove?								

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C. ABOUT THE EVALUATION	Excellent	Very Good	Good	Fair	Poor
	5	4	3	2	1
1. The learning programme was evaluated during the session.					
2. The evaluation instruments were aligned to the learning outcomes.					
3. The evaluation was conducted in a fair manner.					
4. Adequate feedback was provided for each evaluation.					
5. Reasonable time was provided for evaluation.					
6. The evaluation instruments assessed the knowledge gained from the Programme.					
7. Your overall rating of the evaluation.					
<i>Average Score for Category C</i>					
8. If you were to change the evaluation what changes would you make?					



## AVERAGE SCORE: FOR OFFICE USE

CATEGORIES	AVERAGE SCORE PER CATEGORY	AVERAGE SCORE
A		$A..... + B..... + C..... / 3 = .....$
B		
C		

**D. ADULT LEARNING ENVIRONMENT**

1. What do you think about the learning environment, including the learning facilities?


**E. APPLYING THE KNOWLEDGE GAINED AT WORK**

1. How will you apply what you have learnt when you return to work?


2. As a result of the Programme what changes will you bring about when you go back to work?


3. How will this programme contribute to the results required in your job?


**THANK YOU FOR YOUR CO-OPERATION**

# CLOSURE

**Time:** 15 minutes

## Session learning objectives

- To enable learners to reflect on what has been personally rewarding in the programme.
- To encourage learners to let go of previously discriminatory perceptions and behaviours towards LGBTI people, sex workers and people who use drugs.

## Essential things for facilitators to know and convey to trainees

- Learners should know that by changing their perceptions and thinking, they are paving the way to changing their responses and behaviour to stimuli and people, particularly those that might act, look and behave differently to themselves.
- Learners should be reminded of the safety and security policies informed by the White Paper that call for changes in the policing environment. This mandates police officials to respond appropriately to all people, irrespective of their sexual identity, occupation, gender, sex, etc. and that oversight mechanisms are in place to evaluate the extent to which their policing aligns with these policies.
- As police, it is important to self-reflect, and in so doing, become aware of things that we say and do, that translate into harmful responses to others.

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## Session learning outcomes

- Learners identify key personal knowledge gained from the programme.
- Learners can identify key personal discriminatory perceptions and behaviours towards LGBTI people, sex workers and people who use drugs and make symbolic gestures to denounce them.

## Session summary

Learners are asked to reflect on what they found most valuable about the programme that has shifted their world view and are encouraged to relinquish a specific discriminatory and disempowering perception and/or behaviour, in responding to LGBTI people, sex workers and people who use drugs in the future.

### Activity – Closure *(15 minutes)*

#### Process

1. Tell the learners that in closing and checking out of the programme, it is important to reflect on the importance of what they have learnt in relation to the work they do, as well as reflect on their personal growth in expanding their world view to be more inclusive and less critical and judgemental of those who may express themselves, and live their lives differently from them.
2. Tell the learners to say one sentence about what they are going to take home with them (the thing that they found most valuable about the programme in relation to LGBTI people, sex workers and people who use drugs) and then offer another sentence about what they want to throw away and leave in the room going forward (a previously discriminatory perception and/or behaviour that they now realise is harmful and constitutionally unsound, when engaging LGBTI people, sex workers and people who use drugs).
3. Ensure that everyone contributes to this closing session. Guide the group on keeping their contributions short and succinct.

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# GLOSSARY

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<b>Abstinence</b>	In the context of drug-taking behaviour, refers to sobriety, or not using drugs.
<b>Acquired Immunodeficiency Syndrome (AIDS)</b>	A fatal disease in which there is severe loss of the body's cellular immunity, greatly lowering resistance to infection and malignancy. The cause is a virus (the human immunodeficiency virus, or HIV) transmitted in blood, sexual fluids and breast milk. HIV destroys the body's ability to fight infection and disease.
<b>Addiction</b>	A condition in which physical or mental dependence exists for a particular substance, without which adverse effects occur. The use and abuse of a chemical marked by increased tolerance, craving, preoccupation, withdrawal when the substance is not available, and failed efforts to stop or reduce intake despite recurring problems in major life areas.
<b>Aftercare</b>	A type of follow-up care that supports people who use drugs to maintain sobriety or abstinence, continue their personal growth, and reintegrate into the community/family.
<b>Agender</b>	A person with no (or very little) connection to the traditional system of gender, no personal alignment with the concepts of either man or woman, and/or someone who sees themselves as existing without gender. Sometimes called gender neutrois, gender neutral, or genderless.
<b>Alcohol</b>	This includes beer, wine and spirits. These substances act as a central nervous system depressant. Alcohol is usually ingested orally as a drink.
<b>Amphetamine</b>	A family of synthetic, addictive, and mood-altering drugs. Amphetamines act as a central nervous system stimulant. Some amphetamines are legally available as medication on prescription. Amphetamines can be taken orally, smoked, injected or inserted anally.
<b>Anal sex</b>	Sex which usually involves the insertion of the penis into the anus (penile-anal penetrative sex).
<b>Anal taboo</b>	General avoidance of any reference to the anus because of complex social constructs that associate it with shame, guilt and even dirt.
<b>Analingus</b>	Oral stimulation (licking) of the anus. Also known as anal rimming.
<b>Androgyny</b>	Not having clear masculine or feminine physical characteristics or appearance.
<b>Antiretrovirals (ARVs)</b>	Medication used to inhibit HIV at specific phases of its life cycle.
<b>Anus</b>	The region of the bowels which opens onto the skin.
<b>Anxiety</b>	Worrying about issues or situations over which a person has no control. It affects how individuals feel and behave and can manifest physical symptoms.
<b>Asexual</b>	Experiencing little or no sexual attraction to others and/or a lack of interest in sexual relationships/behaviour. Asexuality exists on a continuum from people who experience no sexual attraction or have no desire for sex, to those who experience low levels, or sexual attraction only under specific conditions. Many of these different places on the continuum have their own identity labels (see demisexual). Sometimes abbreviated to 'ace.'

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<b>Backloading</b>	Sometimes referred to as piggybacking. Backloading refers to a single syringe which is used to draw up equal amounts of the liquid drug (e.g. heroin), which can then be carefully squirted into the back of each person's syringe after the plunger has been removed.
<b>Barebacking</b>	Anal penetration without the use of any barrier method. It is usually used in the context of making a conscious decision not to use condoms.
<b>Bigender</b>	A person who fluctuates between traditionally 'woman' and 'man' gender-based behaviour and identities, identifying with both genders (and sometimes a third gender).
<b>Biological sex</b>	Scientific concept that categorises individuals based on biological, genetic, or physical characteristics defining males and females including hormone levels, chromosomes, internal and external genitalia (sex organs), genes, or secondary sex characteristics (deepening voice, development of breasts, waist-to-hip ratio, etc.) Sex is usually categorised as male, female, or intersex. Often referred to simply as 'sex,' 'physical sex,' 'anatomical sex,' or specifically as 'sex assigned at birth.' Often seen as a binary but as there are many combinations of chromosomes, hormones, and primary/secondary sex characteristics, it's more accurate to view this as a spectrum (which is more inclusive of intersex people as well as trans*-identified people).* – Is commonly conflated with gender.
<b>Bipolar disorder</b>	A mood disorder characterised by alternating episodes of depression and mania or hypomania.
<b>Bisexual</b>	Both a sexual orientation and sexual identity. Bisexual people are attracted to people of the same and opposite sex on various levels (emotionally, physically, intellectually, spiritually and sexually), though not necessarily at the same time and there is not necessarily an equal amount of attraction.
<b>Bluetooth</b>	The process of sharing blood from a site where drugs have been injected with another person.
<b>Bottom</b>	A slang term referring to the receptive partner during anal sex, the opposite of a 'Top'.
<b>Business</b>	The act of exchanging sex for money, goods, or favours.
<b>Cannabis</b>	Locally known as marijuana or dagga. This substance acts as a central nervous system depressant and hallucinogen. Cannabis is usually inhaled by smoking but can also be ingested orally.
<b>Cat</b>	Cat is a short name for methcathinone, a stimulant drug which produces feelings of euphoria.
<b>Chipping</b>	This term refers to heroin users who stick to very strict rules, such as only using on weekends, using once a week, and so forth. They are considered to be not (yet) addicted to heroin.
<b>Chlamydia</b>	A sexually transmitted infection caused by a group of bacteria, commonly responsible for 'the drop'/urethritis/proctitis.
<b>Chrystal meth</b>	See Methamphetamine.
<b>Cisgender</b>	Someone whose self-perception of their gender (gender identity) matches their biological sex assigned at birth (i.e. not transgender). The Latin prefix 'cis' stands for 'on the same side,' while the prefix 'trans' stands for 'on the opposite side.' This has a more positive connotation than 'normal' or 'non-transgender'. A cisgender's person gender identity and biological sex assigned at birth align (e.g., man and assigned male at birth). A simple way to think about it is if a person is not transgender, they are cisgender.

<b>Cisnormativity</b>	The assumption, in individuals or institutions, that everyone is cisgender, and that cisgender identities are superior to trans* identities or people. Leads to invisibility of non-cisgender identities.
<b>Client</b>	The person with whom a sex worker exchanges money or goods for sexual activity.
<b>Cocaine/Crack cocaine</b>	Substances derived from the coca plant, which act as a central nervous system stimulant. Cocaine can be snorted and injected while crack cocaine can be smoked or injected.
<b>Coming out</b>	A term describing the complex process where an individual realises that they are not heterosexual and resolves conflict related to heteronormativity (where heterosexuality is internalised and viewed as the norm). Coming out is a process of how one wants to be identified. When an individual chooses not to come out (which is their right), the colloquial term is 'to be in the closet'.
<b>Concurrent partners</b>	Having more than one sexual partner at the same time.
<b>Condom-compatible lubricants</b>	Water and silicon-based lubricants which do not increase the risk of a condom tearing during sexual intercourse.
<b>Cooker</b>	A term used to describe any variety of containers used to heat or dissolve drugs in solid form into liquids to prepare them for injection.
<b>Craving</b>	Strong desires linked to the effect of drugs on the brain that can have strong physiological effects.
<b>Dental dams</b>	A latex sheath (square) that serves as a protection barrier against the transmission of sexually transmitted infections (STIs) during oral sex, frottage or tribadism (where genitals rub directly against each other). Also called vaginal dams.
<b>Dependence</b>	A person is dependent on a substance when they are unable to function normally without using it. Dependence may be physical or psychological or both.
<b>Depression</b>	Depression can be described as a low or depressed mood with loss of interest or pleasure in life and activities that lasts for a period of two weeks or more and is disruptive to everyday functioning. It is characterised by sadness, inactivity, difficulty concentrating and thinking, significant increase or decrease in appetite, difficulty sleeping and suicidal thoughts.
<b>Detoxification</b>	Detoxification, or detox, is a process of abstaining from the use of a toxic substance to allow the body to clear the residues and effects of the substance on the body.
<b>Discharge</b>	Fluid oozing from an area of inflammation, which includes cells aimed at fighting infection and the infectious agent. Discharge may be seen coming from the penis, anus, vagina or throat as a result of selected sexually transmitted infections.
<b>Discrimination</b>	Unjust or prejudicial treatment of different categories of people on the grounds of race, age, sex, sexual orientation, gender and gender identity and presentation.
<b>Downer</b>	A type of depressant or tranquilising drug.
<b>Drug</b>	A substance that influences the normal functioning of the central nervous system and has both physical and mental effects.
<b>Dual diagnosis</b>	This is given when an individual presents with signs and symptoms for two co-occurring conditions, each requiring treatment and management.



Ecstasy	This belongs to the class of drugs known as amphetamines, which act as a central nervous system stimulant and cause psychotropic effects. They are usually ingested orally, but can also be snorted, smoked, injected or inserted anally.
Ejaculation fluid (Cum)	Fluid released from the penis during ejaculation ('cumming'); many viruses and bacteria which are responsible for sexually transmitted infections can be present in this fluid.
Evaluation	The systematic identification of a patient's/client's condition and needs within a framework based on professionally accepted best-practice guidelines.
Female condom	Loose-fitting polyurethane sheath with an inner ring at the closed end, and an outer ring at the open end, inserted inside the vagina or anus, for protection against pregnancy and/or HIV and STIs.
Fingering	Using one or more fingers to stimulate the genitals, including the insertion of the fingers (into the anus or vagina).
Flashback	The feeling of experiencing or witnessing a situation again (usually a traumatic one).
Frontloading	Frontloading is when the liquid drug (e.g. heroin) is carefully squirted into the front of each person's syringe, which still has the plunger in it but from which the detachable needle has been removed.
FTM/Transman	A transman, or female-to-male transsexual, starts his life with a female body, but his gender identity is male. Always use male pronouns in reference.
Gay	A label or identity term for an individual whose emotional, romantic, and/or physical attraction is to people of the same sex (e.g., gay man, gay people). A man might be attracted to other men and identify as gay but never act on the feelings for and attraction to other men. A man might also be attracted to other men, act on those feelings and not identify as gay. <i>Note: Gay is often used as an umbrella term to refer to all lesbian, gay, bisexual, trans*, intersex and queer [LGBTI] people.</i>
Gay man	A man who has romantic, sexual and/or intimate feelings for other men. 'Gay' is generally a more commonly used term for homosexual. The term 'men who have sex with men' (MSM) should be used unless individuals or groups self-identify as gay.
Gear	See 'Paraphernalia'.
Gender	Socially-constructed characteristics, set of traits and social expectations attached to a person's biological sex, that are learned by women and men, and vary according to the society or group one belongs to. It is a broader concept than the mere biological differences between men and women, and includes masculine and feminine traits. Gender includes masculine and feminine traits, attitudes, feelings, and behaviours that society associates with the biological sexes. People are born with their biological sex but they are taught their gender through their society and culture.
Gender dysphoria	A condition where a person experiences discomfort with having the physical characteristics and accompanying social gender role expectations of their assigned biological sex, accompanied by strong identification with the opposite gender and desire to live and be treated as a member of the opposite gender, due to dissatisfaction with their birth sex.

<b>Gender expression</b>	Describes aspects of a person's physical appearance, personality and behaviour defined culturally or socially to be either male or female. Every society has its own assumptions about how biological women and men should feel, dress, act and work. Gender expression is the external display of one's gender, through a combination of dress, demeanour, social behaviour, and other factors, generally made sense of on scales of masculinity and femininity. Also referred to as 'gender presentation.'
<b>Gender fluid</b>	A gender identity best described as a dynamic mix of boy and girl. A person who is gender fluid may always feel like a mix of the two traditional genders, but may feel more man some days, and more woman other days.
<b>Gender identity</b>	Refers to a person's persistent and consistent sense of being male, female or androgynous. An internalised representation of gender roles and awareness from infancy which is reinforced during adolescence. Gender identity usually, but not always, matches the sex based on the external genitalia present at birth.
<b>Gender role</b>	Socially-constructed or learned behaviours that associate certain activities, tasks, and responsibilities within a given society as 'masculine' or 'feminine'. Each society has ways that they define what is masculine (male characteristics/behaviour) and what is feminine (female characteristics/behaviour).
<b>Gender variant/ Gender nonconforming</b>	People whose gender expression differs from 'normal' definitions of femininity or masculinity, regardless of their gender identity or sexual orientation. Although the majority of people experience gender identity in line with their sex (feminine women and masculine men), for some people their sex and gender do not match, and they behave or express their gender (dress, hair style, manner of speaking) in ways that do not conform to dominant gender norms for their biological sex. Individuals who are gender variant or gender nonconforming have a wide range of romantic/sexual/physical attractions.
<b>Gender-based violence (GBV)</b>	GBV encompasses various forms of violence directed at women, because they are women, and men, because they are men, depending on the expectations of each in a given community. For MSM and transgender individuals, the violence is directed towards them because of their challenging notions of sexuality and gender identity and expression.
<b>Genderqueer</b>	An umbrella term for gender identities other than man and woman that are outside of the heteronormative gender binary (male and female). Genderqueer people may think of themselves as both man and woman (bigender), neither man nor woman (agender), moving between genders (genderfluid), and/or third gendered.
<b>Genital</b>	Related to sexual organs.
<b>Gonorrhoea</b>	A sexually transmitted infection caused by the bacteria <i>Neisseria gonorrhoea</i> , commonly affecting the penis, anus and vagina, and less commonly the throat.
<b>Hallucination</b>	An effect of some drugs that causes individuals to perceive objects that are not present in reality.
<b>Harm reduction</b>	A set of practical strategies and ideas aimed at reducing negative consequences associated with drug use. Harm reduction is also a movement for social justice built on a belief in, and respect for, the rights of people who use drugs.

<b>Hate Crime</b>	A criminal offence perceived as being motivated by prejudice or hate. The perpetrators seek to demean and dehumanise their victims, whom they consider different from them based on their actual or perceived race, ethnicity, gender, gender identity, age, sexual orientation, disability, health status, nationality, social origin, religious convictions, culture, language or other characteristic.
<b>Hepatitis</b>	Inflammation of the liver, which may be caused by a virus, drugs or rarely diseases of the immune system.
<b>Heroin</b>	This substance belongs to the class of drugs known as opiates, which originate from the poppy flower. It acts as a central nervous system depressant and analgesic. It can be injected ('spiked') or smoked ('chased'). When it is smoked it is sometimes mixed with other substances such as dagga. In South Africa it is also called nyaope, unga, h, whoonga or smack.
<b>Herpes</b>	A group of viruses which are spread through direct contact. Herpes simplex type 1 is responsible for 'cold sores' – superficial ulcers around the mouth and nose. Herpes simplex type 2 causes most cases of painful sores around the penis, anus or vagina (genital herpes).
<b>Heteronormative</b>	A social construct that views all human beings as either male or female with the associated behaviour and gender roles assigned, both in sex and gender, where sexual and romantic thoughts and relations are viewed as normal only between people of opposite sexes. All other behaviour is viewed as 'abnormal'.
<b>Heteronormativity/ Heterosexism</b>	Heteronormativity is when heterosexuality is considered the natural and normal sexual orientation, and provides social guidelines and definitions for what is normal/healthy/acceptable sexual behaviour. Heteronormativity assumes that a person's biological sex assigned at birth, their gender identity, social gender role, sexual orientation and sexuality should match.
<b>Heterosexual (‘straight’)</b>	Sexual, emotional, romantic, intellectual, and intimate attraction to people of a different sex or gender than one's own.
<b>Heterosexuality</b>	The sexual orientation in which an individual has romantic or sexual feelings towards members of the opposite sex.
<b>Homo-prejudice</b>	Prejudice against people of diverse sexual identities, all non-heterosexual.
<b>Homophobia</b>	Discrimination, stigma, fear or hatred based on homosexuality, directed at gays, lesbians, bisexuals and transgendered people.
<b>Homosexual</b>	Attraction between two people of the same sex on various levels: emotionally, physically, intellectually, spiritually and, most prominently, sexually.
<b>Homosexuality</b>	Refers to the sexual orientation in which an individual has romantic or sexual feelings toward members of the same sex.
<b>Human Immunodeficiency Virus (HIV)</b>	The Human Immunodeficiency Virus is a retrovirus that causes AIDS by infecting helper T cells of the immune system. The most common serotype, HIV-1, is distributed worldwide, while HIV-2 is primarily confined to West Africa. It is one of many sexually transmitted infections.
<b>Human Papilloma Virus (HPV)</b>	The virus responsible for genital warts. Different subtypes exist, some of which are associated with the development of anal, penile and cervical cancer.

Human rights	The basic rights and freedoms that all people are entitled to regardless of nationality, sex, age, nationality or ethnic origin, race, religion, language, or other status. 'Other status' refers to, for example, a person's HIV status. Freedoms around sexual orientation and gender identity are also basic human rights.
Identity	How you see yourself, your personal roles, personality traits, attitudes, behaviours and dress used to express your unique identity. Identity is fluid and changes over time, from one place to another, and from one culture or society to another.
Injecting drug user (IDU)	A person who injects drugs, better described as 'person who injects drugs' (see PWID).
Insertive partner ('Top')	In anal sex, the partner who is penetrating the other partner's anus.
Internalised Homophobia	When a homosexual individual internalises (makes their own) the shame and hatred projected onto gays and lesbians by a homophobic society.
Intersex	<p>Individuals born with biological sex organs that are not considered standard for either males or females, maybe born with a combination of female <b>AND</b> male reproductive organs, chromosomes, and/or hormones either fully or partially developed (often due to differences in sex chromosomes (the pair of chromosomes that combine to determine the sex and sex-linked characteristics of an individual)).</p> <p>In South Africa, it is estimated that one in every 50 people has sex organs that are different from what is considered standard (or the norm) for males or females</p> <p>Historically, intersex individuals are surgically altered soon after birth to cosmetically appear more male or female. Surgery often involves complications that can affect individuals for the rest of their lives – 'corrective' surgeries remove personal choice. Intersex individuals have to decide their biological sex which can leave many mentally and emotionally traumatised.</p>
Intersexed people	Previously referred to as 'hermaphrodites', this refers to individuals who are born with a combination of both male and female reproductive organs, chromosomes, and/or hormones that are either fully or partially developed.
Junkie	A stigmatising term used to refer to people who use drugs.
Key Populations	'The term 'key populations' or 'key populations at higher risk of HIV exposure' refers to those most likely to be exposed to HIV or to transmit it – their engagement is critical to a successful HIV response, i.e. they are key to the epidemic and key to the response. For this training it includes LGBTI people, sex workers and people who use drugs.
Khat/Qat	Khat/Qat refers to the leaves and the young shoots of the plant <i>Catha edulis</i> native to tropical East Africa and the Arabian Peninsula. It contains an amphetamine-like stimulant which causes euphoria and reduces appetite.
Lesbian	<p>A woman whose emotional, romantic, and/or physical attraction is to other women. 'Lesbian' is a label or identity that a woman who is attracted to other women may choose for herself. People who are lesbians may be attracted to other women and identify as lesbian but never act on feelings for or attraction to other women. It is also possible for a woman to be attracted to other women, act on those feelings and not identify as a lesbian.</p> <p>The term women who have sex with women (WSW) should be used unless individuals or groups self-identify as lesbians.</p>

<b>LGBTI</b>	Lesbian, Gay, Bisexual, Transgender, Intersex, Queer An umbrella terms for all folks who have a non-normative (or queer) gender or sexuality, there are many different initialisms people prefer. LGBTQ is Lesbian Gay Bisexual Transgender and Queer and/or Questioning (sometimes people add a + at the end in an effort to be more inclusive); GSM is Gender and Sexual Minorities; DSG is Diverse Sexualities and Genders.
<b>Lubricant</b>	Substance which reduces friction during sexual intercourse. Lubricants can be water-based (e.g. KY Jelly®) or oil-based (e.g. Vaseline®, body cream, cooking oil). Latex male condoms should only be used with water-based lubricants, as oil-based lubricants deteriorate latex.
<b>Male condom</b>	Sheath placed over the erect penis before sexual intercourse. It prevents pregnancy and HIV/STIs by blocking the exchange of sexual fluids.
<b>Mandrax</b>	The local name for methaqualone and its derivatives. Mandrax acts as a central nervous system depressant. In South Africa it is almost always smoked with cannabis in a combination called 'witpyp' or 'whitepipe'. The pipe it is smoked in is often made of a broken bottle neck.
<b>Marijuana</b>	Also known as 'dagga' or 'weed', marijuana comes from the cannabis plant. It is usually smoked, but can also be ingested orally. It acts as a central nervous system depressant and hallucinogen.
<b>Men who have sex with men (MSM)</b>	Refers to any man who engages in sexual activity with another man, regardless of whether he identifies as gay. The term refers to a man's behaviour, not his identity or desires, and includes not only men who self-identify as gay or homosexual and have sex only with other men but also bisexual men as well as men who self-identify as heterosexual but have sex with other men.
<b>Methadone maintenance therapy (MMT)</b>	The most widely known and well-researched treatment for opioid dependence. The aim is to prevent abstinence syndrome (withdrawal), reduce narcotic cravings and block the euphoric effects of illicit opioid use.
<b>Methamphetamine</b>	A type of amphetamine otherwise known as crystal meth. Locally it is usually called 'tik' and is most commonly smoked in a pipe called a 'lolly'. It can also be injected, snorted or injected.
<b>Morphine</b>	This substance belongs to the class of drugs known as opiates. It acts as a central nervous system depressant and analgesic. It is a powerful narcotic analgesic and its primary clinical use is in the management of moderately severe to severe pain. After heroin, morphine has the greatest potential for dependence of all narcotic analgesics.
<b>MTF/Transwoman</b>	A transwoman, or male-to-female transsexual individual, starts her life with a male body, but her gender identity is female. Always use female pronouns in reference.
<b>Multiple stigma</b>	Stigmatising because of two or more perceived differences, e.g. sexual orientation, HIV-positive status and race.
<b>Needle (syringe)</b>	The thin metal tube which is attached to a syringe in order to deliver liquids into the blood stream.
<b>Needle syringe programmes (NSP)</b>	Needle and syringe exchange programmes are part of a harm reduction approach to injecting drug use. Sterile injecting equipment, including needles and syringes are provided to people who inject drugs to reduce their chances of acquiring and transmitting blood borne infections like HIV and hepatitis C. Programmes provide for safe disposal of used needles and often also provide other public health services, such as HIV testing, risk-reduction education and referrals for substance-abuse treatment.

Opioid dependence	Opioid dependence is a medical diagnosis of a chronic brain disease characterised by an individual's inability to stop using opioids (e.g. morphine, heroin, codeine, oxycodone, hydrocodone) even when it is in his or her best interests to do so. This physical, psychological and behavioural need for an opioid drug is unrelated to medical necessity for pain relief. 'Opioid dependence develops after a period of regular use of opioids. The time required for dependence to occur in a person varies according to the quantity, frequency, and route of administration, as well as factors such as individual vulnerability and the context in which drug use occurs. Opioid dependence is not just a heavy use of opioids, but a complex health condition that has social, psychological, and biological determinants and consequences. It is not a weakness of character or will' (World Health Organisation definition).
Opioid substitution therapy (OST)	An evidence-based intervention for opiate-dependent persons that replaces illicit drug use with medically prescribed, orally administered opiates such as buprenorphine and methadone. OST reduces HIV risk behaviours and harms associated with injecting (such as abscesses, septicaemia, and endocarditis), overdose and participation in criminal activity, thereby improving the quality of life and health of PWID. It is endorsed by UNAIDS, UNODC and WHO as part of a comprehensive package of nine core interventions for PWID programmes that collectively maximise impact for HIV prevention and treatment.
Oral sex	The sexual stimulation of the ano-genital region with the mouth or tongue. <b>Oral-penile sex</b> ('blow job'): sexual stimulation of the penis using the mouth and tongue. <b>Oral-vaginal sex</b> : sexual stimulation of the vagina using the mouth and tongue. <b>Oro-anal sex</b> ('rimming', anilingus): sexual stimulation of the anus using the mouth and tongue.
Oro-anal sex	Contact between the mouth, tongue and anus, including licking (rimming) and kissing the area around the anus and rectum.
Paraphernalia	Paraphernalia, or gear, refers to any assorted collection of tools that are used to facilitate drug use or drug-taking behaviour. This can include items such as pipes, spoons, bottle tops, filters, needles, syringes and tourniquets.
Patient	An individual who uses some type of medical or health care service.
Penetrative penile-anal sex	Sex act describing the positioning or role of the 'active' partner or 'top' whose penis is inserted into the anus of his sexual partner.
Penile-anal intercourse (anal sex)	The penetration of the anus with a penis. Can be practiced by any individual regardless of their sex or sexual orientation. An individual can engage in: <b>Insertive anal sex</b> : penetrating the partner's anus with the penis (topping, being the active role, etc.). <b>Receptive anal sex</b> : penetration of the anus by the partner's penis (bottoming, being the passive partner). <b>Versatile anal sex</b> : changing position between insertive and receptive with your partner.
Penile-vaginal intercourse (vaginal sex)	The penetration of a vagina with a penis.

<b>Phobia</b>	Excessive anxiety or fear about a specific object or situation.
<b>Post-exposure prophylaxis (PEP)</b>	The use of medication to prevent infection after exposure to an infectious agent. Preventive treatment (anti-retroviral drugs typically taken for four weeks) started immediately (within 72 hours) after exposure to the HIV virus in order to prevent the virus from developing inside the body.
<b>Post-traumatic stress disorder (PTSD)</b>	A disorder that develops after exposure to a highly stressful event (e.g. threats to one's life, rape, war, natural disasters, being robbed). Symptoms include flashbacks of the incident, difficulty sleeping, recurrent nightmares about the incident and avoiding reminders of the incident.
<b>Pre-exposure prophylaxis (PrEP)</b>	A strategy of using combinations of anti-retroviral medications long term in HIV negative individuals to lower their risk of becoming HIV positive if they are exposed to the virus.
<b>Pre-op genitalia</b>	Transgender people who have not had surgery still have the genitalia of their natal biological sex. Since the words penis and vagina are usually associated with a male or female body, it is better to use the more neutral word 'pre-op genitalia'.
<b>Prejudice</b>	An irrational, preconceived opinion, not based on reality or actual experience that often results in dislike, hostility and unjust behaviour.
<b>Prostate</b>	A large internal gland which surrounds the urethra at the base of the bladder which produces some of the liquid and substances found in ejaculation fluid.
<b>Psychosis</b>	A mental disorder characterised by delusional thinking, disorientation, detachment from reality and hallucinations.
<b>PWID (People who inject drugs)</b>	Refers to people who inject drugs or a person who injects drugs.
<b>PWUD (People who use drugs)</b>	This refers to people who use drugs or a person who uses drugs.
<b>Re-infection</b>	Acquiring a second strain of the HI virus in someone who is already HIV positive. This may have negative consequences on the long-term treatment of HIV.
<b>Receptive anal sex</b>	Sex act describing the positioning or role of the 'passive', 'receptive', 'bottom' whose anus is being entered.
<b>Receptive partner ('Bottom')</b>	In anal sex, refers to the partner whose anus is being penetrated.
<b>Rectum</b>	The lower region of the bowels linking the descending colon to the anus. Also referred to as the rectal passage.
<b>Relapse</b>	Refers to returning to substance use after a period of abstinence. Some substance use treatment centres differentiate between a 'slip' or a 'lapse', which refer to an isolated or short period of return to use, and relapse, which refers to a period of sustained use.
<b>Responsible sex</b>	A sex-positive way of looking at prevention. It emphasises the prevention of STIs, including HIV, through consistent condom use, with condom-compatible/water-based lubrication and fewer sexual partners.
<b>Rimming</b>	Licking/kissing the anus with the tongue/mouth (see oro-anal sex).
<b>Sero-conversion</b>	The time when an infectious agent is present in the body.
<b>Sero-discordant relationship</b>	A romantic or sexual relationship between two people of differing HIV status.

<b>Sex</b>	A biological construct of a human being. 'What's in the pants?' Male genitals – penis, testes, testosterone and genetic make-up – and for females – breasts, vagina, oestrogen, progesterone and genetic make-up.
<b>Sex work</b>	'Any agreement between two or more adult persons in which the objective is limited to a consenting sexual act, and which involves preliminary negotiations for a price. Hence there is a distinction from marriage contracts, sexual patronage and agreements concluded between lovers that could include presents in kind or money, but its value has no connection with the price of the sexual act and the agreement does not depend exclusively on sexual services.' (2)
<b>Sex worker</b>	Sex workers include consenting female, male and transgender adults and young people over the age of 18 who receive money or goods in exchange for sexual services, either regularly or occasionally. Acceptable alternative formulations for the term 'sex worker' are 'women/men/people who sell sex'. The term 'commercial sex worker' is not used because it says the same thing but in different words. Children under the age of 18 that sell sex are considered to be victims of commercial sexual exploitation, unless otherwise determined (USAID definition). The term 'sex worker' is intended to be non-judgemental and focuses on the working conditions under which sexual services are sold and is preferred to 'prostitute' which has negative connotations.
<b>Sexual behaviour</b>	The way in which individuals experience their sexuality. Regardless of sexual orientation, humans use various body parts to experience sexual pleasure, on their own or with others. Sexual behaviour and roles are independent from but may be influenced by an individual's biological sex, sexual orientation, sexual identity, or gender. Sexual behaviour is not necessarily determined by sexual identity or sexual orientation.
<b>Sexual identity</b>	The way an individual identifies themselves sexually, may be linked to sexual orientation, but also refers to the lifestyle and labels they associate themselves with. The overall sexual self-identity, which includes how the person identifies as male, female, masculine, feminine, or some combination of these, and the person's sexual orientation.
<b>Sexual minority</b>	A group whose sexual identity, orientation, and gender identity, expression or practices, differ from the majority heteronormative social norm.
<b>Sexual orientation</b>	The way a person feels attracted to other people of a specific sex or gender. Includes sexual attraction but also emotional, romantic, and intellectual attraction. Sexual orientation encompasses all a person's intimate psychological and physical feelings towards other people.
<b>Sexuality</b>	The way humans experience and express themselves as sexual beings, includes aspects such as biological sex, gender identity and expression, attractions and practices. Culture and religion impact on how individuals see themselves as sexual beings, especially within relations of power.
<b>Sexually transmitted infection (STI)</b>	Infection transmitted and acquired through sexual contact.
<b>Sobriety</b>	The state of being sober, or not under the influence of drugs or alcohol,
<b>Social construct</b>	An idea or concept created by society, including socially created roles, values, and ideas of what is normal or abnormal.
<b>Stereotype</b>	An oversimplified characteristic of a person or group that is usually driven by stigma.



<b>Stigma</b>	Shame or disgrace that is directed towards something regarded as socially unacceptable.
<b>Stigmatise</b>	The action of treating someone differently or unfairly because of some perceived difference (e.g. sexual behaviour, gender).
<b>Street work</b>	Sex work that takes place in/on the streets. Known colloquially as outdoor sex.
<b>Substance dependence</b>	A pattern of habitual substance use that involves physical dependence (with increased tolerance and withdrawal), psychological dependence, and behavioural dependence.
<b>Syphilis</b>	A sexually transmitted infection caused by <i>Treponema pallidum</i> , one of the 'genital ulcer diseases'.
<b>Tourniquet</b>	A tool that may, but not always, be used while injecting drugs. It is usually a piece of elastic or other material that may be tied around the arm in order to cause blood veins to become more prominent and accessible.
<b>Trans* female/transwoman (MTF)</b>	A person whose sex assigned at birth was male, and who lives, presents, identifies, or transitions to female. These individuals are likely to prefer the use of female pronouns: she, her, hers. A transwoman, or male-to-female transsexual individual starts her life with a biologically male body, but her gender identity is female. Use female pronouns in reference.
<b>Trans* male/transmale/transman (FTM)</b>	A person whose sex assigned at birth was female, and who lives, presents or transitions to male. These individuals are likely to prefer the use of male pronouns: he, him, his. A transman, or female-to-male transsexual, starts his life with a biologically female body, but his gender identity is male. Use male pronouns in reference.
<b>Transactional sex</b>	The process of exchanging sex for goods, money, shelter, food or other items or services.
<b>Transgender</b>	Individuals whose gender identity or gender expression does not match their biological sex. A transgender person has a gender identity different from their biological sex at birth. Transgender people may be male to female (female appearance) or female to male (male appearance). It is preferable to describe them as 'he' or 'she' according to their gender identity, i.e. the gender that they are presenting, not their sex at birth. Transgender persons may also prefer not to conform to any gender binary and instead use gender neutral references. Some transgender people opt for gender-affirming treatment, while others choose to not, or only partially, undergo such treatment. Transgender people can be heterosexual, bisexual or homosexual.
<b>Transitioning</b>	The process of changing one's gender presentation to align with the internal sense of one's gender. For transgender people this may sometimes include sexual reassignment surgery, but not always.
<b>Transphobia</b>	Fear of, and/or hostility towards, people who are transgender or who otherwise transgress traditional gender norms. The most direct victims of transphobia are people who are transsexual. Because our culture is often very transphobic, transgender people can often have internalised transphobia and experience feelings of insignificance and self-prejudice.
<b>Transsexual</b>	A transgender person in the process of seeking or undergoing some form of medical treatment to bring their body and gender identity into closer alignment. Not all transgender people undergo reassignment surgery.
<b>Transvestite</b>	A person who wears clothes associated with the opposite gender in order to enjoy the temporary experience of membership of the opposite gender. A transvestite does not necessarily desire a permanent sex change or other surgical reassignment.

<b>Ulcer</b>	A sore which involves a break in the protective covering provided by skin.
<b>Upper</b>	These are stimulants designed to make the user feel energised, excited, and capable of doing anything. They include cocaine, ecstasy, methamphetamine [tik], and crack cocaine.
<b>Vaginal sex</b>	Sex which usually involves the insertion of the penis into the vagina (penile-vaginal penetrative sex).
<b>Venue-based sex work</b>	Refers to sex work that takes place within an established structure as opposed to street-based sex work. Known colloquially as indoor sex.
<b>Versatile</b>	A colloquial term referring to being both a 'Bottom' and a 'Top'.
<b>Warts</b>	Growths on the skin, caused by a virus; the human papilloma virus is responsible for warts in the genital area.
<b>Withdrawal</b>	Refers to the symptoms that occur when a person with a dependence on a substance reduces or stops use. Different substances have different withdrawal symptoms. These can include sweating, vomiting, muscle pain, insomnia and shivering.
<b>Women who have sex with women (WSW)</b>	Any woman who engages in sexual activity with another woman, regardless of whether she identifies as a lesbian. The term refers to behaviour, not a person's identity or desires. WSW includes not only women who self-identify as lesbian or homosexual and have sex only with other women, but also bisexual women as well as women who self-identify as heterosexual but have sex with other women. This term is technical and is not necessarily an identity.

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## APPENDICES

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### **Appendix 1: International treaties and conventions and sub-national initiatives**

The main sources of international human rights law are the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). Together, these instruments form the International Bill of Rights. They have inspired over 80 international treaties and declarations, both globally and regionally, and constitute a comprehensive and legally binding system for the promotion and protection of human rights.

#### **The Universal Declaration of Human Rights (1948)**

The Universal Declaration of Human Rights has inspired a number of other human rights laws and treaties throughout the world.

By 1948, the United Nations' new Human Rights Commission drafted the document that became the Universal Declaration of Human Rights. It was adopted by the United Nations on 10 December 1948.

In its preamble and in Article 1, the Declaration unequivocally proclaims the inherent rights of all human beings: 'Disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people ... All human beings are born free and equal in dignity and rights.' The Member States of the United Nations pledged to work together to promote the thirty Articles of human rights that, for the first time in history, were assembled and codified into a single document. Many of these rights, in various forms, are today part of the constitutional laws of democratic nations.

Human rights law regulates the conduct of the state in relation to the people in that state's territory or subject to that state's jurisdiction. The 'rights' provided by

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international human rights law impose obligations on the state to act, or to refrain from acting, in a certain way, for the benefit of communities and individuals.

In the context of policing, human rights law places limitations on the actions of the state and the police as an institution of the state (such as prohibiting the use of torture or other ill-treatment) and sets minimum standards of treatment for people deprived of their liberty (such as requiring a detainee to have access to lawyer).

States are required to enact legislation, policy and administrative frameworks to implement international human rights law in all their institutions. Individual police officials are expected to know and adhere to the human rights framework, and should be subject to training and accountability mechanisms to promote and monitor compliance.

The effective implementation of international human rights norms is premised on adherence to the rule of law, i.e. that no person is above the law, and that the law of the state applies to every person equally, without discrimination, whether a private person or a public official. Accordingly, police organisations and individual officials have an obligation to act within the bounds of the law, and the state has the obligation to ensure clear laws and adequate training and to promote compliance with the law.

### **The International Covenant on Civil and Political Rights (1976)**

The ICCPR seeks to create conditions in which all people can enjoy civil and political freedom and affirms and provides more detail on the rights contained in the UDHR. An important principle of these instruments is the indivisibility of rights. In other words, no single right is considered as being more fundamental than any other right. The ICCPR (in Article 26) provides for equal protection before the law and specifically prohibits discrimination based on 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status'. 'Sex' as used in the ICCPR includes sexual orientation, thereby making discrimination against sexual minorities a violation. In relation to people deprived of their liberty, the ICCPR outlines the rights of detained and arrested people which include the right to be treated with humanity and respect for the inherent dignity of the person (Article 10). It stresses that everyone charged with a criminal offence shall be presumed innocent until proven guilty (Article 14(2)), and sets out the rights of an accused person. The ICCPR also deals with rights such as privacy (Article 17), freedom from cruel, inhuman and degrading treatment or punishment (Article 7), and the right to freedom of movement (Article 11), peaceful assembly and association

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(Article 21). It obligates states to protect individuals from mistreatment inflicted by those acting in an official as well as private capacity.

### **The Convention on the Elimination of Discrimination Against Women (1979)**

The Convention draws attention to gender-related dimensions of human rights issues. It emphasises the equality of women in all spheres of life and prohibits discrimination against women in all its forms (Article 2), including in relation to health care whilst in confinement (Article 12).

### **The International Covenant on Economic, Social and Cultural Rights (ICESCR)**

The ICESCR recognises all people's right to 'the highest attainable standard of physical and mental health' (Article 12). This is guaranteed without discrimination based on 'sexual orientation or other status, among other rights'.

### **The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)**

The CAT requires states to protect sexual minorities from abusive police practices and hold the police accountable for such practices (Articles 2, 4). This is particularly relevant as sexual minorities are vulnerable in police detention and custody. Article 13 of the CAT requires states to protect witnesses and complainants against incitement or intimidation as a result of filing a complaint or providing evidence of violations of the treaty (Articles 12 and 13).

### **The United Nations Human Rights Council Resolution on the Protection against violence and discrimination based on sexual orientation and gender identity 30 June 2016**

The Resolution addresses the multiple, intersecting and aggravated forms of violence and discrimination faced by persons on the basis of their sexual orientation and gender identity. It also reaffirms that all human beings are born free and equal in dignity and rights, and that everyone is entitled to all the rights and freedoms set out in the UDHR.

### **The United Nations Human Rights Council Resolution on Human rights, Sexual Orientation and Gender Identity 26 September 2014**

This Resolution asserts the universality of human rights and expresses grave concern at acts of violence and discrimination, in all regions of the world, committed against individuals because of their sexual orientation and gender identity. It aims to end such violence and discrimination.

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## **Beijing Declaration and Platform for Action of 1995**

The Beijing Declaration identified the issues and concerns of the world's women at the end of the 20th century, including women's human rights, women and poverty, women and decision-making, the girl-child, and violence against women. Governments and the UN agreed to promote 'gender mainstreaming' in policies and programmes and to undertake other concrete actions in an effort to eliminate all forms of discrimination against women in both public and private life.

## ***African treaties and conventions***

Africa has embraced this rights agenda through the adoption of an African Charter on Human and Peoples' Rights and its subsequent guidelines and conventions.

### **The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women of 2005**

The Protocol on the Rights of Women builds on the African Charter to focus on the need to promote and protect women's rights. It calls for an end to violence against women, and specifically recognises protection from sexual violence as inherent in the right to dignity. Article 3 obligates parties to protect women from all forms of violence 'particularly sexual and verbal violence.' Similarly, Article 4(2) calls for the enactment and enforcement of laws prohibiting all forms of violence against women 'including unwanted or forced sex whether the violence takes place in private or public.'

### **African Charter on Human and People's Rights**

This Charter sets out the fundamental human rights to which countries in Africa have committed. Article 2 deals with the right to non-discrimination on the basis of sex or other status. Article 3 guarantees equal protection before the law and equal protection of the law. Article 5 protects the right to freedom from cruel, inhuman and degrading treatment and dignity. The right to liberty is protected in Article 6 and Article 7 guarantees fair trial rights for all.

### **Protocol To The African Charter On Human And Peoples' Rights On The Rights Of Women In Africa**

This was adopted to ensure the enforcement of women's human rights in the African legal framework and to eliminate all forms of discrimination and harmful practices against women (Article 2). It includes several protections specific to women, including reproductive choice and autonomy in Article 14 and the right to dignity in Article 3 which calls on states to adopt and implement appropriate measures to prohibit any exploitation or degradation of women.

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## **Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa**

The Guidelines are an authoritative interpretation of the African Charter on Human and Peoples' Rights and offer specific details on the measures state parties to the Charter need to take to uphold, protect and promote the rights of people in the criminal justice system. They aim to improve the treatment of persons subject to arrest, police custody and pre-trial detention to ensure that such treatment complies with relevant international norms.

## **Principles And Guidelines On The Right To A Fair Trial And Legal Assistance In Africa**

Articles 7 and 26 of the African Charter provide for the right to fair trial. The guidelines elaborate on principles concerning this right and further strengthen and supplement these provisions. One of the essential elements of a hearing (2 (b)) is equality of all persons before any judicial body without any distinction whatsoever as regards sex and other status and respect for the inherent dignity of people, especially women, who participate in legal proceedings as complainants, witnesses, victims or accused (2 (d)).

## ***Sub-regional initiatives***

### **South African Regional Police Chiefs Cooperation Organisation (SARPCCO) Code of Conduct**

SARPCCO was established in 1995 to foster cooperation and mutual assistance amongst the police in Southern African countries. The SARPCCO Code of Conduct is derived from a range of international and regional human rights instruments supplemented by specific guidelines on police. It is a set of minimum professional standards for police forces and services in the region. It refers to fundamental human rights principles, including respect for human rights (Article 1); non-discrimination (Article 2); prohibition of torture and cruel, inhuman and degrading treatment (Article 4); and protection of persons in custody (Article 5). It acknowledges police responsibilities in protecting and serving members of the public, irrespective of gender, ethnic or religious affiliations, and victims of crimes.

### **SADC Strategic Indicative Plan of the Organ on Politics, Defence and Security Co-operation (SIPO II)**

SIPO II succeeds the original Strategic Indicative Plan, adopted in 2004 for a five-year period. It provides guidelines for implementing the SADC Protocol on Politics, Defence and Security Co-operation, which provided an institutional

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framework for cooperation by member states. It covers five key sectors: Politics; Defence; State Security; Public Security; and Police. The police sector focuses on law enforcement agencies responsible for transnational organised crimes such as drug trafficking, unlawful possession of firearms and stock/property theft. SIPO 2 seeks to ensure an adequate response to challenges posed to the SADC Region.

### **SADC Protocol on Gender and Development 2008**

This Protocol was adopted in 2008 and was updated in 2016 to align it to the post-2015 Sustainable Development Goals. It brings together African and global goals on gender equality and enhances these through targets and timeframes. It encompasses ten thematic areas including Constitutional and Legal Rights; Gender-based Violence; Health; and HIV and AIDS. The Protocol aims to advance gender equality and women's empowerment and promotes action to end violence at individual and community levels.

### **SADC Protocol on Health 1999**

The Protocol on Health coordinates regional efforts and strategies to address the health needs of women, children and vulnerable groups. It seeks to ensure that those who are often stigmatised or who struggle to access health services are assisted.

### **SADC Protocol on Trafficking and Illicit Drugs 1996**

This Protocol covers all aspects of drug control including money laundering, corruption, and reduced demand and supply. It covers international conventions to which member states should accede, guidelines for domestic legislation, cooperation through mutual legal assistance and effective law enforcement. The Protocol also encourages member states to establish drug demand reduction institutional programmes and effective measures between enforcement agencies to curb corruption.

### **SADC Strategic Plan of Action to Combat Trafficking in Persons, Especially Women and Children (2009–2019)**

The Strategic Plan was adopted by the SADC Council of Ministers in August 2009 in Kinshasa, DRC. It is a ten-year strategy which aims to facilitate the establishment of an enabling policy and legislative environment to reduce trafficking in persons and enhance the capacity of member states to implement comprehensive policies, strategies and legislation on such trafficking. It sets out methods and areas of cooperation to combat all areas of human trafficking, especially of women and children.



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## Appendix 2: Roles, Responsibilities and Policies relating to LGBTI people, Sex Workers and People who use Drugs

### LGBTI people

The Bill of Rights in the Constitution of the Republic of South Africa, 1996, includes a guarantee of equality and prohibition of unfair discrimination on several grounds, including gender, sex and sexual orientation. South African LGBTI people have achieved substantive equality in terms of the law. Unfortunately legal rights do not always translate into attitudinal change and full acceptance. The Constitution has guided legal reform to prevent discrimination and promote equality.

Over the years, our Parliament has shown the government's dedicated commitment to the constitutional protection guaranteed to LGBTI people. However, we cannot be oblivious to the increasing level of violent crimes directed at LGBTI persons. According to a survey conducted by the Human Sciences Research Council in 2007, more than 80% of the South African population considered homosexuality as 'always wrong'. These homophobic views and beliefs are largely connected to issues of gender since discrimination and resulting violence is often triggered by the victim's non-conformance to patriarchal gender and sexuality norms and roles prescribed by society. In many communities, same-sex relationships are still perceived as non-conforming to the dominant societal norms which define heterosexuality as the only acceptable form of sexuality.

These perceptions often expose LGBTI persons to hate speech and violent behaviour that sometimes cost them their lives. While harassment and violence occur across all communities, research shows that the working class and poor black LGBTI people who live in townships and rural areas are subjected to more violent homophobic and transphobic crimes. The fact that they are much less likely to have the means and resources to access protection, justice and redress through either criminal or civil law remedies increases their vulnerabilities. This violence reinforces existing social inequalities based on gender, sexuality, race and class, and consequently widens the gap between rights 'as enshrined in the Constitution' and rights 'as they are lived'.<sup>43</sup>

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43 Department of Justice and Constitutional Development. Working with diverse communities. Understanding sexual orientation, gender identity and expression: a guide for service providers (2016); DoJCD: Pretoria.

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The purpose of the police is to work with the community to reduce violence, crime and fear.<sup>44</sup> The social environment we live in today is very complex and diverse, making it more important than ever for police officers to actively build and maintain a professional and collaborative relationship with sexuality and gender diverse communities.

### **Sex workers**

International human rights laws aim to ensure that human rights guarantees are realised by states, as subjects of international law, for all the people within their territories. The focus should be on respecting, protecting and fulfilling the human rights of the most vulnerable people; those who are marginalised by social institutions and subjected to human rights abuses.<sup>45</sup> Sex workers deserve to be treated with dignity and to enjoy the human rights guaranteed to all people. In addition, as women, sex workers should be afforded the particular human rights that are extended to women under international treaties and agreements.

South Africa has signed and ratified many international treaties pertaining to human rights. All of the treaties listed in that section also apply to sex workers even though their work is criminalised. Unfortunately, there are no sex work-specific international or regional treaties. However, treaties have been enacted to provide protection for people who are forced to sell sex and exploited.

Relevant Acts:

- Criminal Procedure Act
- South African Police Act
- Standard Operating Protocol in relation to the detention of transgender persons
- Protocols relating to detention
- Sexual Offences Act 23 of 1957
- Criminal Law Amendment Act (Sexual Offences and Related Matters) Act 32 of 2007

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44 Department of Justice and Constitutional Development. Working with diverse communities. Understanding sexual orientation, gender identity and expression: a guide for service providers (2016); DoJCD: Pretoria.

45 South African Law Reform Commission, Discussion Paper, 0001/2009, 'Adult Prostitution', page 87, para 5.1

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Police orders:

1. Standard Operating Protocol in relation to the detention of transgender persons
2. Standing Order General 361
3. Standing Order General 349.2
4. Standing Order General 341

## Drug use and people who use drugs

Legislation, policies and oversight

South African law and policy is guided by a number of Conventions:

- **The Single Convention on Narcotic Drugs, 1961 as amended by the 1972 Protocol** is an international treaty relating to the prohibition of use, possession, manufacture, trade, distribution, and import or export of certain substances when they are not being used for medical purposes.
- **The Convention on Psychotropic Substances, 1971** extends the reach of the 1961 Convention to include psychotropic drugs (such as amphetamines). These were not previously included.
- **The Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988** sets international standards for responding to trafficking and related activities, such as money laundering and the control of precursor substances (basic ingredients used to manufacture drugs, which may themselves be legal). The focus is on international co-operation to counter cross-border trafficking.

South African Acts governing drugs include:

- The Medicine and Related Substance Control Act 101 of 1965. This Act outlines scheduled substances and if, how and when they may be manufactured, traded, possessed and used. It covers all substances officially recognised as medicines or drugs. All substances in Schedule 7 are illegal to manufacture, trade, possess or use unless special permission has been granted by the Director General of Health. Other substances, such as medication, are only legal when they are manufactured, distributed, used, and possessed in line with this legislation. This Act has been amended many times, most recently in 2002.

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- The Drugs and Drug Trafficking Act 140 of 1992. This provides for the prohibition of certain substances and the control of use, possession, or trade of others. The level of control of substances is subject to the way in which they are scheduled. It further outlines the law enforcement powers of entry, search, seizure and detention in specified circumstances and the recovery of the proceeds of trafficking.
  - Prevention of and Treatment for Substance Abuse Act 70 of 2008. This outlines treatment efforts and the requirements of treatment centres. It also outlines the processes for referring people in the legal system for involuntary admission to treatment centres and allows for the establishment of the Central Drug Authority.

**The Central Drug Authority** is a national body that oversees the design and implementation of the national response to substance abuse. The Act states that the response should be outlined in a National Drug Master Plan, which should be renewed every five years. In addition each province should develop a 'Mini Drug Master Plan' to guide provincial implementation of national policy.

**The National Drug Master Plan** is the main national policy document. It outlines how drug use should be understood and responded to by a range of government departments. The current National Drug Master Plan (2013–2017) sets out the responsibilities of many departments in tackling drug abuse.

Key responsibilities outlined for the Department of Correctional Services include engagement in security strategies that contribute to the prevention of drugs entering the correctional centres; reducing demand by means of educational programmes; and implementing harm reduction strategies and rehabilitation programmes for those offenders suffering from substance abuse, in line with Department of Health protocols.

The Department of Justice is tasked with reducing the supply of and demand for illicit drugs. The NDMP also indicates that the role players in the Department should be able to recognise substance use in order to identify those in need of treatment; ensure that such treatment is provided; and that young and non-violent offenders should be diverted to treatment programmes instead of going through the court system.

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## LGBTI Youth<sup>46</sup>

1. Misinformation and bias have long subjected LGBTI youth to unfair and unlawful treatment, including identity-based criminalisation, unwarranted and prolonged incarceration and verbal, physical and sexual abuse.
2. These policies erase and harm people whose gender falls outside this narrow construction. For example, when juvenile justice personnel routinely place transgender girls in male housing units without consideration for their safety or the psychological impact, they erase a core aspect of the transgender youth's identity and potentially jeopardize their health and safety. Juvenile justice systems must acknowledge the diversity and complexity of gender and sexuality in order to provide individualised services that promote the health and well-being of each young person in their care and custody.
3. Decisions based on erroneous assumptions could subject the youth to unsafe conditions by failing to take their specific needs into account. To reach an informed decision, the intake officer must have reliable, accurate information, which is best obtained directly from the youth.
4. The abuse experienced by LGBTI youth on the streets is more pervasive in detention and correctional settings. Virtually all juvenile custodial personnel concede that youth who are perceived to be gay or lesbian or to transgress gender norms are at heightened risk of verbal, physical and sexual assault in secure settings.
5. Intake personnel may also classify youth who are perceived to be LGBTI as sex offenders, based on the prevailing myth that gay and lesbian youth are more likely to engage in coercive sexual conduct.
6. Custodial staff further imperil LGBTI youth by ignoring or minimising harassment directed at them by their peers or staff, or subjecting them to religious proselytizing or homophobic rhetoric.
7. LGBTI youth also experience disproportionately high levels of sexual abuse in detention and correctional settings.

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46 E Casey, *A Guide to Juvenile Detention Reform: Lesbian, Gay, Bisexual and Transgender Youth in the Juvenile Justice System* (2015); Baltimore: Juvenile Detention Alternatives Initiative.

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## Appendix 3: Transgender people

### Frequently Asked Questions: Transgender Suspects and Offenders

*Why should a transgender person who breaks the law be treated differently from any other suspect or offender?*

Many unique issues arise in the handling of transgender suspects and offenders – including protection of their safety, provision of appropriate health care, and specific concerns around confidentiality and privacy. Addressing the specific concerns of transgender suspects and offenders promotes the smooth running of any police station or detention facility. In addition, as per human rights law, criminal justice facilities are expected to accommodate the special needs of transgender detainees.<sup>47</sup>

*How do I know if a person is transgender?*

There is no reliable way of knowing if a person is transgender unless they reveal this information. Just as there is great variation in what non-transgender people look like, transgender people have a wide variety of physical appearances and clothing, mannerisms, etc. Some transgender people are perceived by those around them to be transgender, while others are not visually recognisable as transgender. Some people who you might think look transgender may not think of themselves in this way.<sup>48</sup>

*If I'm not sure if someone is trans, can I ask?*

For most people – including transgender and non-transgender people – questions about their gender, or incorrect gender attributions (e.g., referring to a woman as 'he'), can be distressing. Because of this, questions about a person's gender should be handled with great sensitivity and caution, and should only be asked on a need-to-know basis (not because you are curious).<sup>49</sup>

*How do I know if an inmate is legitimately trans, or just trying to get special treatment?*

The 'special treatment' transgender people are entitled to relates to their access to transition-related health care (hormones, surgery, and psychiatric evaluation)

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47 J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

48 J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

49 J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

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and to protecting their safety. In this sense, these aren't really 'special treatment', nor are they privileges that will be sought by non-transgender inmates.<sup>50</sup>

*How should I refer to a transgender person?*

For many transgender people, being asked questions about their gender can be distressing. Therefore any questions about a person's gender identity should be handled with sensitivity and caution. Some people may be upset by being asked questions – but if you ask gently and non-confrontationally, most will understand you are trying to do your job, and doing your best to be sensitive and respectful. Any questions should be asked on a strictly need-to-know basis, not out of curiosity.<sup>51</sup>

In general you should always use the gender pronoun (he/she) that matches the way in which a person is dressed and is expressing their gender (hairstyle, makeup, shoes, name, etc.), even if their gender expression/presentation does not match the sex marked in their ID document.

*If I'm not sure what a person's gender is, should I say her, him, or it?*

Given that there is no reliable way of knowing if someone is transgender unless they reveal this information, you might benefit from using these guidelines with every person, not just those you suspect might be trans, so as to avoid incorrect assumptions about a person's gender.

The term 'it' is considered dehumanising and should never be used. If someone has disclosed to you that they are a man (including those transitioning from female-to-male [FTM]) or a woman (including those transitioning from male-to-female [MTF]), use the gender pronoun that matches the person's gender – he/him for men (including FTMs) and she/her for women (including MTFs).

*If you don't know a person's gender, you will have to consider other options.*

- Try to use language that avoids gendered terms (e.g., use 'this person', 'they', or the individual's name instead of 'he' or 'she').
- Use the gender pronoun that matches the way a person is dressed and other cues of gender expression (hairstyle, makeup, shoes, name, etc.). For example, a masculine looking person in a dress will generally appreciate being called 'her'. If a person has checked M or F on a form, you should refer to them as they have indicated.

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50 J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

51 [www.rhvp.ca](http://www.rhvp.ca)

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- Ask in a way that is respectful. To avoid giving offence, you could try inquiring indirectly by asking, 'Can I refer to you by your first name, or would you prefer to be called...' and hoping they indicate a title (Mr., Ms., Mrs., etc.) or a pronoun that gives you a cue. If you are not sure, try a pronoun and see what the response is, or directly ask which gender pronoun the person would prefer. Some people will be upset by a direct question, but if you are gentle and non-confrontational, most will understand that you are doing your best to be sensitive.

An individual's gender identity and transgender status may be determined by:<sup>52</sup>

- self-identification by the individual
  - statements regarding their preferred name or pronouns
  - an individual's appearance
  - court, medical, identification, or other records or documentation
  - other factors that may come to light during standard intake procedures
- It is important to understand that while some individuals may self-identify during intake questioning, people may use a variety of terminology to describe their identity depending on their cultural background and age, e.g., a person may self-identify as transgender, gender-nonconforming, or any one of many terms that have similar meanings.<sup>53</sup>
  - Some transgender people may describe themselves simply as gay, regardless of their actual sexual orientation.
  - Some people may not use identity terms at all but instead make statements along the lines of, 'I am trapped in the wrong body,' or 'I am really a woman.'
  - When reviewing a person's identification documents, court, or medical records, or other documentation, staff should determine whether these documents identify a person as transgender or if they use a gender marker that is different from the gender the individual is living and outwardly presenting as.<sup>54</sup>
  - For transgender people who were recently arrested, it is not uncommon for their arrest reports to note that they were dressed in women's clothing at the time of arrest.
  - In other cases, an individual's appearance (e.g., clothing, wig, hair and grooming, makeup, breasts, etc.) or preferred name may indicate to staff that a person may be transgender.

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52 J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment*; (2014); Washington DC: National Center for Transgender Equality.

53 J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment*; (2014); Washington DC: National Center for Transgender Equality.

54 J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment*; (2014); Washington DC: National Center for Transgender Equality.



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- Where an officer has reason to doubt a detainee's self-identification as transgender, the officer may ask the detainee specific questions, in private, to verify the detainee's status.

## Transgender-specific provisions related to searches

SAPS Transgender SOP for the Wesrtern pe states that:

All searches must be conducted in terms of Section 29 of the Criminal Procedure Act, Act 51/1977 with strict regard to decency.

1. To determine from the transgender detainee in a sensitive manner what is his/her sex and gender
2. The member must explain to the detainee that a biological male will be searched by a male police official and a biological female person will be searched by a female police official
3. The member will proceed to conduct the search in a decent manner having due regard for the status of the person
4. Transgender persons should not be subjected to unnecessary undressing and in the event that a transgender person needs to be subjected to an intimate search it should be conducted as stated in the provisions of DO(G) 361 Part 11(2)

### A note on 'intimate'/strip searches<sup>55</sup>

- Strip searches, even when conducted in a professional manner, are an extremely unpleasant and often humiliating experience for any detainee.
- Searches of transgender detainees should be prohibited for the purpose of determining genital status or for other non-legitimate purposes such as to punish or humiliate the transgender detainee or to amuse staff members.
- There should be increased privacy for transgender detainees during strip searches as these types of searches are often done in group settings. Strip searches of transgender detainees must be conducted out of sight of other detainees and staff members who are not necessary for the search.<sup>56</sup>
- Whether or not a person self-identifies as transgender, comments made during a strip-search should be professional in nature and not derogatory; it is not appropriate to comment on the appearance of genitals, breasts, or other body parts.

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<sup>55</sup> J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment*; (2014): Washington DC: National Center for Transgender Equality.

<sup>56</sup> J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment*; (2014): Washington DC: National Center for Transgender Equality.

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## Lodging/Accommodating a Transgender Detainee

Due to their gender expression or presentation, transgender detainees might be subject to abuse or harassment by other detainees. Some facilities have attempted to address this by placing transgender detainees in protective custody. However, there are concerns that these units often house known sexual offenders and predators and are thus an unsuitable environment for people vulnerable to sexual exploitation and violence.<sup>57</sup>

The alternative chosen in some instances – placement in solitary confinement – is also not ideal as a long-term solution, as long term isolation can damage the detainee’s mental and physical health and increase the risk of suicide attempts or other self-harm.

For police detention of transgender people, the following issues should be considered:

1. What facility would provide the safest environment for the detainee?
  - a. Is it safer to place them in a male facility or a female facility?
  - b. Which unit within the facility is safest for them?
2. What is the detainee’s general appearance? (i.e. what gender does the detainee live and identify as?)
3. Consider the detainee’s physiology (i.e. has the detainee had physical surgery?)

Some transgender people have been prescribed hormones as a critical part of their physical transition. Requests to continue this treatment should be accommodated in accordance with existing police procedures.

SAPS Transgender SOP states that:

All arrested persons must be detained in terms of SO (G) 361; however the following additional principles apply in respect of transgender persons:

1. All transgender persons should be detained in separate detention facilities at the police station where the person was arrested.
2. In the event of a separate detention facility not being available at the police station where the arrest was effected the transgender person must be transported and be detained at the identified detention facility within the cluster.

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<sup>57</sup> [www.rhvp.ca](http://www.rhvp.ca)

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3. An arrested transgender person must be recorded in the gender column of the Custody Register (SAPS 14) with a red pen as 'T'.

The Western Cape SAPS Transgender SOP states:

#### Conduct of Members when Interacting with Transgender Persons

1. Members must always act in a professional manner when dealing with transgender persons;
2. Members should refrain from ridiculing or using abusive/insulting language when interacting with transgender persons and revealing the sexual orientation to other detainees;
3. Members should refrain from using unnecessary force including the use of pepper spray when arresting transgender persons;
4. Members must refrain from victimising/discriminating against transgender persons because of their gender identity;
5. Members must refrain from removing wigs and prosthetics, unless the removal is required for purposes of searching the person. The removed items should be returned to the person unless it cannot be returned for their own safety during the period of detention or in the event of the items being required for purposes of evidence.

*What about some guy putting on a dress to get into the women's bathroom? Isn't this a threat to women's safety?*

Anyone using a bathroom inappropriately (e.g., exposing their genitals to others) can be arrested and charged on the basis of their illegal behaviour, regardless of their gender. Transgender people use bathrooms for the same purpose as other people, not for exhibitionism or peeping. In recognition that trans women do not pose any inherent threat to non-trans women, human rights tribunals have upheld the legal right of trans women to access women's bathrooms.<sup>58</sup>

- While a transgender woman might have genitalia that appear similar to a (non-transgender) man's, this does not mean she presents the same risks that a non-transgender male detainee might. There are many reasons for this difference.<sup>59</sup>
- What is most important to understand is that a transgender woman's core psychological identity is as a woman.

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<sup>58</sup> J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

<sup>59</sup> J Marksamer, HJ Tobin, *Standing with LGBT detainees: An Advocate's Guide to Ending Abuse and Combating Imprisonment* (2014); Washington DC: National Center for Transgender Equality.

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- Typically transgender women are uncomfortable with the genitalia they were born with, and are not interested in talking about or having their bodies viewed by others.
  - She may have a strong desire and a medical need for reconstructive surgery, but has been unable to obtain it. In many cases, hormone therapy eliminates both erectile function and fertility.
  - While the overwhelming majority of men are sexually attracted to women, the overwhelming majority of detained transgender women report being sexually attracted to men.
  - While any detainee is capable of engaging in abusive conduct, there is no reason to believe that transgender women present any more risk to their fellow women detainees than other women.
  - Many correctional facilities for youth and adults around the world have successfully housed transgender women with their natal genitalia alongside other women, without experiencing any incidents of abuse by trans women or other detainees.
  - In contrast, sexual abuse of transgender women in men's facilities is a common occurrence.

*Does placement of a transgender woman in a women's setting violate the privacy of other women?*

The mere presence of a transgender woman does not infringe upon the privacy of other female detainees. Again, it is important to remember that regardless of their anatomy or the gender they were assigned at birth, transgender women have a core psychological identity as women. Of course, some detainees may feel uncomfortable or object to sharing a cell with a transgender woman – just as some may feel uncomfortable being housed with a lesbian or a woman with a visible disability. If detainees have questions about a transgender detainee's placement, staff can explain that the placement was made according to official policy, based on all the circumstances, and in the interests of safety and security. Staff can also make clear that the transgender female detainee is a transgender female and not a man. Finally, staff should always make it clear that any harassment or other misconduct by any detainee or staff member should be reported and will be taken seriously.

Facilities are encouraged to provide as much privacy as possible for all detainees to change clothes, shower, and attend to bodily functions, consistent with security needs.

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## Transgender victims of crime

Points to Remember when Responding to Transgender Victims of Crime:<sup>60</sup>

Many transgender people have personally experienced mistreatment from criminal justice personnel or have heard stories of negative encounters from other community members, and as a result may be suspicious, frightened, or non-cooperative.

Cooperation is most likely if you use a respectful tone, explain the process of filing a complaint and pursuing charges, keep the victim updated on the progress of the case, discuss questions relating to safety, and otherwise demonstrate that (a) you are taking the victim's concerns seriously, and (b) you can be trusted to protect the victim's confidentiality and privacy.

- Apparent discrepancies between the victim's name, appearance, and legal sex should be handled with great sensitivity. While questions about gender or sex may be necessary in some cases, it is important that people who have been victimised not be further traumatised by extensive questioning of a personal nature.
- Use the gender pronoun (he or she) that matches the person's overall physical appearance, mannerisms, and name. If you are unsure which pronoun to use, you can use the victim's name; ask, 'How do you prefer to be addressed?' or adopt another strategy that similarly respects the privacy and dignity of the victim.
- Transgender victims of crime may need you to help them find resources to cope with the physical, emotional, and social aftermath. While some transgender people have strong networks of family, friends, and community peers, many are extremely isolated.
- Before making referrals to counselling or crisis services specifically aimed at women or men, it can be helpful to inquire about policies that may restrict access to transgender people. Alternatively, find services that are not gender-specific.
- People who cross-live part-time may want to change their appearance before seeking medical or legal help. Washing, removing makeup, altering their hairstyle, or changing clothing can destroy important evidence. While transgender people should be informed of the value of protecting evidence, they should not be pressured to maintain an appearance that is profoundly uncomfortable for them.

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<sup>60</sup> J M Goldberg, *Trans People in the Criminal Justice System: A guide for criminal justice personnel* (2002); Vancouver: Trans Alliance Society.

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## Appendix 4: Hand outs

### *Power, rank and status*

Purpose of this exercise:

This exercise aims to help us think about power. It helps us understand what types of people we think are powerful and what we think makes them powerful.

Instructions for exercise

1. Rank your set of pictures from the person that you think is the most powerful to the one of the person that you think is the least powerful.
2. Discuss and agree on your final decision about the picture ranking.
3. Choose someone in your group to make notes on the discussion and reasons for your decisions, to present to the larger group.
4. Paste your pictures onto the flipchart paper, with the picture of the most powerful person at the top and that of the least powerful person at the bottom.
5. Paste your flipchart paper on the wall and present your picture selection to the larger group, explaining the reasoning for your group's selection.





## Appendix 5: Evaluation answers

Questions		
Knowledge	True/false	Comment
<i>Human rights, policing</i>		
1. Policing is primarily about enforcing the law.	True	By definition, police are expected to enforce the provisions laid out in the law.
2. Detention starts the moment someone is held in a police cell/ police van.	False	Detention starts the moment someone is in the control of a police officer – which is often from the point that they are put into a police van.
3. A female suspect should only be searched by a female police member.	True	<p>The SAPS WC Transgender SOP states that:</p> <p>All searches must be conducted in terms of Section 29 of the Criminal Procedure Act, Act 51/1977 with strict regard to decency.</p> <p>The transgender detainee's sex and gender should be determined in a sensitive manner.</p> <p>The member must explain to the detainee that a biological male will be searched by a male police official and a biological female person will be searched by a female police official.</p>
<i>LGBTI</i>		
1. It is legal for two men to marry in South Africa.	True	The Marriage Act stipulates that people of the same sex can marry. The Constitution protects against discrimination on the basis of sexuality.
2. Homosexuality is a mental illness, which is treatable.	False	In 1975 homosexuality was struck from the American Psychiatrist Association's list of mental illness.



<b>Questions</b>		
3. Biological sex and gender refer to the same thing.	False	Biological sex refers to biological, genetic, or physical characteristics, while gender refers to socially-constructed characteristics. Gender identity is the way an individual privately feels about themselves as being male, female or androgynous.
<i>Sex work</i>		
1. Sex work is criminalised in South Africa.	True	Yes, in both national legislation and by-laws. It is illegal to sell sex or indecent acts for reward. It is also illegal to be involved in the sex industry.
2. People enter sex work for different reasons.	True	For many reasons, but the most common is economic. People in the industry have stated that they earn more in sex work than they would in a factory or as a domestic worker.
3. Have to observe rights pertaining to arrested and accused persons.	True	Even though they may be alleged criminals, Constitutional rights still apply and should be respected.
<i>Drug use</i>		
1. Drug use is criminalised in all countries.	False	Possession of drugs for personal use was decriminalised in Portugal in 2001. A number of other countries including Uruguay and Czech Republic have non-criminalising approaches to managing drug use.
2. South Africa is a signatory to international Conventions on drug use.	True	South Africa is a signatory to three international Conventions related to drug use.
3. Long-term drug use can change the way the brain works.	True	Changes can develop. These are not necessarily permanent and the brain may be able to adapt again when use stops.

<b>Questions</b>	
<b>Attitude</b>	<b>Comment</b>
<i>Human rights, policing</i>	
1. Some restrictions on human rights are justified.	Technically, they can be limited in terms of s36 of the Constitution
2. A violation of human rights is OK if it promotes the greater good.	The Constitution is the supreme law of the land. Similarly, people's constitutional rights are supreme and should be highly respected, promoted and fulfilled. No greater good is greater than the fulfilment and protection of human rights.
3. The community expects us to be tough on criminals.	It is true that communities expect police officers to be tough on criminals. However, this does not give anyone the power to abuse and violate human rights.
<i>LGBTI</i>	
1. Homosexuality is immoral.	The morality of same sex practices largely hinges on 'choice'. Moral choices are those that are aligned to one's nature. Scientific evidence confirms that few people choose the sex of the person they are sexually attracted to—it is in their nature. Homosexuality can thus be viewed as morally right for people who are sexually attracted to people of the same sex, as it is in accordance with their nature.
2. Women only become lesbian if they have been mistreated by men.	No specific psychosocial or family dynamic cause of homosexuality has been identified, including histories of childhood sexual abuse. Sexual abuse does not appear to be more prevalent in children who grow up to identify as gay, lesbian, or bisexual, than in children who identify as heterosexual.
3. People should be free to love whoever they want.	The Constitution highlights individual freedom. Furthermore, no harm is caused to anyone by loving someone.

## Questions

### *Sex work*

1. Sex workers sell sex to feed drug habits.	This is not true. Some sex workers do use drugs, but there aren't many. Often, those who use drugs do so, to try and cope with the complexities and abuse that they experience in the trade.
2. Sex workers are all involved in organised crime.	Not all, but some may be. Some sex workers may look for protection from violent clients and police officers, by pimps or people who are involved in organised crime. This does not mean that they are committing the acts of crime.
3. Sex workers spread diseases.	HIV is highly prevalent amongst the sex worker community because they are a vulnerable and marginalised group. However, sex workers are often sex experts and practice safe sex. This is sometimes not easy, for example, when condom negotiation is difficult because of their conditions of work, or they experience violence by clients with a (sexually) infectious disease.

### *Drug use*

1. People use drugs because they are selfish.	False. There are many different reasons for using drugs. For example, people may have other underlying mental health issues, such as depression; they may be avoiding negative emotions; or they may establish social connections through drug use.
2. People who use drugs are a waste of public resources.	False. Drug use does not stop someone from contributing to society. Often the fact that someone uses drugs is secret. People who use drugs have the same human rights as any other individual.
3. People who use drugs have the same human rights as other people.	Human rights are universal and apply to all people, because they are human.

<b>Questions</b>	
<b>Practices</b>	<b>Comment</b>
<i>Human rights, policing</i>	
1. Human rights are difficult to apply in practice.	Technically, they can be limited in terms of s36 of the Constitution
2. We don't have adequate resources to protect human rights all the time.	The Constitution is the supreme law of the land. Similarly, people's constitutional rights are supreme and should be highly respected, promoted and fulfilled. No greater good is greater than the fulfilment and protection of human rights.
3. Management doesn't take enough responsibility in preventing human rights violations.	While it is true that communities expect police officers to be tough on criminals, this does not give you the power to abuse and violate human rights.
<i>LGBTI</i>	
1. Pre-op transwomen (biologically male people that have not yet undergone medical procedures to transition to women) detainees should be kept in the same cells as men because they have penises.	The law says that this is true, but the subsequent SOP says that they should be held separately.
2. A transwoman in a female cell is a security threat to the other women.	While a transgender woman might have genitalia that appear similar to a (non-transgender) man's, this does not mean she presents the same risks that a non-transgender male detainee might.

<b>Questions</b>	
3. If an individual who is biologically male (has a penis) identifies as a woman, that individual should be referred to as 'her/she' by police officers.	In general you should always use the gender pronoun (he/she) that matches the way in which a person is dressed and expressing their gender (hairstyle, makeup, shoes, name, etc.), even if their gender expression/presentation does not match the sex marked in their ID document.
<i>Sex work</i>	
1. The best way to end sex work is to teach them a lesson by arresting them.	Most officers believe that to deter sex workers you have to arrest them often or make it very difficult for them to work but in fact, people will just find different ways to continue working.
2. Dressing in a particular way and carrying condoms is an indication that the person has the intention to sell sex.	Neither dressing in a provocative way nor carrying large amounts of condoms indicates that someone is going to sell sex.
3. Another way to deter people from selling sex is to chase them out of the area or fine them.	You cannot deter sex workers in this way. They will find different ways to work. Harassing people regularly is a breach of a high court order and a violation of human rights.
<i>Drug use</i>	
1. The best way to reduce demand for drugs is a strong police presence.	Fear does not persuade people to stop using drugs. A far better approach is including people who use drugs in social networks and communities and referring them for help.
2. Carrying any material for the purposes of using drugs is illegal.	This is not stated in South African law.
3. Stop and search is always appropriate with known drug users.	People who use drugs have the same rights to privacy and dignity as any other person.





