

BRAZIL
“REAL DUNGEONS”
Juvenile Detention in the State of Rio de Janeiro

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|--|----|
| I. SUMMARY | 1 |
| II. RECOMMENDATIONS..... | 7 |
| Pretrial Detention | 7 |
| Disciplinary Practices | 8 |
| Complaint Mechanisms and Monitoring..... | 8 |
| Prosecutorial Oversight | 8 |
| Public Defenders..... | 9 |
| Conditions of Confinement | 9 |
| Health and Hygiene | 10 |
| Education and Vocational Training..... | 11 |
| Drug Gangs..... | 11 |
| Girls in Detention..... | 11 |
| Data Collection..... | 12 |
| Federal Funding | 12 |
| III. THE JUVENILE JUSTICE SYSTEM IN RIO DE JANEIRO..... | 13 |
| The Statute of the Child and the Adolescent | 13 |
| Legal Representation | 16 |
| Juvenile Detention in Rio de Janeiro | 16 |
| Efforts to Reduce the Age of Criminal Responsibility | 17 |
| IV. MISTREATMENT BY GUARDS | 23 |
| Beatings by Guards..... | 24 |
| Abusive Disciplinary Practices..... | 26 |
| Impunity | 29 |
| V. “FACTIONALIZATION” AND VIOLENCE AMONG YOUTHS..... | 33 |
| Inter-Gang Violence..... | 34 |
| Segregation by Drug Faction..... | 38 |
| VI. CONDITIONS OF DETENTION | 43 |
| Overcrowding..... | 45 |
| Recreation, Exercise, and Idleness | 46 |
| Contact with the Outside World | 47 |
| Food..... | 49 |

| | |
|--|----|
| VII. HYGIENE AND HEALTH CARE | 51 |
| Bedding and Clothing..... | 51 |
| Personal Hygiene and Access to Water..... | 53 |
| The Outbreak of Scabies | 54 |
| The Right to the Highest Attainable Standard of Health | 55 |
| VIII. EDUCATION | 57 |
| Access to Schooling..... | 57 |
| Vocational Training | 59 |
| The Right to Education | 60 |
| APPENDIX A: DETENTION CENTERS VISITED FOR THIS REPORT | 61 |
| Centro de Atendimento Intensivo-Belford Roxo (CAI-Baixada) | 61 |
| Educandário Santo Expedito | 61 |
| Educandário Santos Dumont..... | 62 |
| Escola João Luiz Alves | 62 |
| Instituto Padre Severino | 63 |
| APPENDIX B: LETTER TO GOVERNOR OF RIO DE JANEIRO | 64 |
| ACKNOWLEDGMENTS | 67 |

I. SUMMARY

They talk about socio-educational measures, but this has nothing to do with education.

—Miguel L., age twenty-one, Instituto Padre Severino

Those places [the juvenile detention centers] are real dungeons. Anyone [can] go to the Educandário Santo Expedito or to Padre Severino and see for themselves. Those institutions don't fulfill their socio-educational function, they reproduce a prison subculture that condemns officials and youths to physical, mental, and moral suffering, and even promotes crime. To fight against this sad situation is to fight for the end of violence and for compliance with the Statute of the Child and the Adolescent.

—Maria Helena Zamora, letter to the editor, *Jornal do Brasil* (Rio de Janeiro), September 25, 2003.

Juvenile detention centers in Rio de Janeiro are overcrowded, filthy, and violent, failing in virtually every respect to safeguard youths' basic human rights. Beatings at the hands of guards are common. "They beat us for any reason," said Dário P., an eighteen-year-old in the Centro de Atendimento Intensivo-Belford Roxo (known as CAI-Baixada). "They'll come into the cells, and that's where they'll beat us." He told us that guards hit him hard enough to leave him with a bloody mouth; once, he said, they hit him in the genitals. "They'll call out your cell numbers—four, five, six!—and we have to undress [to be searched], and if we don't, they beat us."¹

With some 15 million inhabitants, the state of Rio de Janeiro is larger in population than thirteen Latin American countries. The city of the same name evokes iconic images of the white sands of Ipanema's beach, the gondola to Sugarloaf Mountain, and the outstretched arms of the statue of Christ overlooking the southern part of the metropolis. Rio de Janeiro is also the setting for brutal killings of street children (one infamous case in 1993 took place in the shadow of the Candelária church in the city center), armed violence among rival drug gangs and police, and, as this report documents, the routine detention of youths in cruel and degrading conditions.

¹ Human Rights Watch interview with Dário P., Centro de Atendimento Intensivo-Belford Roxo (CAI-Baixada), Rio de Janeiro, July 28, 2003.

Brazil's national juvenile justice law, contained in the Statute of the Child and the Adolescent (*Estatuto da Criança e do Adolescente*), is among the most progressive in Latin America. The statute guarantees youths in detention the right to treatment with respect and dignity, the right to be housed in conditions that meet an adequate standard of health and hygiene, the right to receive weekly visits, and the right to education and vocational training, among other rights. The state's Department of Socio-Educational Action (*Departamento Geral de Ações Sócio-Educativas*, DEGASE), a branch of the state justice secretariat, is the authority responsible for maintaining Rio de Janeiro's juvenile detention centers in conformity with the statute and in a manner that is consistent with international standards.

In fact, DEGASE runs a juvenile detention system that is grossly deficient. Noting that many states are not yet in compliance with the statute, Nilmário Miranda, Brazil's special secretary for human rights, told Human Rights Watch, "The implementation of the Statute of the Child and the Adolescent is still underway, and DEGASE is the most serious case." Referring to São Paulo's infamous juvenile detention system, run by the state Foundation for the Well-Being of Minors (*Fundação Estadual do Bem-Estar do Menor*, FEBEM), he said, "Before [the worst] was FEBEM in São Paulo, but today it is DEGASE."²

Human Rights Watch visited five detention centers in Rio de Janeiro in July and August 2003. One of these facilities, the Instituto Padre Severino, is technically a pretrial detention center for boys, although it held sentenced youths as well when our researchers inspected it. A second, the Educandário Santos Dumont, houses girls who have been sentenced as well as those in pretrial detention. The three remaining facilities, CAI-Baixada, the Educandário Santo Expedito, and the Escola João Luis Alves, are exclusively for sentenced youths.

In addition to beatings and frequent verbal abuse, Human Rights Watch found that youths in many of these detention centers are locked in their cells for one to two weeks at a time as punishment for possession of contraband and other offenses that detention center officials consider severe. The determination is solely at the guards' discretion; there is no hearing, no right to appeal, and apparently no guidelines for guards to follow in meting out punishment. "Due process is nothing," the stepfather of a sixteen-year-old in detention told Human Rights Watch.³ For lesser offenses—getting out of line,

² Human Rights Watch telephone interview with Dr. Nilmário Miranda, special secretary for human rights, April 27, 2004.

³ Human Rights Watch interview with stepfather of youth in detention, Rio de Janeiro, August 1, 2003.

taking food out of the dining hall, or talking during a meal—youths often have to stand or sit in uncomfortable positions for hours at a time.

In spite of the commonplace nature of physical abuse, particularly in the Padre Severino, CAI-Baixada, and Santo Expedito boys' detention centers, most complaints are never investigated by DEGASE. No guard has ever been sanctioned for abusive conduct. One parent of a youth in detention highlighted the disparity between the treatment accorded to youths who resort to violence and that given to guards who engage in similar behavior, asking, "When the kids hit a guard, they take him to the police station. Why don't they do the same with the guards who beat our kids?"⁴

Over one-third of youths arrested in the state of Rio de Janeiro are charged with drug offenses, including drug trafficking. Youths are increasingly involved in the illicit drug trade, and their involvement begins at earlier ages, recent studies have concluded. The use of children under the age of eighteen "for the production and trafficking of drugs" and other illicit activities is unequivocally recognized as one of the worst forms of child labor, meaning that youth involvement in drug trafficking is both a juvenile justice issue and a child labor concern. Strategies to reduce youth involvement in drug trafficking include improving children's access to education, reducing the role of the drug gangs in their lives, providing them with vocational training, and working with employers to develop job programs that give them real alternatives to involvement in the drug trade. If Rio de Janeiro's juvenile detention centers were fulfilling their "socio-educational" mission, they would make efforts to address youth involvement in drug trafficking through rehabilitation programs, in line with a key purpose of the juvenile justice system.

But many of the youths in CAI-Baixada, Padre Severino, and Santo Expedito receive no education whatsoever, in violation of their rights under the Brazilian Constitution and international law. Nor were they receiving vocational training, the rehabilitative service that youths and their parents most often identified as one of their top priorities. "I would give them [professional] courses in there, something to give them an opportunity when they leave. On the street, they'll need a lot. What is the opportunity for employment out there? They need some services, some sort of courses," the mother of a seventeen-year-old in Santo Expedito told us.⁵

The state's juvenile detention centers do not meet basic standards of health and hygiene. Youths often wear the same clothes for three weeks before they are laundered. Many

⁴ Human Rights Watch interview with father of youth in detention, Rio de Janeiro, August 1, 2003.

⁵ Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

share tattered foam mattresses; others sleep on the floor. At night, they must defecate and urinate in plastic jugs because guards will not let them out of their cells to use the toilets. They may not be able to bathe for several days at a time, either because the guards do not allow them to use the showers or because of a lack of running water. Youths in most facilities must depend on their family members to bring them soap, toothpaste, and toilet paper; those who do not have visitors must do without these necessities.

These problems are compounded by the cavalier attitude of many detention center officials, starting with the system's director. "There is a lot less in these children's houses," DEGASE director general Dr. Sérgio Novo said, telling us that Rio's detention centers were cleaner than many of their homes.⁶

As an indication of the lack of cleanliness in Rio de Janeiro's detention centers, youths and staff must endure periodic outbreaks of scabies, a contagious parasitic disease easily transmitted in the overcrowded and unhygienic conditions found in most facilities. Detention centers do not treat youths who contract scabies, increasing the likelihood that it will spread throughout the detainee population. Human Rights Watch wrote to the governor of Rio de Janeiro state in August 2003, urging her to direct DEGASE and the state Secretariat of Health to take immediate steps to provide adequate medical treatment to detained youths suffering from scabies.⁷ As of this writing, we have not received a response. The consequence of such conditions in Rio de Janeiro's detention centers and inaction on the part of its public officials is that "scabies is a problem in all of the facilities in the system," as one public defender told Human Rights Watch.⁸

* * *

This report is based on a two-week fact-finding mission in Rio de Janeiro in July and August 2003, as well as additional information gathered by our researchers between August 2003 and November 2004. During the fact-finding mission, our researchers visited five juvenile detention centers in the state, including the state's only detention

⁶ Human Rights Watch interview with Dr. Sérgio Novo, director general, Departamento Geral de Ações Sócio-Educativas, Rio de Janeiro, July 31, 2003.

⁷ See Letter from Michael Bochenek, counsel, Children's Rights Division, Human Rights Watch, to Exma. Sra. Rosângela Rosinha Garotinho Barros Assed Matheus de Oliveira, governor, State of Rio de Janeiro, August 11, 2003 (reprinted as Appendix B).

⁸ Human Rights Watch interview with public defender, Rio de Janeiro, July 28, 2003.

center for girls, and conducted private interviews with fifty-three youths, six of whom were girls. Our researchers were able to take photographs in every facility.

This is the seventeenth Human Rights Watch report on juvenile justice and the conditions of confinement for children. In the Americas, Human Rights Watch has investigated and reported on juvenile justice issues in Brazil, Guatemala, Jamaica, and the U.S. states of Colorado, Louisiana, Georgia, and Maryland. Elsewhere in the world, Human Rights Watch has documented detention conditions for children in Bulgaria, Egypt, India, Kenya, Northern Ireland, Pakistan, and Turkey. In addition, Human Rights Watch has published a book-length report on conditions in Brazil's adult prisons, one of at least thirty reports in a series on prison conditions in countries around the world.⁹

Prisons, jails, police lockups, and other places of detention pose special research problems because detainees, especially children, are vulnerable to intimidation and retaliation. In the interests of accuracy and objectivity, Human Rights Watch bases its reporting on firsthand observation of detention conditions and direct interviews with detainees and officials. Following a set of self-imposed rules in conducting investigations, Human Rights Watch undertakes visits only when our researchers, not the authorities, can choose the institutions to be visited, when they can be confident that they will be allowed to talk privately with the detainees of their choice, and when they can gain access to the entire facility to be examined. These rules ensure that our investigators are not shown "model" detention centers, "model" inmates, or the most presentable parts of the facilities under investigation. In the rare cases in which entry on these terms is denied, Human Rights Watch may conduct its investigations on the basis of interviews with former detainees, relatives of detainees, lawyers, prison experts, and detention center staff, as well as a review of documentary evidence.

Human Rights Watch takes particular care to ensure that interviews of children are confidential, conducted with sensitivity, and free from any actual or apparent outside influence. It does not print the names or other identifying information of the children in detention whom researchers interview. In this report, all children are given aliases to protect their privacy and safety.

Human Rights Watch assesses the treatment of children according to international law, as set forth in the Convention on the Rights of the Child; the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural

⁹ See Human Rights Watch, *Behind Bars in Brazil* (New York: Human Rights Watch, 1998).

Rights; and other international human rights instruments. The U.N. Standard Minimum Rules for the Administration of Juvenile Justice, the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, and the U.N. Standard Minimum Rules for the Treatment of Prisoners provide authoritative guidance on the content of international obligations in detention settings.

In this report, the word “child” refers to anyone under the age of eighteen. The Convention on the Rights of the Child defines as a child “every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.”¹⁰ This use differs from the definition of “child” in Brazil’s juvenile justice law, which makes a distinction between persons under the age of twelve (who are considered “children”) and those between twelve and seventeen years of age (“adolescents”). For this reason, and because Brazil’s juvenile detention center may hold both adolescents and young adults between up to the age of twenty-one, this report uses the term “youth” to refer to any person between age twelve and twenty-one.¹¹

¹⁰ Convention on the Rights of the Child, art. 1, adopted November 20, 1989, 1577 U.N.T.S. 3 (entered into force September 2, 1990). Brazil ratified the Convention on the Rights of the Child on September 24, 1990.

¹¹ See Estatuto da Criança e do Adolescente, Law No. 8,069 of July 13, 1990, arts. 2, 121. See generally chapter III, “The Statute of the Child and Adolescent” section.

II. RECOMMENDATIONS

Rio de Janeiro's Department of Socio-Educational Action (Departamento Geral de Ações Sócio-Educativas, DEGASE), a branch of the state justice secretariat, has primary responsibility for the administration of the state's juvenile detention system. It should implement Brazil's Statute of the Child and the Adolescent in a manner consistent with international juvenile justice standards. In doing so, it should be informed by the recommendations of the National Council on the Rights of Children and Adolescents (Conselho Nacional dos Direitos da Criança e do Adolescente, CONANDA), the U.N. special rapporteur on extrajudicial, summary or arbitrary executions, the U.N. special rapporteur on torture, and the Committee on the Rights of the Child.¹²

Brazil's federal government provides much of the funding that enables states to maintain detention centers, hire guards and provide services to detained youths. Under a presidential action plan announced in November 2003, the federal government committed additional funding to expand states' capacity to investigate and punish cases of torture, violence and other abuses in juvenile detention centers. Many of the objectives of the action plan remained unfulfilled at this writing one year later.¹³

Human Rights Watch recommends that DEGASE and, as appropriate, other state and federal entities, take the following steps in order to protect the human rights of youths in the state's juvenile detention system.

Pretrial Detention

Judges, DEGASE, police, public prosecutors, and the public defender's office should ensure that youths are held in pretrial detention for no more than the forty-five days authorized by the Statute of the Child and the Adolescent, including any period of time spent in police lockups. Time in police lockups should never be more than the five-day

¹² See, for example, U.N. Economic and Social Council, Commission on Human Rights, 60th sess., provisional agenda item 11(b), *Extrajudicial, Summary or Arbitrary Executions: Report of the Special Rapporteur, Asma Jahangir, Addendum: Mission to Brazil*, U.N. Doc. E/CN.4/2004/7/Add.3 (2004), paras. 71-95; U.N. Economic and Social Council, Commission on Human Rights, 57th sess., agenda item 11(a), *Report of the Special Rapporteur, Sir Nigel Rodley, Submitted Pursuant to Commission on Human Rights Resolution 2000/43, Addendum: Visit to Brazil*, U.N. Doc. E/CN.4/2001/Add.2 (2001), paras. 157-69; Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: Brazil*, U.N. Doc. CRC/C/15/Add.241 (2004), paras. 39-40, 67-69.

¹³ See Presidência da República, Secretaria Especial dos Direitos Humanos, *Plano Presidente Amigo da Criança e do Adolescente, Plano de Ação, 2004-2007* (Brasília: Special Secretariat of Human Rights, 2003); Rede de Monitoramento Amiga da Criança, *Um Brasil para as crianças e adolescentes: A sociedade brasileira monitorando os objetivos do milênio relevantes para a infância e a adolescência* (n.p.: Rede de Monitoramento Amiga de Criança, 2004).

legal limit and should be strictly monitored to ensure respect for youths' rights, including their right to be free from torture and other cruel, inhuman and degrading treatment or punishment.

Disciplinary Practices

DEGASE should establish clear rules of behavior for youths in detention; these rules should specify the consequences of breaking each rule. It should take the following specific measures to ensure that disciplinary practices are in conformity with international standards:

- Prohibit the use of disciplinary measures that involve closed or solitary confinement or any other punishment that may compromise the physical or mental health of the youth.
- Use cell confinement only when absolutely necessary for the protection of a youth. Where necessary, it should be employed for the shortest possible period of time and subject to prompt and systematic review.
- Provide clear guidelines for detention center staff who impose discipline.

Complaint Mechanisms and Monitoring

DEGASE should establish a complaint system independent of guards. All complaints should be investigated thoroughly. Detention center staff who perpetrate violence should be appropriately disciplined and removed from duties that bring them in contact with youths. Particularly serious cases should be referred to the prosecutor's office and judicial authorities for investigation. In addition, DEGASE should permit independent monitoring of detention conditions, either by nongovernmental organizations that promote the human rights of children or by community committees formed for this purpose.

DEGASE should also overhaul its recordkeeping systems to enable it to track allegations of abuse against particular guards and any disciplinary actions taken against them. Accurate and complete employment history files can serve as a powerful deterrent to abuses as well as a useful management tool.

Prosecutorial Oversight

Consistent with their role in monitoring and protecting the rights of children and adolescents, public prosecutors in the child and youth section of the prosecutor's office (Promotoria da Infância e da Juventude) should regularly inspect juvenile detention

centers without notice. They should meet with detention center directors to report deficiencies in detention conditions and should take appropriate action against directors who fail to remedy such deficiencies. When they receive reports alleging that guards have committed abuses against youths in detention, they should investigate those reports and, where appropriate, bring charges against those found to be responsible.

Public Defenders

Public defenders play a vital role in assisting youths with their defense to charges of delinquency and in aiding them with complaints of abusive treatment or substandard detention conditions. Adequate compensation and training are critical to enable public defenders to carry out their mission. The state legislature should provide that public defenders be paid on par with public prosecutors.

Conditions of Confinement

DEGASE and other appropriate state authorities should ensure that conditions of confinement for youths meet all of the requirements of health, safety, and human dignity and comply with the requirements of the Statute of the Child and the Adolescent. As a matter of priority, DEGASE should ensure that youths are housed separately according to their age, physical development, and severity of offense, as required by Brazilian law and international standards; young adults between the ages of eighteen and twenty-one should be housed in separate detention centers or in separate sections of detention centers holding youths under the age of eighteen. DEGASE and other authorities should guarantee youths' rights to receive schooling and professional training, be treated with dignity and respect, receive visits on at least a weekly basis, and have access to items necessary for the maintenance of hygiene and personal cleanliness, as required by article 124 of the Statute of the Child and the Adolescent. Because rehabilitation is served by regular contact with family members and the community, DEGASE should work with other state and nongovernmental institutions to provide external activities for appropriately screened youths, as authorized by article 121, section 1, of the statute.

Many detention facilities in Rio de Janeiro are overcrowded and in an extreme state of disrepair, with the result that they cannot offer conditions of health, safety, and dignity for youths in detention. These facilities should be renovated or replaced. In doing so, DEGASE should observe the following principles:

- Any new detention facilities should be designed for a maximum of forty youths, as recommended by CONANDA.

- New facilities should be “decentralized”; that is, located throughout the state in or near communities in which youths live rather than being clustered in the city of Rio de Janeiro.
- When existing facilities are renovated and new facilities built, living areas should be designed as small dormitories or bedrooms rather than cells, with sanitary facilities accessible from the living areas.
- Common areas should be provided that facilitate interaction among youths. Areas for educational and rehabilitative programming should be available.

Health and Hygiene

DEGASE and the Secretariat of Health should take the following steps as a matter of priority to ensure basic conditions of health and hygiene for youths in detention:

- Conduct thorough medical examinations of all youths in the Escola Santo Expedito, the Instituto Padre Severino, and the CAI-Baixada detention center.
- Provide immediate treatment to all youths found to be infected with scabies and any other infectious diseases, with follow-up treatment as necessary.
- Wash all clothing, bedding, and towels in boiling water and follow the other steps outlined by DEGASE’s health unit to prevent a recurrence of the disease.
- Provide youths with sufficient soap and adequate opportunity to bathe.
- Provide every youth with his or her own mattress and bedding.
- Ensure that living areas and sanitary facilities are cleaned frequently enough to meet all requirements of health and human dignity.

DEGASE and the Secretariat of Health should also ensure that qualified medical professionals are available in each detention facility to attend to the health needs of youths. Following the recommendation of the U.N. special rapporteur on torture, qualified medical professionals should examine every person upon entry to and exit from a place of detention.

In addition, qualified personnel should provide youths with information and instruction on the prevention and control of health concerns most relevant to adolescents, with special attention to the prevention of sexually transmitted diseases and drug abuse. In particular, all youths in detention should have access to HIV-related prevention information, education, voluntary testing and counseling, and means of prevention, including condoms. Following international standards, HIV testing of youths in

detention should only be performed with their specific informed consent, and pre- and post-testing counseling should be provided in all cases.

Education and Vocational Training

In accordance with Brazilian law and international standards, DEGASE and state educational authorities should provide every person held in a juvenile detention facility with an education suited to his or her needs and abilities and designed to prepare him or her for return to society and entry into the work force. DEGASE should work with state educational authorities to ensure that education provided in juvenile detention centers is recognized by schools outside of the detention system so that youths may continue their education in regular schools once they have completed their sentences.

Drug Gangs

Over one-third of youths arrested in Rio de Janeiro state are charged with drug offenses, including drug trafficking. Detention centers should provide these youths with vocational training and other specialized programming to give them alternatives to the drug trade, in line with the rehabilitative purpose and “socio-educational” mission of the juvenile justice system.

Detention centers should take steps to break down the influence of drug gangs on detained youths. In particular, those that automatically segregate youths by actual or perceived factional allegiance should consider gradually integrating youths on a pilot basis, giving due regard for institutional security. As part of this effort, DEGASE should increase the number of staff assigned to units to be integrated, and it should offer those staff members additional specialized training on adolescent behavior management techniques. As smaller, decentralized detention centers are opened, they should be integrated, following the model of the CAI-Baixada and João Luis Alves detention centers.

Girls in Detention

DEGASE should provide appropriate basic medical services for girls, including routine and timely gynecological examinations, and should provide prenatal care for girls who require it. Vocational training should be available to girls in detention, as required by the Statute of the Child and the Adolescent. Girls should have sufficient opportunities for recreation and exercise, including large-muscle exercise.

Data Collection

DEGASE should work with the juvenile court to gather accurate, comprehensive, and uniformly recorded statistics on youths charged in the juvenile court, the sentences they receive, and the detention centers to which they are assigned in order to understand the dimensions of juvenile offenses more fully. These data should be available to the public in a form that fully respects the privacy of the youths concerned. As an example of such an initiative, Rio de Janeiro authorities can look to the efforts by the state of Pernambuco's Secretariat of Administration and Reform (Secretaria de Administração e Reforma) through its InfoINFRA program to collect data for the national child and adolescent information system (Sistema de Informação para a Infância e Adolescência).

Federal Funding

The federal Special Secretariat of Human Rights (Secretaria Especial dos Direitos Humanos) should explicitly take international standards into account in directing federal funds to DEGASE and other states' juvenile detention agencies. It should dedicate a portion of these funds for training of juvenile detention staff on the relevant international standards, the Statute of the Child and the Adolescent, and strategies for dealing with youths in a manner that is appropriate and consistent with these standards. As a condition of federal funding for the construction of new detention units or the renovation of existing facilities, the special secretariat should require that proposed construction or renovation meet the requirements of health and human dignity and the rehabilitative aim of residential treatment and take into account youths' needs for privacy, sensory stimuli, opportunities for association with peers, and participation in sports, physical exercise, and leisure activities.

III. THE JUVENILE JUSTICE SYSTEM IN RIO DE JANEIRO

Just over 1,700 youths between the ages of twelve and twenty-one were in Rio de Janeiro's juvenile justice system in January 2004. Of that total, nearly 900 were awaiting trial or had been sentenced to periods of detention; the rest were on probation or completing community service.¹⁴

These youths are detained under Brazil's national juvenile justice law. Adopted in 1990 in a comprehensive overhaul intended to implement Brazil's obligations under the Convention on the Rights of the Child, the juvenile justice law is on paper a model statute. "The problem is the practice," said Eliana Rocha of the nongovernmental organization Brazilian Family Welfare (Bem-Estar Familiar no Brasil, BEMFAM).¹⁵ Juvenile detention facilities in the state of Rio de Janeiro are overcrowded, understaffed, dangerous, and filthy. Although these institutions are officially termed "socio-educational" centers, they have almost no capacity for or commitment to providing education, vocational training, or rehabilitative services.

The gulf between law and practice is not lost on youths or their parents. As the mother of one detainee told Human Rights Watch, in an ironic play on the Portuguese words "educativo" (educational) and "espancativo" (relating to a bashing), "The system is not socio-education, it is social beating."¹⁶

The Statute of the Child and the Adolescent

Brazil's national juvenile justice law is found in the Statute of the Child and the Adolescent.¹⁷ (The adult criminal justice system is also governed by a single national law.¹⁸) Under the statute, youths aged twelve through seventeen, whom it terms "adolescents," are charged under Brazil's juvenile justice law. The provisions relating to

¹⁴ See Secretaria Especial dos Direitos Humanos, Subsecretaria de Promoção dos Direitos da Criança e do Adolescente, "Levantamento estatístico do número de adolescentes cumprindo medidas sócio-educativas, no Brasil, em janeiro de 2004," www.presidencia.gov.br/sedh (viewed June 23, 2004), tables 2 and 13 (showing a total of 1,706 youths in the juvenile justice system, of whom 896 were in pretrial detention or sentenced to detention or semiliberty and 810 were sentenced to probation (*liberdade assistida*)). Human Rights Watch was unable to get a breakdown of how many of these youths were below the age of eighteen.

¹⁵ Human Rights Watch interview with Eliana Rocha, Bem-Estar Familiar no Brasil, Rio de Janeiro, July 28, 2003.

¹⁶ "O sistema não é sócio-educativo; é sócio-espancativo." Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

¹⁷ Estatuto da Criança e do Adolescente, Law No. 8,069 of July 13, 1990.

¹⁸ See Lei de Execução Penal, Decree-Law No. 7,210 of July 11, 1984.

detention provide that youths may be held in juvenile detention centers up to the age of twenty-one. Delinquent children under the age of twelve are not criminally responsible; instead, they are treated as children in need of protection.¹⁹

Once arrested, a youth under the age of eighteen should be released to a parent or a responsible adult; deprivation of liberty should be limited to serious cases in which the youth's safety or the public order requires it.²⁰ If they are detained, youths may be held in police lockups for no more than five days, after which they must be released or transferred to a juvenile detention center.²¹ Youths who are held in police lockups must be placed "in a section isolated from adults and with appropriate installations."²²

As Human Rights Watch has found elsewhere in Brazil, the five-day limitation does not provide youths with effective protection from mistreatment. Police stations are subject to less independent oversight than juvenile detention centers, and both youths and adults routinely report that they are subjected to beatings and torture at the hands of police during and after arrest.²³ Such abuses often go unreported, as illustrated by one account from the stepfather of a sixteen-year-old boy held in Santo Expedito. The man told Human Rights Watch that his son was not permitted to call him for more than twelve hours after he was arrested. "He was arrested between 11 a.m. and noon, and he didn't call until midnight. He told me that he didn't have a way to call. The police didn't let him," the boy's stepfather said. "I think he was beaten." When asked how he knew, he replied, "Because he had marks on his face, very visible. He couldn't talk because the

¹⁹ Estatuto da Criança e do Adolescente, arts. 2, 105, 121. See also Munir Cury et al., coords., *Estatuto da Criança e do Adolescente comentado: comentários jurídicos e sociais*, 4th ed. (São Paulo: Malheiros Editores Ltda., 2002), pp. 14-15, 334-35.

²⁰ "Comparecendo qualquer dos pais ou responsável, o adolescente será prontamente liberado pela autoridade policial, sob termo de compromisso e responsabilidade de sua apresentação ao representante do Ministério Público, no mesmo dia ou, sendo impossível, no primeiro dia útil imediato, exceto quando, pela gravidade do ato infracional e sua repercussão social, deva o adolescente permanecer sob internação para garantia de sua segurança pessoal ou manutenção da ordem pública." Estatuto da Criança e do Adolescente, art. 174.

²¹ "Sendo impossível a pronta transferência, o adolescente aguardará sua remoção em repartição policial, desde que em seção isolada dos adultos e com instalações apropriadas, não podendo ultrapassar o prazo máximo de cinco dias, sob pena de responsabilidade." Ibid., art. 185, para. 2.

²² Ibid. Separation from adults is a basic requirement of international law. See Convention on the Rights of the Child, art. 37(c) (noting that "every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so").

²³ See, for example, Human Rights Watch/Americas, *Police Brutality in Urban Brazil* (New York: Human Rights Watch, 1997), pp. 28-31; Human Rights Watch, *Behind Bars in Brazil*, pp. 38-44; Human Rights Watch, *Cruel Confinement: Abuses Against Detained Children in Northern Brazil* (New York: Human Rights Watch, 2003), pp. 8-9.

officer was right next to him, with his truncheon (*cassetete*) in his hand. [My son] said he hit his head on the car door.”²⁴

Youths may be held in pretrial detention “for a maximum period of forty-five days”;²⁵ the statute further provides that if an adolescent is placed in pretrial detention, “the maximum and nonextendable period for conclusion of the [judicial] proceedings shall be forty-five days.”²⁶ Despite this legal requirement, Human Rights Watch interviewed youths who told us that they had been held pending trial far in excess of forty-five days. Vitor M., fifteen, told us that he had been in Padre Severino for over ninety days in pretrial detention. He had not spoken to his mother or any other family member during that time, and he feared that they did not know where he was.²⁷ Similarly, sixteen-year-old Romário N. told us that he had been in Padre Severino for ninety days without a sentence.²⁸ Patrícia K., a sixteen-year-old held in Santos Dumont, told us that she had been held for more than 120 days without a sentence.²⁹ A study by the Universidade Candido Mendes and the Rio de Janeiro State University (Universidade do Estado do Rio de Janeiro) found that the forty-five day limitation on pretrial detention was often not observed by state authorities.³⁰

Delinquent youths may be sentenced to any of six “socioeducational measures”: warning, reparations, community service, probation (*liberdade assistida*), semiliberty, and confinement in a detention center.³¹ The strictest of these measures, detention (*internação*), should be imposed only when individually warranted, in exceptional circumstances, and for the shortest possible time.³² This principle conforms to the standard set forth in the Convention on the Rights of the Child, which provides that

²⁴ Human Rights Watch interview with stepfather of youth in detention, Rio de Janeiro, August 1, 2003.

²⁵ “A internação, antes da sentença, pode ser determinada pelo prazo máximo de quarenta e cinco dias.” Estatuto da Criança e do Adolescente, art. 108.

²⁶ “O prazo máximo e improrrogável para a conclusão do procedimento, estando o adolescente internado provisoriamente, será de quarenta e cinco dias.” Ibid., art. 183.

²⁷ Human Rights Watch interview with Vitor M., Instituto Padre Severino, July 29, 2003.

²⁸ Human Rights Watch interview with Romário N., Instituto Padre Severino, July 29, 2003.

²⁹ Human Rights Watch interview with Patrícia K., Educandário Santos Dumont, July 29, 2003.

³⁰ See João Trajano Sento-Sé, “Perfil dos jovens em conflito com a lei no Rio de Janeiro” (Rio de Janeiro: Universidade Candido Mendes and Universidade do Estado do Rio de Janeiro, 2003), p. 19.

³¹ Estatuto da Criança e do Adolescente, art. 112. For a brief description of these measures, see Mário Volpi, ed., *O adolescente e o ato infracional*, 4th ed. (São Paulo: Cortez Editora, 1997), pp. 23-44.

³² “A internação constitui medida privativa da liberdade, sujeita aos princípios da brevidade, excepcionalidade e respeito à condição peculiar de pessoa em desenvolvimento.” Estatuto da Criança e do Adolescente, art. 121.

arrest, detention, and imprisonment of a child “shall be used only as a measure of last resort and for the shortest appropriate period of time.”³³

Under Brazilian law, detention of a youth may last no more than three years and may not extend beyond the age of twenty-one.³⁴ Regardless of the length of the sentence, the judge must reevaluate the decision to detain a child at least every six months. As part of this review process, social workers with the detention centers must file reports twice yearly on each youth in detention. Human Rights Watch heard frequent complaints from social workers and public defenders that judges tend to renew detention regardless of the recommendations contained in the reports. “The judges only do a pro forma evaluation,” one public defender told Human Rights Watch.³⁵

Legal Representation

Brazilian law guarantees youths the right to legal representation, including free legal assistance to those in need.³⁶ Most of the youths interviewed by Human Rights Watch were represented by public defenders. Sir Nigel Rodley, then the U.N. special rapporteur on torture, observed in 2001 that “in many states public defenders . . . are paid so poorly in comparison with prosecutors that their level of motivation, commitment and influence are severely lacking.”³⁷ Many of the public defenders we spoke with in Rio de Janeiro reiterated this point, and in October 2004 the state’s public defenders went on strike briefly to draw attention to the lack of parity in pay between public defenders and public prosecutors.³⁸

Juvenile Detention in Rio de Janeiro

Juvenile detention centers in Brazil are administered by state rather than by federal authorities. Each of the twenty-six states and the federal district has its own organizational structure, develops its own policies, and manages a separate set of juvenile detention facilities. In the state of Rio de Janeiro, juvenile detention centers are administered by the Department of Socio-Educational Action (Departamento Geral de

³³ Convention on the Rights of the Child, art. 37(b).

³⁴ Estatuto da Criança e do Adolescente, art. 121, paras. 2-5.

³⁵ Human Rights Watch interview with public defender, Rio de Janeiro, July 28, 2003.

³⁶ Estatuto da Criança e do Adolescente, art. 111.

³⁷ *Report of the Special Rapporteur, Sir Nigel Rodley*, para. 162.

³⁸ See Associação dos Defensores Públicos do Estado do Rio de Janeiro, “Paralisação – 18 a 22/10,” <http://www.adperj.com.br> (viewed November 17, 2004); “Defensores públicos entram em greve no Rio,” Último Segundo, http://ultimosegundo.ig.com.br/materias/brasil/1774001-1774500/1774031/1774031_1.xml (viewed November 17, 2004).

Ações Sócio-Educativas, DEGASE), an agency of the Secretariat of State for Justice and the Rights of Citizens (Secretaria de Estado de Justiça e Direitos do Cidadão).³⁹

Human Rights Watch visited the state's five juvenile detention facilities. All but one of these centers, CAI-Belford Roxo, are located in the metropolitan area of Rio de Janeiro. In addition to these facilities, the state of Rio de Janeiro administers a triage and reception facility (Centro de Triagem e Recepção) and sixteen centers for youths serving the lesser sanction of semi-liberty, a measure that allows youths some freedom to work in the community and have overnight visits with family members (Centros de Recursos Integrados de Atendimento ao Menor, CRIAMs).

Efforts to Reduce the Age of Criminal Responsibility

There is popular support in Brazil, as in other countries in the region, for reducing the age at which children can be charged in adult criminal courts instead of in specialized juvenile courts. A nationwide poll in December 2003 by the *Folha de S. Paulo*, Brazil's largest newspaper, found that 84 percent of respondents supported a proposal that would charge fifteen-year-olds in the adult system.⁴⁰

Such views stem in part from the inaccurate perception that youths under age eighteen are responsible for the majority of violent crimes.⁴¹ In fact, when São Paulo's Public Security Office examined violent crimes in that state, it found that youths under the age of eighteen were responsible for 1 percent of all homicides, 1.5 percent of robberies by threat or force (*roubos*), and 2.6 percent of armed robberies resulting in death (*latrocínios*).⁴² "These numbers are breaking down the myth of the dangerousness of youths and show that a reduction in the age of criminal responsibility will have a very small, ineffective impact," said Túlio Kahn, a sociologist with the Special Secretariat for Human Rights, speaking of crime rates in São Paulo.⁴³

³⁹ See Decreto No. 32,621 of January 1, 2003 (State of Rio de Janeiro).

⁴⁰ Gilmar Pentead, "84% apóiam redução da maioridade penal," *Folha de S. Paulo*, January 1, 2004, p. C3 (poll taken in December 2003 and based on 12,180 respondents in 396 cities and towns across Brazil).

⁴¹ See, for example, Ministério da Justiça, Secretaria de Estado de Direitos Humanos, Departamento da Criança e do Adolescente, and Instituto de Pesquisa Econômica Aplicada, *Mapeamento da situação das unidades de execução de medida socioeducativa de privação de liberdade ao adolescente em conflito com a lei* (Brasília: Ministério da Justiça, December 2002), p. 19.

⁴² Gilmar Pentead, "Menor participa de 1% dos homicídios em SP," *Folha de S. Paulo*, January 1, 2004, p. C3.

⁴³ "Esses números derrubam o mito da periculosidade dos jovens e mostram que a redução da maioridade penal vai ter um impacto muito pequeno e ineficaz." Ibid.

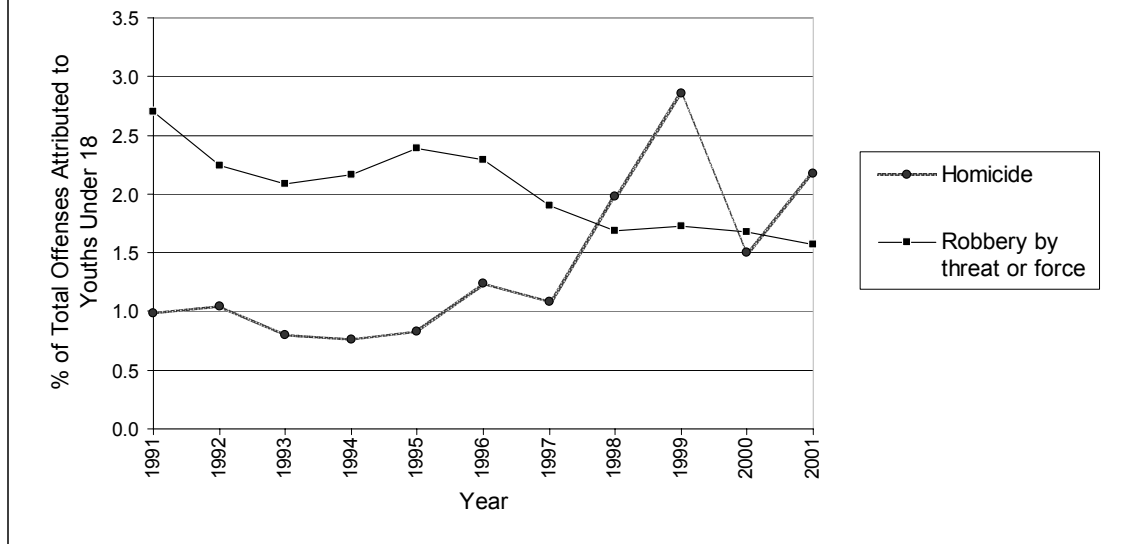
Figures for the city of Rio de Janeiro show similarly low rates for violent offenses committed by juveniles. Youths under the age of eighteen were identified as responsible for approximately 2.2 percent of homicides and 1.6 percent of robberies by threat or force in 2001, according to data from the state public security secretariat.⁴⁴ These numbers do not include unsolved cases or other cases in which the age of the responsible party is not known. Even so, these data suggest that youths under the age of eighteen commit only a small share of the city's violent crime.

In fact, the data indicate that youths under eighteen are responsible for disproportionately *fewer* violent offenses than their share of Rio de Janeiro's population would suggest. In 2000, for example, youths between the ages of ten and eighteen accounted for 12.5 percent of the city's population but committed only 1.5 percent of homicides and 1.7 percent of robberies by threat or force. Even if all of these offenses were attributed to youths aged fifteen to seventeen, who constituted 4.9 percent of the city's population in 2000 and who might be expected to be responsible for most violent juvenile offenses, the juvenile crime rates for these offenses are still lower than would be expected if fifteen- to seventeen-year-old youths committed crimes in direct proportion to their share of the population. The same is true even accounting for fluctuations in the crime rates: Even at their peaks, homicides and robberies by threat or force attributed to youths under eighteen never reached 3 percent in any year between 1991 and 2001, as illustrated by the chart below.⁴⁵

⁴⁴ Núcleo de Pesquisa e Análise Criminal, Secretaria de Estado de Segurança Pública, Coordenadoria de Segurança, Justiça, Defesa Civil e Cidadania, Governo do Estado do Rio de Janeiro, *Anuário estatístico do núcleo de pesquisa e análise criminal* (Rio de Janeiro: Governo do Estado do Rio de Janeiro, 2002), http://www.novapolicia.rj.gov.br/f_aisp2.htm (viewed November 1, 2004). See also Dowdney, *Children of the Drug Trade*, pp. 119.

⁴⁵ Ministério do Planejamento, Orçamento e Gestão, Instituto Brasileiro de Geografia e Estatística, *Censo 2000*, <http://www.ibge.gov.br/censo/default.php> (viewed November 17, 2004).

Figure 1. Violent Crime Attributed to Youths Under Age Eighteen, City of Rio de Janeiro



SOURCE: Núcleo de Pesquisa e Análise Criminal, Secretaria de Estado de Segurança Pública, Coordenadoria de Segurança, Justiça, Defesa Civil e Cidadania, Governo do Estado do Rio de Janeiro, *Anuário estatístico do núcleo de pesquisa e análise criminal* (Rio de Janeiro: Governo do Estado do Rio de Janeiro, 2002), http://www.novapolicia.rj.gov.br/f_aisp2.htm (viewed November 1, 2004). See also Dowdney, *Children of the Drug Trade*, p. 119.

A related misperception is that the vast majority of youths in Brazil's juvenile facilities are detained for acts of violence. In fact, most youths charged under the Statute of the Child and the Adolescent in Rio de Janeiro are detained for nonviolent offenses. In September and October 2002, for example, 537 cases were serious enough to warrant detention in a closed facility (*internação*), the most restrictive of the six "socio-educational measures" authorized by law. Of that total, 148 youths (27.6 percent of the total) were convicted of robbery by threat or force and 46 (8.6 percent) were convicted of homicide. Thirty-one (5.8 percent) were convicted of petty theft. Two hundred thirty-six youths, or 43.9 percent, were convicted of drug trafficking—offenses that are often accompanied by acts of violence but not themselves crimes of violence. (When drug trafficking involves homicide or other violent crimes, those crimes should appear as separate charges.) Including those convicted for drug offenses, at least 315 youths, nearly 60 percent the total number of youths in detention in September and October 2002, were held for nonviolent offenses.⁴⁶ These figures are likely to overstate the prevalence of violent youth crime because they include only the most serious offenses and include all youths in detention during the two-month period without regard to the

⁴⁶ See Ministério da Justiça, Secretaria de Estado dos Direitos Humanos, Departamento da Criança e do Adolescente, and Instituto de Pesquisa Econômica Aplicada, *Mapeamento da situação das unidades*, p. 21.

length of time they have served. In that regard, it is all the more significant that three of every five youths serving sentences in the state's most restrictive facilities were held for nonviolent offenses.

These data indicate that adults, rather than youths under the age of eighteen, are responsible for the vast majority of violent crime in Rio de Janeiro and elsewhere in Brazil. Even so, Brazilian lawmakers periodically propose measures that would lower the age of criminal responsibility, either to permit youths under eighteen to be prosecuted as adults or to allow children under twelve to be adjudicated in the juvenile justice system. To date, President Lula da Silva's administration has energetically rejected such proposals. "Lowering the age of criminal responsibility will not solve anything," Márcio Thomasz Bastos, Brazil's minister of justice, said in remarks to the press in November 2003. Instead, he argued, "The way to lower crime is to increase the effectiveness of the police, the efficiency of the judiciary, and to improve conditions in the prison system."⁴⁷ Nilmário Miranda, minister in chief of the Special Secretariat for Human Rights, has made similar remarks. "Reducing the [age of] criminal responsibility doesn't tackle the roots of violence. Offering more severe penalties for those who lead adolescents into criminal activities is a good proposal to restrict violence," he said in a statement released the same month.⁴⁸

⁴⁷ "Diminuir a maioria penal não resolve nada. A solução para a diminuir a criminalidade é aumentar a eficácia da polícia, a eficiência do Judiciário e melhorar as condições do sistema prisional," pondera. Segundo o ministro, a medida seria inútil e não tem sentido, pois expõe jovens ainda em formação ao convívio 'terrível' do sistema prisional." "Ministro quer sinergia entre estados para combater a violência," *Notícias*, November 13, 2003, <http://www.mj.gov.br/noticias/2003/novembro/RLS131103-sinergia.htm> (viewed April 8, 2004).

⁴⁸ "Reduzir a maioria penal não ataca as raízes da violência. Propor penas mais severas para aqueles que induzem os adolescentes à prática criminal é uma boa proposta para coibir a violência." "Nilmário Miranda e ONGs repudiam redução da maioria penal," November 14, 2003, www.mj.gov.br/sedh/ct/conanda/noticias2.asp?id=82 (viewed April 8, 2004).



During a surprise inspection in July 2003, prosecutors discovered thirteen youths in this dimly lit, poorly ventilated Padre Severino punishment cell, viewed here from the outside. Locked inside for days in close quarters, the youths slept on the concrete floor with no mattresses or bedding.

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Police sealed Padre Severino's punishment cell after prosecutors concluded that it was "inhumane," a finding which DEGASE director general Sérgio Novo dismissed as "fantasy."

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IV. MISTREATMENT BY GUARDS

There are some [guards] who think, who see that they have sons, who know that tomorrow their sons might end up here. They're cool; they understand our situation. . . . With others, it's only hitting. They hit in the face . . . four or five come to hit me. This happens daily.

—Alfonso S., fifteen, CAI-Baixada, July 28, 2003

Once children are transferred to detention centers, they often endure violence at the hands of guards. Contrary to statements by DEGASE director general Sérgio Novo that guards were not generally abusive,⁴⁹ Human Rights Watch heard of repeated cases of abuse that were exacerbated by a lack of an effective system of accountability.

Abusive guards generally enjoy impunity, both in Rio de Janeiro and elsewhere in Brazil. In a striking exception to this rule in May 2004, a former juvenile detention center director and seven other detention center officials in the state of São Paulo were sentenced to seven to ten years in prison for acts of torture they committed in 2001 against five youths.⁵⁰ And in Rio de Janeiro, DEGASE removed the director of Padre Severino and several guards in October 2004 in response to allegations of detainee mistreatment, although at this writing none had been charged criminally.⁵¹

These examples illustrate that impunity need not be the rule. Public prosecutors in Rio de Janeiro have already shown a willingness to investigate abusive conditions of detention in Padre Severino and elsewhere. Their commendable efforts should be reinforced by a committed and sustained investigation of abusive officials, followed by prosecution and punishment where appropriate.

The lack of adequate staffing probably also contributes to abuses against youths. Padre Severino had on average one guard for every thirty youths, a detention official there told Human Rights Watch.⁵² In CAI-Baixada, ten staff members, including the driver and the porter, were assigned to each shift to cover a population of 187 youths. And not all

⁴⁹ Human Rights Watch interview with Dr. Sérgio Novo, July 31, 2003.

⁵⁰ See “Diretor da Febem punido por prática de tortura pelo Poder Judicial,” *Boletim Estatuto Aqui*, May 15-31, 2004, <http://www.ilanud.org.br/boletim9.htm> (viewed June 23, 2004).

⁵¹ Human Rights Watch telephone interview with Dr. Simone Moreira de Souza, November 8, 2004.

⁵² Human Rights Watch interview with detention center official, Instituto Padre Severino, July 29, 2003.

guards were in the detention center on any given day. Coverage was particularly sparse when several youths have their hearings on the same day. “We have to send one agent for each one,” CAI-Baixada’s director told us.⁵³

Finally, the dearth of effective training is likely to be a factor contributing to abusive practices. Many guards have no prior experience with youths apart from the one week training course they receive before they begin to work in a detention center, Peter da Costa, director of João Luis Alves, told us.⁵⁴ Flávio Moreno, the president of ASDEGASE, a union that represents some of the guards in Rio de Janeiro’s juvenile detention centers, reported that detention center personnel have few training opportunities; those that are offered are superficial, he said.⁵⁵ In the view of Sidney Telles da Silva, former director of DEGASE, the lack of adequate training leads to “detention center officials who are not educators, but instead repressors.”⁵⁶

Beatings by Guards

We heard reports of physical abuse by guards in all detention centers we visited. “The guards are very violent,” said a volunteer with a nongovernmental organization that works with detained youths.⁵⁷

In particular, we heard from many youths that such mistreatment was common in Padre Severino. “Padre Severino was very bad,” said Jorge N., a seventeen-year-old who had spent one month there in 2002. “The guards hit the guys. They spoke rudely to us. They lacked respect.”⁵⁸ Vitor M., fifteen, told us that he saw guards in Padre Severino punching youths with their fists and hitting them with wooden sticks.⁵⁹

We heard accounts of beatings by guards in other detention centers. For example, Luis A., sixteen, told us that guards in CAI-Baixada beat him and other youths.⁶⁰ Fernando

⁵³ Human Rights Watch interviews with staff member, CAI-Baixada, July 28, 2003; director, CAI-Baixada, July 28, 2003.

⁵⁴ Human Rights Watch interview with Peter da Costa, director, Escola João Luis Alves, July 29, 2003.

⁵⁵ Human Rights Watch telephone interview with Flávio Moreno, president, ASDEGASE, Rio de Janeiro, November 6, 2003.

⁵⁶ Human Rights Watch interview with Sidney Telles da Silva, executive director, Rede Criança, Rio de Janeiro, August 1, 2003.

⁵⁷ Human Rights Watch interview with volunteer, Rio de Janeiro, July 28, 2003.

⁵⁸ Human Rights Watch interview with Jorge N., Escola João Luis Alves, July 29, 2003.

⁵⁹ Human Rights Watch interview with Vitor M., Instituto Padre Severino, July 29, 2003.

⁶⁰ Human Rights Watch interview with Luis A., CAI-Baixada, July 28, 2003.

R., seventeen, also reported that guards frequently beat him and other youths in Santo Expedito.⁶¹

Reports of such physical abuse were less common in Santos Dumont, the girls' detention center. Mayra J., sixteen, told us that she had not seen any beatings,⁶² while Patrícia K., sixteen, described beatings as rare.⁶³ But other girls gave accounts that were similar to those we heard in the boys' detention centers. "They hit with their fists," eighteen-year-old Flávia L. said of the guards. "That has happened to me twice. The first time it was because I didn't answer. The second time, the guard yelled at me, and I talked back."⁶⁴ And Valéria I., fifteen, reported that she was beaten in a way that did not leave marks on her body during her time there.⁶⁵

The accounts of youths themselves were not the only indication we had of abuse. In some cases, the youths we interviewed showed us cuts and bruises that were consistent with their descriptions of beatings. And when Human Rights Watch talked to a group of parents of detained children, they described seeing visible signs of abuse while visiting their children. For example, one parent spoke of a visit to Santo Expedito in May 2003:

The guards had gone in and hit everybody, beat them up. The boys were bruised, with broken arms, broken legs, covered with blood. I saw this. Fifteen boys called me over to look inside and see how they were. I saw them inside a bathroom. They lifted their shirts to show me the injuries.⁶⁶

In addition to physical violence, verbal abuse by guards appears to be very common, based on the number of complaints we heard from youths. Sixteen-year-old Luis A. told us that guards called him and other children "bandits" and "vagabonds."⁶⁷ Miguel L., twenty-one, reported that guards routinely referred to him as a "bandit," "vagabond,"

⁶¹ Human Rights Watch interview with Fernando R., Educandário Santo Expedito, July 30, 2003.

⁶² Human Rights Watch interview with Mayra J., Educandário Santos Dumont, July 29, 2003.

⁶³ Human Rights Watch interview with Patrícia K., Educandário Santos Dumont, July 29, 2003.

⁶⁴ Human Rights Watch interview with Flávia L., Educandário Santos Dumont, July 29, 2003.

⁶⁵ Human Rights Watch interview with Valéria I., Educandário Santos Dumont, July 29, 2003.

⁶⁶ Human Rights Watch interview with parent of youth in detention, Rio de Janeiro, August 1, 2003.

⁶⁷ Human Rights Watch interview with Luis A., CAI-Baixada, July 28, 2003.

“lowlife,” and “devil.”⁶⁸ Vitor M., fifteen, said that guards repeatedly shouted at him and other youths, “Devils, lower your heads.”⁶⁹

Finally, many of the youth we interviewed expressed fear that they would be beaten for talking with us. After Gilberto P., a nineteen-year-old in Santo Expedito, described being beaten by guards, he told Human Rights Watch that he expected to be hit later that day because he had spoken with us.⁷⁰ We heard similar remarks from other youths in that detention center. (After we toured Santo Expedito, we notified the public defender’s office that a large number of youths in that detention center told us that they expected to suffer abuse in retaliation for meeting with us.)

Under international standards, detention center officials may only resort to force restrictively to prevent a youth from inflicting self-injury, injuries to others, or serious destruction of property. The use of force should be limited to exceptional cases, where all other methods have been exhausted and failed; it should never cause humiliation or degradation.⁷¹ Detention center officials should always inform family members of injuries that result from the use of force. In cases where the use of force results in serious injuries or death, a family member or guardian should be notified immediately.⁷²

Abusive Disciplinary Practices

Excessive Use of Lockup

In addition to beatings and frequent verbal abuse, many youths reported that they were subjected to excessively lengthy periods of lockup.⁷³ In one extreme example, when the public prosecutor’s office conducted a surprise inspection of Padre Severino in July 2003, prosecutors found thirteen youths confined to a cramped and windowless cell. Describing the cell as “inhumane,” officials in the prosecutor’s office told us that guards had beaten the youths repeatedly and that many had respiratory and skin problems

⁶⁸ Human Rights Watch interview with Miguel L., Instituto Padre Severino, July 29, 2003.

⁶⁹ Human Rights Watch interview with Vitor M., Instituto Padre Severino, July 29, 2003.

⁷⁰ Human Rights Watch interview with Gilberto P., Educandário Santo Expedito, July 30, 2003.

⁷¹ See U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. Res. 45/133 (1990), art. 64.

⁷² Rule 56 of the U.N. Rules for the Protection of Juveniles provides, “The family or guardian of a juvenile or any other person designated by the juvenile has the right to be informed of the state of health of the juvenile on request and in the event of any important changes in the health of the juvenile. The director of the detention facility should notify immediately the family or guardian of the juvenile concerned, or other designated person, in case of death or serious injury.” Ibid., art. 56.

⁷³ The international standards governing such practices are discussed in the “Legal Standards for Disciplinary Practices” section, below.

resulting from the close quarters in which they had been confined.⁷⁴ Refuting these statements, DEGASE director Sérgio Novo told Human Rights Watch that the prosecutors' claims were "fantasy." He added, "All they found were thirteen to sixteen children in a room that differed from other rooms in that the door was locked."⁷⁵

We heard of instances of lengthy cell confinement in Santo Expedito and Santon Dumont as well. In Santo Expedito, youths told us that serious infractions led to isolation for one to two weeks in one of two unused wings of the detention center. "I have a friend who was in Gallery E. He was there two weeks ago," Luciano G. told us. "A guard put him in E, he spent a week in E, because the guard accused him of having dope."⁷⁶ Similarly, girls in Santos Dumont told us that they were placed in a punishment cell for one week if they were caught with marijuana.⁷⁷ When we asked Luciano whether there was a hearing or a right to appeal such a decision, he told us he had never heard that youths could take such steps.⁷⁸

Elsewhere, youths reported that they were sent into lockup for much shorter periods. In those instances, the time spent in lockup was apparently completely discretionary. When we asked youths in João Luis Alves what happens if youths fight, for example, youths told us that there was no standard length of time for cell confinement. "You go into lockup, into confinement. That's so you can think about the shit you've done," said Eric T., a fifteen-year-old in João Luis Alves. "You stay there as long as you don't obey the guards. Some stay for one day. Others are there for four days."⁷⁹

Other Punishments

Youths reported the use of other disciplinary measures that may violate international juvenile justice standards. One such practice was to force youths to stand for long periods of time in uncomfortable positions. "We had to stay like this, with our hands up," said Alfonso S., placing his hands on his head to demonstrate. "We stayed like this for eleven hours." He reported that this punishment was imposed in CAI-Baixada after

⁷⁴ Human Rights Watch interview with Dr. Regiane Cristina Dias Pinto and Dr. Clisange Ferreira Gonçalves, public prosecutors, 4o. Centro de Apoio Operacional das Promotorias de Justiça da Infância e Juventude, Rio de Janeiro, July 31, 2003.

⁷⁵ Human Rights Watch interview with Dr. Sérgio Novo, July 31, 2003.

⁷⁶ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

⁷⁷ Human Rights Watch interviews with Alícia Q. and Flávia L., Educandário Santo Expedito, July 29, 2003.

⁷⁸ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

⁷⁹ Human Rights Watch interview with Eric T., Escola João Luis Alves, July 29, 2003.

a rebellion by youths in June 2003.⁸⁰ Dário P., an eighteen-year-old in CAI-Baixada, told us that similar punishments were routinely imposed for lesser infractions. “Sometimes you have to sit in a chair for a long time or stand against the wall with your head against the wall, bent over,” he said. “It’s generally as a punishment. I’ve had to do these things various times. You do it if you get out of the line. That’s one of the reasons for having to do that.” When we asked Dário if there were other reasons for imposing these punishments, he replied, “If you take food out of the dining hall. If they see that you were talking during the meal.”⁸¹ Suspending parental visits was another common punishment, youths told us.⁸²

Legal Standards for Disciplinary Practices

Under international standards, disciplinary practices should maintain safety in a manner that upholds the detainee’s inherent dignity and the rehabilitative purpose of detention.⁸³ In particular, these standards forbid the use of closed confinement, placement in a dark cell, “or any other punishment that may compromise the physical or mental health of the juvenile concerned.”⁸⁴

More generally, disciplinary practices should take into account the fact that contact with peers, family members, and the wider community counteracts the detrimental effects of detention on a child’s mental and emotional health and promotes his or her eventual reintegration into society.⁸⁵ Reflecting this reality, international standards call for the placement of children in the least restrictive setting possible, with priority given to “open” facilities over “closed” facilities.⁸⁶ Every facility, whether open or closed, should give due regard to children’s need for “sensory stimuli, opportunities for association with peers and participation in sports, physical exercise and leisure-time activities.”⁸⁷ In this regard, the U.N. Rules call for detention centers to provide youths with “adequate communication with the outside world”⁸⁸; permit daily exercise, preferably in the open air;⁸⁹ and integrate their education, work opportunities, and medical care as far as

⁸⁰ Human Rights Watch interview with Alfonso S., CAI-Baixada, July 28, 2003.

⁸¹ Human Rights Watch interview with Dário P., CAI-Baixada, July 28, 2003.

⁸² Human Rights Watch interview with Daniel C., CAI-Baixada, July 28, 2003.

⁸³ U.N. Rules for the Protection of Juveniles, art. 66.

⁸⁴ *Ibid.*, art. 67.

⁸⁵ See *ibid.*, arts. 1-3.

⁸⁶ See U.N. Standard Minimum Rules for the Administration of Juvenile Justice (the “Beijing Rules”), G.A. Res. 40/33 (1985), comment to art. 19.

⁸⁷ U.N. Rules for the Protection of Juveniles, art. 32.

⁸⁸ *Ibid.*, art. 59.

⁸⁹ *Ibid.*, art. 47.

possible into the local community.⁹⁰ Consistent with this approach, the “denial of contact of family members should be prohibited for any purpose.”⁹¹

In addition, disciplinary sanctions should be imposed in strict accordance with established norms, which should identify conduct constituting an offense, delineate the type and duration of sanctions, and provide for appeals.⁹² Youths should have an opportunity to be heard in their own defense before disciplinary sanctions are imposed and on appeal.⁹³

When these standards are not met, particularly when youths are confined in close quarters for extended periods of time, disciplinary practices may rise to the level of cruel, inhuman, or degrading treatment, in violation of the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the Convention against Torture.⁹⁴

Impunity

When the kids hit a guard, they take them to the police station. Why don't they do the same with the guards who beat our kids?

—Parent of a youth in detention, Rio de Janeiro, August 1, 2003

Human Rights Watch found that most detention centers failed to investigate complaints of abuses; indeed, most centers had no meaningful complaint mechanism. Abuses persist in part because of the lack of effective and safe complaint procedures, the failure of authorities to investigate reports of abuse promptly, and the resulting lack of accountability for those who commit such abuses.

⁹⁰ Ibid., arts. 38, 45, and 49.

⁹¹ Ibid., art. 66.

⁹² See *ibid.*, art. 68.

⁹³ See *ibid.*, art. 70. See also Convention on the Rights of the Child, art. 12(2).

⁹⁴ See Convention on the Rights of the Child, art. 37(a); International Covenant on Civil and Political Rights (ICCPR), *opened for signature* December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976, and acceded to by Brazil April 24, 1992), art. 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, *adopted* December 10, 1984, 1465 U.N.T.S. 85 (entered into force June 26, 1987, and ratified by Brazil October 28, 1989), art. 16.

Exacerbating the lack of a complaint system, DEGASE does not keep centralized records of staff performance and disciplinary actions. “Right now, [DEGASE] doesn’t know if official A, B, or C has a prior record, a performance history of assaults or other incidents,” Dr. Simone Moreira de Souza, a public defender, told Human Rights Watch in November 2004. Such records, she said, “do not exist.”⁹⁵

Afraid of retribution, children rarely press charges; the few who do frequently drop the charges soon afterward, Dr. Souza told Human Rights Watch. In addition, she reported, social workers and defense lawyers are faced with a difficult choice: they either report the physical abuse or they stay quiet to keep the children safe and expedite their release.⁹⁶

A 2002 case reported in the *Jornal do Brasil*, a Rio de Janeiro newspaper, provides an example of a situation in which the fear of retribution contributed to prosecutors’ inability to secure a conviction.⁹⁷ In that case, the prosecutor’s office brought charges of torture against ten guards at the Centro de Triagem e Reabilitação, a temporary detention center located next to the DEGASE headquarters. Prosecutors accused the guards of placing youths in solitary confinement cells strewn with feces and awash in sewage. The guards reportedly beat the youths and threatened to force the youths to eat the feces. In addition, the guards also instigated fighting among the youths, placing bets on the fights.⁹⁸

The prosecutors’ inspection report detailed the evidence they found to corroborate the accounts of these abuses, including “broom handles and wooden sticks with the extremities covered in cloth” to prevent leaving marks when hitting the children. In addition, the prosecutors reported, “Many of the detainees presented physical lesions that they alleged were caused by beatings from the guards.”⁹⁹

⁹⁵ Human Rights Watch telephone interview with Dr. Simone Moreira de Souza, November 8, 2004.

⁹⁶ Human Rights Watch interview with Dr. Simone Moreira de Souza, Rio de Janeiro, July 28, 2003.

⁹⁷ Marco Antônio Martins, “Territorio livre da tortura: Jovens mentem sobre idade e preferem presídios e internatos do Estado,” *Jornal do Brasil* (Rio de Janeiro), September 21, 2003, <http://jbonline.terra.com.br/jb/papel/cidade/2003/09/20/jorcid20030920001.html> (viewed October 16, 2003).

⁹⁸ “Os denunciados também colocavam os meninos em celas ‘solitárias’ repletas de fezes e água de esgoto no chão, ameaçando-os de terem de engolir as fezes, estimulavam brigas mediante aposta em dinheiro entre os meninos, e davam-lhes tapas e socos, muitas vezes sem motivo aparente . . .” *InformECA*, May/June 2003, p. 3.

⁹⁹ “Em vista de inspeção e fiscalização realizada no CTR, com a presença de delegados de polícia e defensores públicos, foram encontrados pedaços de madeira com as extremidades cobertas de pano, cabos de vassoura e munições para arma de fogo. Também foi constatada a superlotação do local e imundície de banheiros, ‘celas’ e alojamentos. Durante a inspeção, foram constatadas diversas lesões aparentes nos internos, que acusaram em depoimento, os agentes pela prática de tortura.” Ibid.

Although the guards were initially removed from work, they were all eventually acquitted.¹⁰⁰ Erika da Rocha Figueiredo, the public prosecutor who filed the initial charges, explained, “No one wanted to testify, and the excuse given [for youths’ bruises] was that they slipped. If there is no proof, there is nothing that can be done.”¹⁰¹

In other situations in which investigations do take place, their slow pace may hamper resolution of the cases. Dr. Souza recounted a 2004 case in which five guards faced criminal charges for abuses they were accused of having committed. The five were acquitted for lack of evidence, she said. “That means that none of the youths was found. The process took so long that by the time it reached the evidence-gathering stage, the youths had been released, so it was much more difficult to find them.”¹⁰²

Punishment for abusive guards is supposed to range from receiving a warning to being suspended, fired, and imprisoned.¹⁰³ Such sanctions are rarely imposed in practice, although the director and several guards were removed from Padre Severino in October 2004 after they were accused of committing abuses against detained youths.¹⁰⁴ And the sanction may not preclude these officials from taking a similar position at another juvenile detention center. When guards are found to have physically abused youth they are “fired” by being transferred to other centers, another official in the public defender’s office told Human Rights Watch. “To be fired means to be transferred from one center to another,” he told us. In one case in which a youth had been beaten by a guard, he reported, the youth was sent to Padre Severino for his protection, and the “fired” guard was transferred to the same detention center several months later.¹⁰⁵

No guard has been criminally sanctioned for abusive conduct. “There is no history of condemnation of torture [by guards] in Rio de Janeiro,” Dr. Souza told Human Rights Watch in February 2004. “To this day, no guard has been imprisoned for torture.

¹⁰⁰ “De acordo com autoridades e especialistas ouvidos pelo *Jornal do Brasil*, o não afastamento de servidores acusados de maus-tratos contra menores leva as vítimas a optarem pelo silêncio. Resultado de casos como o de dez agentes denunciados pelo Ministério Público estadual, ano passado, pela prática de tortura no Centro de Triagem e Reabilitação (CTR), na Ilha do Governador. Afastados inicialmente do trabalho, todos foram absolvidos.” Martins, “Território livre da Tortura.”

¹⁰¹ “Há um corporativismo muito grande entre os agentes educativos. É muito difícil saber quem praticou a tortura. Ninguém quer depor e a desculpa é de que os menores escorregaram. Se não há provas, não se pode fazer nada - diz a promotora Erika da Rocha Figueiredo, da 8ª Promotoria de Investigação Penal.” Ibid.

¹⁰² Ibid.

¹⁰³ Human Rights Watch interview with Dr. Tadeu, defensor, Segunda Vara da Infância e da Juventude da Comarca da Capital, Rio de Janeiro, July 31, 2003.

¹⁰⁴ Human Rights Watch telephone interview with Dr. Simone Moreira de Souza, November 8, 2004.

¹⁰⁵ Human Rights Watch interview with public defender, Rio de Janeiro, August 6, 2003.

Pretrial detention is sometimes ordered but later revoked under habeas corpus.”¹⁰⁶ When we spoke with her in November 2004, she confirmed that no guard had ever been convicted for abuses committed against youths in detention. “I have never heard of an actual conviction” in such a case, she said.¹⁰⁷

International standards call for the establishment of effective complaint mechanisms in each detention center. At a minimum, in addition to providing the opportunity to present complaints to the director and to his or her authorized representative, each detention center should guarantee the following basic aspects of an effective complaint process:

- The right to make a request or complaint, without censorship as to substance, to the central administration, the judicial authority, or other proper authorities.¹⁰⁸
- The right to be informed of the response to a request or complaint without delay.¹⁰⁹
- The right to regular assistance from family members, legal counselors, humanitarian groups, or others in order to make complaints. In particular, illiterate children should receive the assistance they need to make complaints.¹¹⁰

In addition, international standards recommend the establishment of an independent office, such as an ombudsman, to receive and investigate complaints made by children deprived of their liberty.¹¹¹

But as the 2002 case illustrates, the mere existence of complaint mechanisms is not enough. State authorities must also conduct thorough and independent investigations of complaints. The perpetrators of violence should be appropriately disciplined by measures that should include the possibility of dismissal and criminal charges, where warranted. Cases of death, grievous bodily harm, or allegations of retaliation, in particular, should be referred to judicial authorities for investigation and, as appropriate, prosecution and punishment.

¹⁰⁶ “Não há histórico de condenação de tortura no Rio de Janeiro. Hoje não há nenhum agente preso por tortura. Prisões preventivas são decretadas mas posteriormente revogadas por meio de Habeas Corpus.” Human Rights Watch telephone interview with Dr. Simone Moreira de Souza, February 18, 2004.

¹⁰⁷ Human Rights Watch telephone interview with Dr. Souza, November 8, 2004.

¹⁰⁸ U.N. Rules for the Protection of Juveniles, art. 76.

¹⁰⁹ Ibid.

¹¹⁰ Ibid., art. 78.

¹¹¹ Ibid., art. 77.

V. “FACTIONALIZATION” AND VIOLENCE AMONG YOUTHS

Youths and adults agreed that fights between rival drug gangs, particularly between members of the Comando Vermelho (Red Command) and the Terceiro Comando (Third Command), were the primary cause of violence among youths in Rio de Janeiro’s detention centers.¹¹² With the exception of CAI-Baixada and Santos Dumont, the institutional response to the presence of members of rival drug gangs has been to separate youths according to their declared or presumed factional allegiances.

To protect youths and maintain order, it is essential to separate detainees by age, physical maturity, and severity of crime, as recommended by international standards. Housing youths of particular drug gangs together, a policy known as “factionalization,” is intended to serve the same public order purpose. But separation has not worked; serious acts of violence, usually between members of rival gangs, occur frequently in Rio de Janeiro’s detention centers. Moreover, separation does not address the root causes of violence. Instead, separating youths by drug gang reinforces those factional allegiances and runs counter to the rehabilitative purpose of the juvenile justice system. In some cases, the administrative division of youths by faction may create such allegiances by forcing youths to choose to live with a particular faction even if they were not originally affiliated with one.

For this reason, experts on the involvement of youths in Rio de Janeiro’s drug trade recommend that juvenile detention centers take steps to break down the influence of the drug gangs on detained youths. Ending the automatic segregation of members of rival drug gangs is one step toward reducing the role of the factions in the lives of youths, provided that integration is undertaken gradually and with due regard for institutional security. The “decentralization” of detention facilities—that is, gradually moving toward smaller detention centers located closer to the communities from which youths come—is another step that will increase the likelihood of success of efforts to integrate youths. In addition, detention centers and the juvenile courts must ensure that detention is a measure of last resort and for the shortest appropriate period of time, as required by international standards and Brazilian law.

Persistent and widespread violence is the result of a failure of management, not an inevitable feature of juvenile detention. Sufficient staff, adequate training, careful

¹¹² The Comando Vermelho and the Terceiro Comando are the largest drug gangs in Rio de Janeiro. Two other significant drug gangs in Rio de Janeiro are the Amigos dos Amigos (Friends of the Friends) and the Comando Vermelho Jovem (Young Red Command). See Dowdney, *Children of the Drug Trade*, pp. 25-34.

monitoring, and a willingness to address the role that drug trafficking plays in youths' lives will help reduce the unacceptably high level of violence in Rio de Janeiro's juvenile detention centers.

Inter-Gang Violence

A large proportion of youths held in DEGASE institutions are detained for infractions related directly or indirectly with the drug trade, and many youths consider themselves loyal to one of the large drug gangs in the city. At least as far back as 1995, there were reports detailing the rivalry among youths in juvenile detention centers belonging to drug gangs in Rio de Janeiro, principally between the members of the Comando Vermelho and the Terceiro Comando. In 1995, the *Jornal do Brasil* reported on the "representation of criminal factions within the [DEGASE] complexes," bringing the issue to the attention of Judge Geraldo Mascarenhas Prado, at that time the adjudicator responsible for overseeing disciplinary measures under the Statute of the Child and the Adolescent.¹¹³ In 1998, another Rio de Janeiro judge, Murilo Kielling, suggested that the presence and danger of the gangs in Rio de Janeiro's juvenile detention centers justified sending a youth to be detained in another state for safety reasons. "Nowadays, [youths in Rio de Janeiro's detention centers] organize themselves into factions like those imprisoned in the penal system," Judge Kielling stated in his decision.¹¹⁴ While some public officials have downplayed or refuted the existence of gangs within the state's juvenile detention system, most concur that drug gangs play a significant role in most of Rio de Janeiro's juvenile detention centers. In 2002, for example, referring to the Instituto Padre Severino, state secretary for human rights Wania Sant'Anna rejected the notion that internal conflicts were being caused by factional rivalries,¹¹⁵ but the same day, prosecutor Márcio Mothé in the 2d Branch of Infancy and Youth related the problems in Padre Severino to "war between rival [drug] factions."¹¹⁶

With the exception of CAI-Belford Roxo and Santos Dumont, the rule in DEGASE centers is of factional division. All have experienced and continue to experience serious episodes of violence among youths and between youths and staff that often result from or are related to gang disputes. Even in the wake of a staff torture scandal in September 2003, Judge Vianna considered violence among youths linked to gang allegiances to be

¹¹³ "Caderno Cidade," *Jornal do Brasil* (Rio de Janeiro), September 24, 1995.

¹¹⁴ Carla Rocha and Angelica Nunes, "Rio manda menores infratores para outros estados," *O Globo* (Rio de Janeiro), April 15, 1998.

¹¹⁵ Elenice Bottari, "MP processará órgão responsável por menores," *O Globo* (Rio de Janeiro), June 1, 2002.

¹¹⁶ "Crise causa rebelião de menores," *Jornal do Brasil* (Rio de Janeiro), June 1, 2002.

the principal source of violence suffered by detainees.¹¹⁷ At its most intense, the problem of factionalization has been the cause or aggravating factor in numerous fights and rebellions leading to escapes, injuries, deaths, and even hostage situations. The disturbances that result can also disrupt classes and other activities in the centers.

Educandário Santo Expedito

Bordering the Bangu adult prison complex, Santo Expedito has had the most violent history of gang disputes of all the DEGASE centers. Different gangs were housed apart, sometimes at the requests of the youths themselves. Those threatened by the Terceiro Comando and the Comando Vermelho were kept in a third area of the center. At the time of our visit, these quarters were separated from the Terceiro Comando quarters by a fragile plaster wall that could be easily torn down. Luke Dowdney, the coordinator of Viva Rio's program on children in organized armed violence and the author of a major study on youth involvement in Rio de Janeiro's drug trade, blames the numerous gang-related incidents at Santo Expedito to the lack of integration that is reinforced by the housing segregation. "In March 2002," he noted, "during a rebellion within the facility, a group of faction members killed an adolescent from a rival faction."¹¹⁸

Such violence is not uncommon in Santo Expedito. In November 2002, another boy was killed and two were injured in a rebellion ignited after a confrontation between Comando Vermelho and Terceiro Comando members during their school hours.¹¹⁹ The housing facilities were reportedly destroyed following the police action aimed at regaining control of the center. The same night, another boy suffered burns to over 80 percent of his body after crossing a barricade of mattresses set alight by members of the Terceiro Comando.¹²⁰ Three adults linked to the Comando Vermelho, aged eighteen through twenty-one and serving sentences they received prior to reaching the age of eighteen, were identified as leaders of the disturbance and transferred to a penitentiary in

¹¹⁷ "Punição por desvio de conduta," *Jornal do Brasil* (Rio de Janeiro), September 21, 2003; Bruno Porto, "Como é possível recuperar sem educar?," *O Globo* (Rio de Janeiro), July 1, 2003.

¹¹⁸ Dowdney, *Children of the Drug Trade*, pp. 235-36.

¹¹⁹ "Adultos lideraram motim de menores," *Jornal do Brasil* (Rio de Janeiro), November 8, 2002; Marco Martins, "Adolescente morre em educandário," *Jornal do Brasil* (Rio de Janeiro), November 7, 2002; "Briga em educandário de Bangu termina com um morto e dois feridos," *O Globo* (Rio de Janeiro), November 7, 2002; "Tumulto em abrigo de menores em Bangu termina com a morte de um interno," *O Dia* (Rio de Janeiro), November 6, 2002.

¹²⁰ Martins, "Adolescente morre em educandário," *Jornal do Brasil* (Rio de Janeiro), November 7, 2002.

Bangu.¹²¹ Among other charges, one of these transferred youths was indicted for the attempted murder of the seventeen-year-old burn victim.¹²²

An earlier rebellion in November 2001 also involved disputes between members of the Comando Vermelho and the Terceiro Comando.¹²³ At least four DEGASE staff members were reportedly taken hostage by detainees as Comando Vermelho members attempted to escape.¹²⁴ And there were at least three rebellions in 2000. The first, in May, was definitively linked to a gang dispute during lunch hour when the groups typically meet; it left eleven detainees injured and one police officer in the hospital.¹²⁵ As reported by *O Globo*, sources in the Justice Secretariat claimed in 2001 that Santo Expedito was the center that originated the practice of dividing detainees along factional lines following the May 2000 rebellion; after that mutiny, staff allegedly tried to placate the detainees by segregating them, in compliance with one of the demands made the leaders of that mutiny.¹²⁶ During a July 2000 disturbance, youths aged sixteen to twenty-one reportedly secured their escape through the front gates of the detention center by brandishing pistols and hand grenades.¹²⁷ The third disturbance, in November of that year, involved some 200 detainees and resulted in considerable property damage.¹²⁸ One of several conflicting accounts of the incidents attributes the disruption to a fight between members of the Comando Vermelho and the Terceiro Comando.¹²⁹

Instituto Padre Severino

At the time of Human Rights Watch's visit, the detainees at Padre Severino were split along factional lines, with 90 percent identified as Comando Vermelho and 10 percent as

¹²¹ "Adultos lideraram motim de menores," *Jornal do Brasil* (Rio de Janeiro), November 8, 2002; "Causadores da rebelião em Bangu são transferidos para o Desipe," *O Dia* (Rio de Janeiro), November 7, 2002.

¹²² "Adultos lideraram motim de menores," *Jornal do Brasil* (Rio de Janeiro), November 8, 2002; "Causadores da rebelião em Bangu são transferidos para o Desipe," *O Dia* (Rio de Janeiro), Nov. 7, 2002.

¹²³ Menores em Bangu se rebelam com reféns," *Jornal do Brasil* (Rio de Janeiro), November 25, 2001; "Menores de Educandário no Rio se rebelam apos tentativa de fuga," *Folha de S. Paulo*, November 25, 2001; Paulo Prudente and Maia Menezes, "Cinco agentes escapam da morte em rebelião em abrigo para menores," *O Globo* (Rio de Janeiro), November 26, 2001.

¹²⁴ "Menores em Bangu se rebelam com reféns," *Jornal do Brasil* (Rio de Janeiro), November 25, 2001; "Menores de Educandário no Rio se rebelam apos tentativa de fuga," *Folha de S. Paulo*, November 25, 2001.

¹²⁵ "Menores fogem do Santo Expedito," *Jornal do Brasil* (Rio de Janeiro), July 5, 2000; "Trezentos menores rebelados," *Jornal do Brasil* (Rio de Janeiro), May 25, 2000.

¹²⁶ Cristiane de Cássia and Maia Menezes, "Facções adolescentes," *O Globo* (Rio de Janeiro), April 1, 2001.

¹²⁷ "Menores fogem do Santo Expedito," *Jornal do Brasil* (Rio de Janeiro), July 5, 2000; "Trezentos menores rebelados," *Jornal do Brasil* (Rio de Janeiro), May 25, 2000.

¹²⁸ "Rebelião no Instituto Santo Expedito é controlada," *O Dia* (Rio de Janeiro), November 10, 2000.

¹²⁹ Ibid.

Terceiro Comando. Padre Severino has a violent recent history of conflicts arising from or aggravated by gang disputes. In May 2002, for example, public prosecutors interviewed a sixteen-year-old boy who had serious injuries resulting from fights with members of rival gangs, according to a news account that appeared in *O Globo*.¹³⁰ Days later, an inter-gang quarrel led to a general rebellion in which at least forty and possibly as many as sixty youths escaped.¹³¹ Less than a month later, in what appeared to be a gang-related act, a sixteen-year-old boy reported that twenty-two other youths attacked him, raped him, and carved the initials “CV” (for Comando Vermelho) onto his buttocks and left wrist. The boy described the attack as punishment for his failure to repay a debt on time, and he told *O Globo* that the carving of initials on the buttocks is used in Padre Severino to signal that a person has been raped.¹³²

Escola João Luis Alves

Marcelo F., a thirteen-year-old in João Luis Alves, told Human Rights Watch that youths are housed according to gang membership but participate in activities together during the day.¹³³ When Human Rights Watch asked Peter da Costa, the detention center’s director, about the level of violence, he suggested that the center did not have a serious problem with violence. “There are a lot of scuffles, but they’re kids’ things,” he said, although he conceded that fights were most likely to break out between members of rival gangs.¹³⁴ Nevertheless, in June 2002, press accounts reported that youths associated with the largest gang began a disturbance in which one boy from an opposing gang sustained stab wounds, four DEGASE agents were held hostage, and various youths were victims of excessive smoke inhalation in a fire that broke out during the disturbance.¹³⁵

Centros de Recurso Integrado de Atendimento ao Menor (CRIAMs)

Perhaps the strictest segregation along gang lines occurs in the Centros de Recurso Integrado de Atendimento ao Menor (CRIAMs), facilities for youths sentenced to semi-liberty. Luke Dowdney found that “only the offenders of a particular faction are sent to a particular facility.”¹³⁶ Press accounts are consistent with his finding. In 2001, for

¹³⁰ Ronaldo Braga, “Sinais de tortura em abrigo de infratores,” *O Globo* (Rio de Janeiro), May 31, 2002.

¹³¹ Talita Figueiredo, “Pelo menos 40 menores infratores fogem em rebelião no Rio,” *Folha de S. Paulo*, June 1, 2002; “Menores infratores fogem de internato na Ilha,” *O Globo* (Rio de Janeiro), June 2, 2002.

¹³² Vera Araujo, “Poder paralelo: Promotor ameaça fechamento da instituição na Ilha,” *O Globo* (Rio de Janeiro), June 26, 2002.

¹³³ Human Rights Watch interview with Marcelo F., Escola João Luiz Alves, July 29, 2003.

¹³⁴ Human Rights Watch interview with Peter da Costa, July 29, 2003.

¹³⁵ Ronaldo Braga, “Pitboys se apresentam à justiça e são detidos,” *O Globo* (Rio de Janeiro), June 13, 2002.

¹³⁶ Dowdney, *Children of the Drug Trade*, p. 234.

example, a boy in the CRIAM in Santa Cruz told *O Globo*, “In the Bangu CRIAM only Terceiro Comando and Amigos dos Amigos boys stay. Here in Penha and on Ilha do Governador, the Comando Vermelho dominates.”¹³⁷ In 2001, a Justice Secretariat source told *O Globo* that Bangu CRIAM staff ask the children about their factional allegiance upon arrival and recommend that Comando Vermelho members either request a transfer or jump the low walls to escape.¹³⁸ Of the Bangu CRIAM, a mother of a child in DEGASE custody asserted in 2001, “They do not accept youths who reside in a geographic region dominated by the enemy faction.”¹³⁹ Indeed, also in 2001, a child who arrived at the Bangu CRIAM tattooed with the letters CV was allegedly transferred by the center’s directors.¹⁴⁰

Segregation by Drug Faction

In response to these security problems, youths from different gangs are housed separately in most of Rio de Janeiro’s detention centers. In some cases, they may be treated as if they belong to a gang regardless of whether they were involved in one before their detention. A public defender told Human Rights Watch that any youth arrested, regardless of the crime of which he is accused, will be asked about his allegiance to a drug gang. If the youth does not belong to one, the officer will classify the youth as belonging to the gang that controls the neighborhood in which he lives.¹⁴¹

We heard the same from the youths we interviewed. For example, seventeen-year-old Flávio S. was assigned to the Comando Vermelho cells in the Centro de Triagem e Recepção in October 2004 even though he was not a member of any gang. “They ask, ‘Where do you live?’” he told us. Staff at the center place youths with the dominant gang in their neighborhood, he said. “Only if they have a doubt do they ask, ‘Is it Comando Vermelho or Terceiro Comando there?’”¹⁴² In a similar account appearing in an *O Globo* article, a sixteen-year-old boy from a well-off neighborhood without a significant gang presence reported that at Padre Severino, “When asked by the social worker as to which faction I belonged, I responded that I did not belong to any . . . so she told me that, unfortunately, there were no neutral cells and that I would have to choose.”¹⁴³

¹³⁷ Cristiane de Cássia and Maiá Menezes, “Facções adolescentes,” *O Globo* (Rio de Janeiro), April 1, 2001.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Human Rights Watch interview with public defender, Rio de Janeiro, July 30, 2003.

¹⁴² Human Rights Watch interview with Flávio S., Rio de Janeiro, November 9, 2004.

¹⁴³ Vera Araújo, “Uma dura lição,” *O Globo* (Rio de Janeiro), July 11, 2004.

The factional segregation policy varies from one detention center to another. Padre Severino, Santo Expedito, the Centro de Triagem e Recepção, and some CRIAMs are internally divided by gang, with certain sections designated as Comando Vermelho and others reserved for the Terceiro Comando. Other CRIAMs effectively house only members of a particular gang.¹⁴⁴ Except in those centers reserved in their entirety for particular gangs, complete segregation is nearly impossible. “There’s no way. You always meet,” Flávio S. told Human Rights Watch.¹⁴⁵ Youths of different gangs may come into contact with each other at mealtimes, on their way to and from court hearings, or at other times when they are moved from one part of the detention center to another.

Two of the detention centers visited by Human Rights Watch do not separate youth by drug gang. In one of these, CAI-Baixada, “Everyone is mixed together,” a volunteer who works in the detention center told us. “They’re in the same rooms. They lose their identity” as a member of the gang, she said.¹⁴⁶ This appeared to be related both to the director’s attempt to prevent factionalization and the fact that the majority of adolescents come from the interior of the state, where there are not as many problems with drug gangs. The other detention center, the Educandário Santos Dumont, a girls’ detention center housing both pre- and post-trial detainees, was reported in 2000 by *Jornal do Brasil* to be free from conflicting factional allegiances; instead, the girls formed their own groupings. Violence still occurred, and instances of self-inflicted injuries were more frequent than in the boys’ facilities.¹⁴⁷ Nevertheless, the experience in Santos Dumont suggests that difficulties arising from factional allegiances are largely limited to boys’ detention centers; this is probably related in part to the fact that mainly men and boys do the more violent work within the drug trade.¹⁴⁸

Detention officials divide youths by gang allegiances (or presumed gang allegiances) out of a legitimate concern for security. Flávio S. told us that even if he had not been placed with the Comando Vermelho, youths affiliated with the Terceiro Comando would have

¹⁴⁴ Human Rights Watch telephone interview with Dr. Souza, November 8, 2004; Human Rights Watch interview with Flávio S., Rio de Janeiro, November 9, 2004; Dowdney, *Children of the Drug Trade*, p. 237-238; “Facções estão nos institutos para menores infratores,” *Folha de S. Paulo*, February 21, 2003.

¹⁴⁵ Human Rights Watch interview with Flávio S., November 9, 2004.

¹⁴⁶ Human Rights Watch interview with volunteer, Rio de Janeiro, July 28, 2003.

¹⁴⁷ “Instituição vive às voltas com rebeliões,” *Jornal do Brasil* (Rio de Janeiro), August 13, 2000.

¹⁴⁸ See Jailson de Souza e Silva and André Urani, *Brazil: Children in Drug Trafficking: A Rapid Assessment* (Geneva: International Labour Organization, International Programme on the Elimination of Child Labour, 2002), p. 17 (noting that “female participation in drug trafficking is relatively small”); Dowdney, *Children of the Drug Trade*, p. 181 (“[A]dolescent males tended to identify far more with factions than adolescent females or older youths above the age of twenty.”).

treated him as if he were associated with the Comando Vermelho because that gang was dominant in his community. “If suddenly they throw me into the Terceiro Comando cell, they would kill me,” he said.¹⁴⁹ The public defender’s office takes the position that “we always want to preserve the physical integrity of the adolescent even if that means dividing by factions,” Dr. Souza told Human Rights Watch.¹⁵⁰

But Luke Dowdney expresses concern that in separating youths by gang, the government legitimizes the authority and power of these factions and hinders long-term efforts to foster rehabilitation both inside and outside of the juvenile detention system. On the basis of a series of interviews with juvenile detention center staff and detainees, Dowdney concluded that the “need for complete integration of offenders” was one of several necessary reforms of the state’s juvenile detention system.¹⁵¹

Some officials have voiced agreement with this view. In April 2001, for example, prosecutor Márcio Mothé stated, “If we want to re-socialize these adolescents, we cannot create the faction culture within the [juvenile detention] centers.”¹⁵² That same month, Judge Guaraci de Campos Vianna, Rio de Janeiro’s head adjudicator in child criminal cases, criticized any form of segregation, saying that “This distortion [separation by factions], admitted by some and negated by others, cannot be.”¹⁵³ For his part, DEGASE director general Sérgio Novo pledged to investigate “the involvement of [DEGASE] staff in the division of internees by factions.”¹⁵⁴ Other public prosecutors and the Justice Secretariat followed suit announcing that they would also look into reports that gangs existed in DEGASE’s detention centers.¹⁵⁵ Officials voiced similar sentiments in response to a wave of mass escapes in mid-2002—many related to gang disturbances—that led to the flight of 30 percent of DEGASE’s detainees in the span of sixty days. Public prosecutor Asterio Pereira dos Santos pledged to issue a request to then DEGASE director Sidney Teles da Silva to cease segregating centers on the basis of gang membership.¹⁵⁶

¹⁴⁹ Human Rights Watch interview with Flávio S., November 9, 2004.

¹⁵⁰ Human Rights Watch telephone interview with Dr. Souza, November 8, 2004.

¹⁵¹ Dowdney, *Children of the Drug Trade*, pp. 237-238.

¹⁵² Cristiane de Cássia and Maiá Menezes, “Facções adolescentes,” *O Globo* (Rio de Janeiro), April 1, 2001.

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid.*

¹⁵⁵ “MP e Secretaria de Justiça investigam a atuação de menores em facções criminosas,” *O Dia* (Rio de Janeiro), April 2, 2001.

¹⁵⁶ “Crise afeta Padre Severino,” *Jornal do Brasil* (Rio de Janeiro), July 18, 2002.

If such a request was made, it was never acted on, and by 2003 the official position on the issue appeared to have shifted dramatically. Dr. Novo stated in February 2003 that youths in detention must be separated by gang for reasons of security, according to accounts in the *Folha de S. Paulo*.¹⁵⁷

The experience of the João Luis Alves and CAI-Baixada detention centers suggest that it may be possible to integrate youths gradually without endangering security. Such efforts should be undertaken on a pilot basis in other institutions with small groups of youths who have undergone an initial period of observation and evaluation. For such an effort to succeed, DEGASE will need to increase the number of staff assigned to integrated units, and it must offer those staff members additional training on adolescent behavior management techniques. Ultimately, integration is likely to be most successful in small detention facilities located in or near the communities in which youths live.

¹⁵⁷ “Para diretor, garotos devem ser reabilitados,” *Folha de S. Paulo*, February 21, 2003.



With 175 youths in detention when Human Rights Watch visited in July 2003, Santo Expedito appeared on paper to be only slightly over its capacity of 166. But three of the center's seven cellblocks, including the one above, were destroyed in a November 2002 fire, leading to severe overcrowding in the remaining four cellblocks.

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VI. CONDITIONS OF DETENTION

Agostinho M. spent one week in Padre Severino in March 2002, when he was sixteen years old. “There were twenty or more of us in the dormitory. Not all of us had a bed. Two slept in each bed, others on the floor,” he said. “During the day, we stayed locked up in the dormitory. They woke us up at 6 a.m., and we had breakfast at 7 a.m. After that, we returned to the cells. We were locked up until lunchtime—that was at 1 p.m. Afterwards we returned to the cells and stayed there until 5 p.m., when it was time for dinner. . . . Then back to the cells again until it was time to sleep.” Asked how much time he spent out of his cell each day, he replied that most days it was “a maximum of half an hour, in total. Every once in a while they would let us out for fresh air [*banho de sol*]. Not every day, just once in a while.”¹⁵⁸

Poor conditions of confinement are not limited to Padre Severino. A detention center official in CAI-Baixada forthrightly admitted that his detention center “has nothing to offer these boys.”¹⁵⁹ The stepfather of a sixteen-year-old in Santo Expedito offered an even harsher assessment: “A dog has better treatment” than youths in Rio de Janeiro’s juvenile detention centers, he told Human Rights Watch.¹⁶⁰

Nor have conditions changed markedly since Human Rights Watch’s visit in July and August 2003. “The situation with DEGASE is the same as it was in August 2003, only worse,” Simone Moreira de Souza of the public defender’s office reported in February 2004.¹⁶¹ In response, groups of youths periodically risk retaliation by vehemently protesting their detention conditions. In February 2004, for example, a group of youths in CAI-Baixada went on a two-day hunger strike to protest living conditions and beatings by the guards.¹⁶²

Conditions in Rio de Janeiro’s juvenile detention centers are bad enough that some youths reportedly claim to be adults in order to avoid detention in the juvenile system. An article in the *Jornal do Brasil* explained:

¹⁵⁸ Human Rights Watch interview with Agostinho M., Rio de Janeiro, August 1, 2003.

¹⁵⁹ Human Rights Watch interview with detention center official, CAI-Baixada, July 28, 2003.

¹⁶⁰ Human Rights Watch interview with stepfather of youth in detention, Rio de Janeiro, August 1, 2003.

¹⁶¹ “A situação do DEGASE é a mesma desde agosto de 2003, senão pior.” Human Rights Watch telephone interview with Dr. Simone Moreira de Souza, February 18, 2004.

¹⁶² “Os adolescentes da unidade CAI-Baixada fizeram greve de fome terça-feira e quarta-feira (02/17 e 18) por falta de condições e por espancamento por parte de dois plantões (agentes).” Ibid.

The violence against juvenile delinquents in Rio's detention centers has created a new phenomenon: In the last five months, the state public defender's office has found eighteen adolescents who preferred to complete their punishment among adults in police stations or prisons rather than submit to socio-educational measures in state [juvenile detention] facilities. That is, each month at least three youths pretend to be adults when they are taken prisoner by the police. Discovered by public defenders or by nongovernmental organizations, they say that it is better to be in the state prison system—implicated in recent months by denunciations of torture, death, and corruption—than to be detained in Department of Socio-Educational Action (DEGASE) institutions.¹⁶³



A dormitory in CAI-Baixada. © 2004 Stephen Hanmer/ Human Rights Watch.

¹⁶³ Marco Antônio Martins, "Territorio livre da tortura: Jovens mentem sobre idade e preferem presídios e internatos do Estado," *Jornal do Brasil* (Rio de Janeiro), September 21, 2003, <http://jbonline.terra.com.br/jb/papel/cidade/2003/09/20/jorcid20030920001.html> (viewed October 16, 2003)

Overcrowding

With the exception of João Luis Alves, overcrowding was a serious problem in all of the detention centers we visited, as the table below shows. A volunteer who works in CAI-Baixada told us that in that center, for example, “Housing conditions are very bad. The adolescents live in inhuman conditions. There are maybe 200 in an institution with a capacity of eighty.”¹⁶⁴ In another typical account, Nelson G. told us through the bars of his dormitory in Santo Expedito that twenty-six youths shared the room. “Some of us sleep on the floor,” he said.¹⁶⁵ In a nearby dormitory, Jimmy D. reported that between seven and ten of twenty-seven youths had mattresses.¹⁶⁶ Such overcrowded conditions lead to increased anxiety and aggressive behavior on the part both of guards and youths, a public defender told Human Rights Watch.¹⁶⁷

Table 1. Median Population of Rio de Janeiro’s Detention Centers

| Detention Center | Week of July 21, 2003 | Week of Jan. 26, 2004 | Week of Apr. 5, 2004 | Capacity | Percentage of Capacity |
|--------------------|-----------------------|-----------------------|----------------------|----------|------------------------|
| CAI-Baixada | 189 | 181 | 161 | 120 | 147.5% |
| Santos Dumont | 57 | 45 | 60 | 40 | 135.0% |
| Santo Expedito | 181 | 134 | 133 | 166* | 90.0%* |
| Padre Severino | 242 | 175 | 189 | 160 | 126.3% |
| João Luis Alves | 70** | 75 | 79 | 120 | 62.2%** |
| Centro de Recepção | 49 | 42 | 38 | 42 | 102.4% |
| TOTAL | 788 | 652 | 660 | 648 | 108.0% |

*The rated capacity for Santo Expedito does not reflect the fact that three of seven cellblocks in the center were not being used when Human Rights Watch visited in July 2003 because their walls and ceilings were in danger of collapse.

**The July 2003 figures for João Luis Alves do not include nineteen youths temporarily housed in that facility after an attempted escape from Padre Severino.

SOURCE: Estado do Rio de Janeiro, Secretaria de Estado de Justiça do Cidadão, Departamento Geral de Ações Sócio-Educativas, “Efectivo Totalizador de Atendimentos – Média Semanal,” July 27, 2003, February 1 and April 11, 2004.

¹⁶⁴ Human Rights Watch interview with volunteer, Rio de Janeiro, July 28, 2003.

¹⁶⁵ Human Rights Watch interview with Nelson G., Educandário Santo Expedito, July 30, 2003.

¹⁶⁶ Human Rights Watch interview with Jimmy D., Educandário Santo Expedito, July 30, 2003.

¹⁶⁷ Human Rights Watch interview with public defender, CAI-Baixada, July 28, 2003.



Trash, standing water, and weeds cover a basketball court in Santo Expedito.

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Recreation, Exercise, and Idleness

The lack of activities was a serious problem in CAI-Baixada and Padre Severino; elsewhere we heard fewer complaints. “The normal day here is that we stay locked up, without anything [to do]. I want to distract myself,” said Alfonso S., a fifteen-year-old detainee in CAI-Baixada.¹⁶⁸ “We should have time outside our cells,” said Carlos A.¹⁶⁹ “They leave us in there without *banho de sol*,” Dário P., eighteen, told us, using a term that literally means “sunbathing” to refer to fresh air.¹⁷⁰

We heard the same from youths held in Padre Severino. “They didn’t have activities,” said Jorge N., seventeen. “They didn’t have church services. There weren’t any classes. They had no activities of this kind. The only thing we did was sleep in our rooms.”¹⁷¹

¹⁶⁸ Human Rights Watch interview with Alfonso S., CAI-Baixada, July 28, 2003.

¹⁶⁹ Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

¹⁷⁰ Human Rights Watch interview with Dário P., CAI-Baixada, July 28, 2003.

¹⁷¹ Human Rights Watch interview with Jorge N., Escola João Luis Alves, July 29, 2003.

In Santo Expedito, however, Luciano G. told us that youths frequently had the opportunity for some outdoor recreation, though not every day. “Football is almost every day, thirty minutes to one hour,” he said. Later in our interview, he explained that one group of guards routinely denied them outdoor recreation, while the rest usually permitted it. Referring to that group of guards, he said, “They rarely let us play football or go out in the sun. Only Shift D [does this]; the others are cool.”¹⁷² Alex C., a seventeen-year-old held in a different wing of the same detention center, told us that his wing was able to play football about three times each week. “Football is on Tuesdays, Thursdays, and Saturdays, about an hour or an hour and a half,” he said.¹⁷³

“We have activities every day,” said Eric T., a fifteen-year-old in João Luis Alves. “We play soccer and use the pool.” He told us that youths in João Luis Alves spend two hours outdoors most days, with one hour on the soccer field and another hour in the pool.¹⁷⁴

In some instances, officials sought out our assistance in dealing with constraints on recreation for youths in detention. In Santo Expedito, a guard led us to an unused basketball court littered with refuse. “Here is the critical part,” he said, telling us that the space would make a good area for recreation and exercise if cleaned up. “That would address the problem of idleness,” he suggested.¹⁷⁵

International standards call for every youth in detention to have “a suitable amount of time for daily free exercise, in the open air when weather permits,” and “additional time for daily leisure activities.”¹⁷⁶ In conformity with these standards, Brazil’s Statute of the Child and the Adolescent guarantees youths in detention the right to cultural activities, sports, and recreation.¹⁷⁷

Contact with the Outside World

Brazilian law guarantees children in detention the right to receive weekly visits. This right may only be suspended by a judge, and then only temporarily when there are “serious and well founded reasons why such visits would be prejudicial to the interests

¹⁷² Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

¹⁷³ Human Rights Watch interview with Alex C., Educandário Santo Expedito, July 30, 2003.

¹⁷⁴ Human Rights Watch interview with Eric T., Escola João Luis Alves, July 29, 2003.

¹⁷⁵ Human Rights Watch interview with guard, Educandário Santo Expedito, July 30, 2003.

¹⁷⁶ U.N. Rules for the Protection of Juveniles, art. 47.

¹⁷⁷ Estatuto da Criança e do Adolescente, art. 124(XII).

of the adolescent.”¹⁷⁸ These provisions conform with international standards, which call for states to guarantee children “the right to receive regular and frequent visits, in principle once a week and not less than once a month, in circumstances that respect the need of the juvenile for privacy, contact and unrestricted communication with the family and the defence counsel.”¹⁷⁹

In practice, however, we heard from youths and parents that visitors were at times harassed by guards. The stepfather of a sixteen-year old in Santo Expedito reported that during one visit to the detention center, “the guards took everything we brought and smashed it on the ground.”¹⁸⁰ Other visitors were subjected to extremely intrusive and humiliating searches that may not have been strictly necessary to ensure the security of the facility. For instance, Luciano G. reported that his mother “has to take off her clothes” in order to visit him in Santo Expedito.¹⁸¹ And some youths, such as Daniel C., held in CAI-Baixada, were denied visits altogether as a disciplinary measure.¹⁸²

In an additional limitation on visits, some detention centers strictly limited visits to blood relatives, regardless of youths’ particular family situations. For instance, the stepfather of the sixteen-year-old told us that he was not able to visit his stepson when the boy was in Padre Severino. “Only his mother [can visit]. I’ve been his stepfather since he was three years old, but they didn’t allow me to enter. It’s been thirteen years that my wife and I have been together,” the man told us. After forty-five days in Padre Severino, the boy was moved to Santo Expedito, where his stepfather was able to visit him.¹⁸³

¹⁷⁸ Ibid., art. 124, para. 2 (“A autoridade judiciária poderá suspender temporariamente a visita, inclusive de pais ou responsável, se existirem motivos sérios e fundados de sua prejudicialidade aos interesses do adolescente.”). The right to receive visits at least on a weekly basis is guaranteed in article 124(VII) of the statute. Children also have the right to correspond with family members and friends. Ibid., art. 124(VIII).

¹⁷⁹ Beijing Rules, art. 60.

¹⁸⁰ Human Rights Watch interview with stepfather of youth in detention, Rio de Janeiro, August 1, 2003.

¹⁸¹ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003. See also Paulo de Mesquita and Beatriz S. Azevedo, *Segundo relatório nacional sobre os direitos humanos no Brasil* (São Paulo: Comissão Teotônio Vilela de Direitos Humanos, 2002), p. 224 (reporting that youths in Padre Severino and their relatives were subjected to “humiliation” and “maltreatment”).

¹⁸² Human Rights Watch interview with Daniel C., CAI-Baixada, July 28, 2003.

¹⁸³ Human Rights Watch interview with stepfather of youth in detention, Rio de Janeiro, August 1, 2003.

Food

Youth in most detention centers had complaints about the quality and amount of food. “The food is very bad,” said Carlos A., in CAI-Baixada. “It’s not enough.”¹⁸⁴ Agostinho M., detained in Padre Severino when he was sixteen, said of the food, “It was disgusting, very bad. It wasn’t enough for us.”¹⁸⁵

We heard from some parents that youths in Santo Expedito held a hunger strike in order to get better food.¹⁸⁶ Perhaps as a result, some youths reported that the food had recently improved. “It’s good; it’s gotten better,” said Alex C., seventeen. “It just got better. Now it gets to us still hot.”¹⁸⁷

A related complaint was that the last meal of the day often came in the late afternoon, meaning that youths were hungry again at bedtime. Luciano G., an eighteen-year-old in Santo Expedito, reported, “Dinner is very early. By 10 p.m., we’re hungry again.”¹⁸⁸ As a result, the sixteen-year-old’s stepfather told us that he and his wife usually brought cookies for their son when they visited. “Dinner is at 5 p.m., and then there’s nothing until breakfast the following day, so the kids get hungry. And toothpaste. He asked for two tubes so he could eat one because he gets hungry at night,” he reported.¹⁸⁹

We heard from other parents about this use of toothpaste. For example, the mother of a seventeen-year-old in Santo Expedito said, “They eat toothpaste. They’re hungry. They eat it because they’re hungry.”¹⁹⁰

One reason for eating toothpaste is that youths are not always able to keep the food their family members bring them. Luciano G. told us that he had to eat the cookies his mother brought him in the visitors’ room. “We have to consume them right there in the visiting area,” he said. “You can’t bring them back to the living area. That’s the order from the director.”¹⁹¹

¹⁸⁴ Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

¹⁸⁵ Human Rights Watch interview with Agostinho M., Rio de Janeiro, August 1, 2003.

¹⁸⁶ Human Rights Watch interviews with parents of youths in detention, Rio de Janeiro, August 1, 2003.

¹⁸⁷ Human Rights Watch interview with Alex C., Educandário Santo Expedito, July 30, 2003.

¹⁸⁸ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

¹⁸⁹ Human Rights Watch interview with stepfather of youth in detention, Rio de Janeiro, August 1, 2003.

¹⁹⁰ Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

¹⁹¹ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.



A youth in Santo Expedito shows an open wound. © 2004 Michael Bochenek/Human Rights Watch.

VII. HYGIENE AND HEALTH CARE

Filthy and overcrowded, juvenile detention centers in Rio de Janeiro do not meet basic standards of health and hygiene. Youths often wear the same clothes for three weeks before they are laundered. Many share tattered foam mattresses; others sleep on the floor. At night, they must defecate and urinate in plastic jugs because guards will not let them out of their cells to use the toilets. They may not be able to bathe for several days at a time, either because the guards do not allow them to use the showers or because of a lack of running water. Youths in most facilities must depend on their family members to bring them soap, toothpaste, and toilet paper; those who do not have visitors must do without.

These problems are compounded by the cavalier attitude of many detention center officials, starting with the system's director. "There is a lot less in these children's houses," Dr. Sérgio Novo said, telling us that Rio's detention centers were cleaner than many of their homes.¹⁹²

As a stark indication of the lack of hygienic conditions in Rio de Janeiro's detention centers, youths and staff must endure periodic outbreaks of scabies, a contagious parasitic disease caused by infestation of the *Scaroptes scabiei* mite.¹⁹³ The overcrowded conditions in most detention centers, infrequent laundering of bedding and clothing, and the lack of soap make these facilities ideal for the transmission of scabies. Detention centers do not treat youths who contract scabies, increasing the likelihood that it will spread throughout the detainee population. As a result, a public defender told Human Rights Watch, "Scabies is a problem in all of the facilities in the system."¹⁹⁴

Bedding and Clothing

The lack of beds and mattresses was a problem in all of the facilities we visited, meaning that youths shared mattresses or slept on the floor. "I don't have a mattress," said Justino R., a detainee who had spent seven months in Santo Expedito. "Half of us don't have mattresses."¹⁹⁵ Similarly, Carlos A., an eighteen-year-old in Cai Baixada, told us,

¹⁹² Human Rights Watch interview with Dr. Sérgio Novo, July 31, 2003.

¹⁹³ See, for example, Centers for Disease Control, Division of Parasitic Diseases, *Fact Sheet: Scabies* (August 15, 1999), available at http://www.cdc.gov/ncidod/dpd/parasites/scabies/factsht_scabies.htm (viewed September 10, 2004).

¹⁹⁴ Human Rights Watch interview with public defender, Rio de Janeiro, July 28, 2003.

¹⁹⁵ Human Rights Watch interview with Justino R., Educandário Santo Expedito, July 30, 2003.

“The mattresses aren’t big enough, and there aren’t enough for all.”¹⁹⁶ “They sleep on concrete there,” the father of one youth in Santo Expedito said. “They don’t have mattresses. They don’t have anything.”¹⁹⁷ Alícia Q., an eighteen-year-old in Santos Dumont, reported that because there were twelve beds in her dormitory for sixteen girls, the girls often slept two to a bed.¹⁹⁸

Luciano G., an eighteen-year-old who had spent a little over a month in Santo Expedito, was one of the few detainees we spoke with who did have a mattress. “But it’s very bad. It’s old and very thin,” he said. He showed us a tattered foam sleeping pad perhaps two-thirds its original size. He added, “Not everybody has a mattress. Those who don’t have one sleep with somebody else. They have to share a mattress.”¹⁹⁹

The detention centers visited by Human Rights Watch do not provide youths with a change of clothing if they do not have their own, and these facilities did not regularly launder clothing. As a result, youths frequently went several weeks without a change of clothes. For example, Miguel L., a twenty-one-year-old in Padre Severino, told us that he had not changed his clothes in two weeks;²⁰⁰ and fifteen-year-old Vitor M., also in Padre Severino, reported that he changed clothes every three to four weeks.²⁰¹ Carlos A., the eighteen-year-old in CAI-Baixada, told Human Rights Watch, “They don’t have cleaning here. They don’t do cleaning. . . . I received clean clothes today [Monday], and I’ll turn them in on Wednesday. We wear the same clothes two or three days.”²⁰²

Youths in Santo Expedito, in particular, consistently reported problems in laundering their clothing. “We have the same clothing for three weeks,” Paulo E., held in Santo Expedito, told us.²⁰³ Luciano G., also in Santo Expedito, told us that he only had two changes of clothing. “Right now it’s difficult to exchange them,” he said, explaining that the detention center had not laundered his clothing for two weeks. He washed the clothes himself in an effort to maintain a basic level of personal hygiene. “My mother brings soap for me,” he told us.²⁰⁴ “I only have these clothes,” said seventeen-year-old

¹⁹⁶ Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

¹⁹⁷ Human Rights Watch interview with father of youth in detention, Rio de Janeiro, August 1, 2003.

¹⁹⁸ Human Rights Watch interview with Alícia Q., Educandário Santos Dumont, July 29, 2003.

¹⁹⁹ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

²⁰⁰ Human Rights Watch interview with Miguel L., Instituto Padre Severino, July 29, 2003.

²⁰¹ Human Rights Watch interview with Vitor M., Instituto Padre Severino, July 29, 2003.

²⁰² Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

²⁰³ Human Rights Watch interview with Paulo E., Educandário Santo Expedito, July 30, 2003.

²⁰⁴ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

Alex C., another Santo Expedito detainee. “We do the laundry ourselves. Our mothers bring us soap.” He returned to this subject at the end of our interview, when we asked him what changes he would like to see at the detention center, suggesting that the detention center give every youth two changes of clothing so that they could wear one while the other was being laundered.²⁰⁵

When we asked an official in Santo Expedito’s laundry room how often clothing was washed, he replied, “We only have one washer and one drier that work. Clothing, that’s now done once a week. When things are working normally, laundry is twice a week.”²⁰⁶

Personal Hygiene and Access to Water

All of the facilities we visited had toilets, but youths were not always allowed out of their cells to use them, particularly at night. “There are no bathrooms in the rooms, so the adolescents use a jug and empty it out the window,” observed a worker in CAI-Baixada.²⁰⁷ Even when youths have access to them, the toilets are often broken or blocked up. “They don’t have proper bathrooms,” said the mother of a seventeen-year-old in Santo Expedito. “The boys are filthy. It’s dirty in there, sweaty and humid.” Noting that these conditions facilitate the spread of scabies and similar diseases, she told us, “There’s a kid there with scabies all over his buttocks, penis, and hands.”²⁰⁸

We heard similar reports that youths were not allowed to bathe regularly. We heard of only one detention center that provided soap, and some detention centers did not issue toilet paper to youths. “They don’t let us take showers,” said Dário P., an eighteen-year-old in CAI-Baixada.²⁰⁹ Twenty-one-year-old Miguel L. told us that Padre Severino did not always issue toilet paper to youths; he used water to clean himself, but he told us that the water in the detention center was frequently cut off.²¹⁰ Ronaldo O., eighteen, reported the same problem with a lack of toilet paper in Santo Expedito.²¹¹ Access to clean drinking water was also a problem in most of the facilities we visited.

Youths depend on visiting family members to bring them soap, toothpaste, toothbrushes, and other toiletries. “We don’t have toothpaste,” Carlos A., a CAI-

²⁰⁵ Human Rights Watch interview with Alex C., Educandário Santo Expedito, July 30, 2003.

²⁰⁶ Human Rights Watch interview with detention center official, Educandário Santo Expedito, July 30, 2003.

²⁰⁷ Human Rights Watch interview with detention center official, CAI-Baixada, July 28, 2003.

²⁰⁸ Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

²⁰⁹ Human Rights Watch interview with Dário P., CAI-Baixada, July 28, 2003.

²¹⁰ Human Rights Watch interview with Miguel L., Instituto Padre Severino, July 29, 2003.

²¹¹ Human Rights Watch interview with Ronaldo O., Educandário Santo Expedito, July 30, 2003.

Baixada detainee, told us. “I have soap, but that’s because my mother brings it for me.”²¹² Enrique P., detained in Santo Expedito, voiced a similar complaint. “We need toiletries,” he said. “They only give us soap. No toothpaste. We only have that if our mothers bring it on the days they visit.”²¹³ And Marinete Laureano, the director of Santos Dumont, identified the need for soap and toothpaste as a priority in her detention center.²¹⁴

The Outbreak of Scabies

Staff at the Escola Santo Expedito, the Instituto Padre Severino, and the CAI-Baixada detention center informed us that scabies was rampant among the youth population at each facility. When we toured the centers and spoke with youths, they complained of skin rashes and severe itching. Many of these youths showed us large, red, pimple-like spots on their arms and legs; others had crusty patches spread over their bodies.

While not particularly dangerous, scabies is exceedingly unpleasant and carries a significant risk of secondary infections. If left untreated, scabies causes severe itching and may spread over the body. Those with scabies are at risk of secondary bacterial infections if they scratch the affected areas. In addition, because scabies may be transmitted by skin contact, the failure to treat youths puts detention center staff and their families at risk of contracting the disease.

We highlight scabies in this section because its prevalence indicates a widespread disregard for the right of youths in detention to facilities and services that meet basic standards of health and human dignity. Regular laundering of clothing and bedding, the opportunity to bathe daily with soap and hot water, and separate mattresses for each youth would reduce the risk of contracting scabies. Those who do contract the disease can be treated with lotions that are readily available. Nevertheless, every detainee that we interviewed told us that health officials did not treat scabies. “They don’t have medications,” said Carlos A., an eighteen-year-old detainee in CAI-Baixada, showing us his arms and legs, which were covered with scabies.²¹⁵ As one DEGASE health care worker commented to us, “This problem has been going on for nine years.”²¹⁶

²¹² Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

²¹³ Human Rights Watch interview with Enrique P., Educandário Santo Expedito, July 30, 2003.

²¹⁴ Human Rights Watch interview with Marinete Laureano, director, Educandário Santos Dumont, July 29, 2003.

²¹⁵ Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

²¹⁶ Human Rights Watch interview with health care worker, Rio de Janeiro, August 1, 2003.

Scabies is not the only disease that thrives in unhygienic conditions, and the need for medical supplies is not limited to medication for the treatment of scabies. “There’s a huge lack of medication here,” said Dário P., an eighteen-year-old in Cai Baixada. “They lack a lot of things.”²¹⁷ An official at the detention center corroborated this account, saying, “The family members have to buy whatever prescription medications they need.”²¹⁸ We heard similar accounts in all of the institutions we visited.

When we spoke to Dr. Sérgio Novo about the outbreak of scabies in Rio de Janeiro’s detention centers, he downplayed the problem, telling us that such outbreaks were common during the winter months of June, July, and August. “During other times of the year, we have problems with eye inflammations,” he said, presumably referring to conjunctivitis.²¹⁹ We received no response to our written request that the state provide adequate medical treatment to detained youths with scabies.²²⁰

The Right to the Highest Attainable Standard of Health

All individuals have the right to enjoy the highest attainable standard of health, a right that is guaranteed by article 12 of the International Covenant on Economic, Social and Cultural Rights and reaffirmed in the Convention on the Rights of the Child, the International Convention on the Elimination of All Forms of Racial Discrimination, and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (known as the Protocol of San Salvador).²²¹ The state also has an affirmative obligation to provide for the basic health needs of those it detains. As the Human Rights Committee has observed, states have “a positive obligation toward persons who are particularly vulnerable because of their status as persons deprived of liberty.”²²² This obligation flows from the right of individuals in

²¹⁷ Human Rights Watch interview with Dário P., CAI-Baixada, July 28, 2003.

²¹⁸ Human Rights Watch interview with detention center official, CAI-Baixada, July 28, 2003.

²¹⁹ Human Rights Watch interview with Dr. Sérgio Novo, July 31, 2003.

²²⁰ See Letter from Bochenek to Gov. Garotinho, August 11, 2003.

²²¹ See International Covenant on Economic, Social and Cultural Rights, *adopted and opened for signature* December 16, 1966, 993 U.N.T.S. 3 (entered into force January 3, 1976, and acceded to by Brazil April 24, 1992), art. 12; Convention on the Rights of the Child, art. 24; International Convention on the Elimination of All Forms of Racial Discrimination, *adopted* December 21, 1965, 660 U.N.T.S. 195 (entered into force January 4, 1969, and ratified by Brazil January 4, 1969), art. 5(e)(iv); Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights (“Protocol of San Salvador”), *adopted* November 17, 1988, O.A.S.T.S. No. 69 (entered into force November 16, 1999, and acceded to by Brazil on August 8, 1996), art. 10.

²²² Human Rights Committee, *General Comment No. 21: Article 10 (Humane Treatment of Persons Deprived of Their Liberty)* (1992), para. 3, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, U.N. Doc. HRI/GEN/1/Rev.7 (2004), p. 153.

detention to be treated with humanity and with respect for the inherent dignity of the human person, a right guaranteed by article 10(1) of the International Covenant on Civil and Political Rights (ICCPR).

The U.N. Rules for the Protection of Juveniles, “intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms,” call for the following measures, among others, to protect the health and ensure the human dignity of children in detention:

- Adequate preventive and remedial medical care.²²³
- Prompt examination by a doctor of every youth who is ill, complains of illness, or demonstrates symptoms of physical or mental difficulties.²²⁴
- Separate and sufficient bedding, which should be clean when issued, kept in good order, and changed often enough to ensure cleanliness.²²⁵
- Accessible and clean sanitary installations.²²⁶
- Clean drinking water available to all youths at all times.²²⁷

In addition, the state’s failure to provide adequate medical treatment to detained children with scabies may amount to cruel, inhuman, and degrading treatment.

As a matter of priority, DEGASE and the Secretariat of Health should conduct thorough medical examinations of all youths in the Escola Santo Expedito, the Instituto Padre Severino, and CAI-Baixada detention center; provide immediate treatment to all youths found to be infected with scabies, with follow-up treatment as necessary; wash all clothing, bedding, and towels in boiling water and follow the other steps outlined by DEGASE’s health unit to prevent a recurrence of the disease; provide youths with sufficient soap and adequate opportunity to bathe; provide every youth with his or her own mattress and bedding; and ensure that living areas and sanitary facilities are cleaned frequently enough to meet all requirements of health and human dignity.²²⁸

²²³ See U.N. Rules, art. 49.

²²⁴ See *ibid.*, art. 51.

²²⁵ See *ibid.*, art. 33.

²²⁶ See *ibid.*, art. 34.

²²⁷ See *ibid.*, art. 37.

²²⁸ See Dr. Neuza Miklos, “Escabiose (Sarna),” in *Dossiê da Coordenação de Saúde do Degase* (Rio de Janeiro: Secretaria de Estado de Justiça, 1998), p. 16.

VIII. EDUCATION

Brazilian law requires juvenile detention centers to provide “schooling and vocational training,” but few of the facilities visited by Human Rights Watch comply with this requirement. Youths and their parents frequently identified education as one of the greatest needs of Rio de Janeiro’s juvenile detention system. The mother of a sixteen-year-old in detention asked, “What are they doing to improve these kids? *Nothing.*” She emphasized the word. “At Padre Severino, the kids mess up and return, mess up and return. They’re creating bandits.”²²⁹

The failure to provide education and vocational training is of particular concern in light of the high level of youth participation in Rio de Janeiro’s drug trade. Over one-third of youths arrested in the state are charged with drug offenses, including drug trafficking, according to data collected by the juvenile court.²³⁰ Youth involvement is increasing, and it begins at earlier ages, recent studies have concluded.²³¹ If Rio de Janeiro’s juvenile detention centers were fulfilling their “socio-educational” mission, they would make efforts to address youth involvement in drug trafficking by improving children’s access to education, providing them with vocational training, and working with employers to develop job programs to give them real alternatives to involvement in the drug trade.²³²

Access to Schooling

In CAI-Baixada, Padre Severino, and Santo Expedito in particular, most youths did not attend classes. “Education is a chaos,” said a volunteer who works in Rio de Janeiro’s detention centers.²³³ “Sometimes we have classes, and sometimes we don’t have them,” said Dário P., an eighteen-year-old in CAI-Baixada.²³⁴ Alfonso S., a CAI-Baixada detainee who was attending class, told us that only half of the detention center was in school, although he said that the others expected to start soon.²³⁵

²²⁹ Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

²³⁰ See de Souza e Silva and Urani, *Children in Drug Trafficking*, p. 20 (citing data from the 2da. Vara da Infância e Juventude).

²³¹ See, for example, Dowdney, *Children of the Drug Trade*, p. 118-38.

²³² See de Souza e Silva and Urani, *Children in Drug Trafficking*, pp. 43-47.

²³³ Human Rights Watch interview with detention center volunteer, Rio de Janeiro, July 28, 2003.

²³⁴ Human Rights Watch interview with Dário P., CAI-Baixada, July 28, 2003.

²³⁵ Human Rights Watch interview with Alfonso S., CAI-Baixada, July 28, 2003.

Youths in Padre Severino gave similar accounts. “They didn’t have classes” in Padre Severino, seventeen-year-old Agostinho M. told Human Rights Watch. “I was enrolled in school before [I was detained], but there weren’t any classes in Padre Severino.”²³⁶ Peter da Costa was director of Padre Severino before assuming his current post as director of the João Luis Alves detention center in January 2003. We asked him to compare the two facilities. Conceding that Padre Severino did not offer schooling to youths in detention, he explained, “There . . . the situation with regard to education is more complicated because the boys remain there only forty-five days.”²³⁷

In Santo Expedito, youths and their parents reported mixed experiences with regard to schooling. For instance, the mother of one boy in detention reported that he was not able to attend class. “My son was always in school until he went into detention. He couldn’t continue because he was detained,” she said, explaining that her son was not able to attend classes in Santo Expedito.²³⁸ But Luciano G. told us that of the thirty youths in his wing in Santo Expedito, only he and another boy were not attending school. “I have to enroll still,” he said, explaining that the counselor had to help him do that. He had been in Santo Expedito for thirty days at the time of our interview.²³⁹ Officials at Santo Expedito told us that they expected seventy of the 175 youths in detention to be in classes when school resumed the Monday after our visit,²⁴⁰ meaning that 60 percent of youths detained in the facility would not be enrolled in school.

Only João Luis Alves routinely offered classes to all youth in detention. For example, Eric T., a fifteen-year-old in the fifth grade, told us that he attended classes in João Luis Alves from 8 to 11 a.m. He told us that he had been to class earlier that morning.²⁴¹ The João Luis Alves center director, Peter da Costa, told Human Rights Watch that education in his detention center is provided by a state school. “We have literacy classes and basic education through the eighth grade,” he said. When we asked what they did for youths who entered in a higher grade, he replied, “It’s rare to see a boy here who’s in secondary school.”²⁴²

²³⁶ Human Rights Watch interview with Agostinho M., Rio de Janeiro, August 1, 2003.

²³⁷ Human Rights Watch interview with Peter da Costa, July 29, 2003.

²³⁸ Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

²³⁹ Human Rights Watch interview with Luciano G., Educandário Santo Expedito, July 30, 2003.

²⁴⁰ Human Rights Watch interview, with detention officials, Educandário Santo Expedito, July 30, 2003.

²⁴¹ Human Rights Watch interview with Eric T., Escola João Luis Alves, July 29, 2003.

²⁴² Human Rights Watch interview with Peter da Costa, July 29, 2003.

Vocational Training

In addition to formal education, juvenile detention centers in Brazil are also required to provide vocational training for youths in their charge.²⁴³ Parents and youths frequently identified such training as one of their top priorities. When we asked Alfonso S. if there was anything he would like to change in the detention center, for example, he told us, “I would have activities for us—cooking, computers, electrical wiring, things like that.”²⁴⁴ Similarly, Carlos A., an eighteen-year-old in CAI-Baixada, recommended, “I’d have more courses on computers, mechanics, bread making, so that we don’t leave here without anything.”²⁴⁵

For many parents, the state’s failure to provide vocational training was bitterly disappointing. “I had a vision that the [detention center] would give my son a skill,” one mother said.²⁴⁶ The grandmother of a youth in detention, referring to the “socio-educational” measures administered by the juvenile detention system, said, “Socio-educational—how is that? It’s not. That’s false.”²⁴⁷

Given the number of youths involved in Rio de Janeiro’s drug trade—over one-third of youths arrested in the state are charged with drug offenses, including drug trafficking²⁴⁸—the failure of detention centers to provide vocational training and other specialized programming is a missed opportunity. The use of children under the age of eighteen “for the production and trafficking of drugs” and other illicit activities is unequivocally recognized as one of the worst forms of child labor,²⁴⁹ meaning that youth involvement in drug trafficking is both a juvenile justice issue and a child labor concern. Strategies to reduce youth involvement in drug trafficking include improving children’s access to education, providing them with vocational training, and working with employers to develop job programs that give them real alternatives to involvement in the

²⁴³ The Statute of the Child and the Adolescent expressly provides that youths deprived of their liberty, including those in pretrial detention, have the right “to receive schooling and vocational training.” Estatuto da Criança e do Adolescente, art. 124 (XI) (“São direitos do adolescente privado da liberdade, entre outros, os seguintes: . . . receber escolarização e profissionalização . . .”).

²⁴⁴ Human Rights Watch interview with Alfonso S., CAI-Baixada, July 28, 2003.

²⁴⁵ Human Rights Watch interview with Carlos A., CAI-Baixada, July 28, 2003.

²⁴⁶ Human Rights Watch interview with mother of youth in detention, Rio de Janeiro, August 1, 2003.

²⁴⁷ Human Rights Watch interview with grandmother of youth in detention, Rio de Janeiro, August 1, 2003.

²⁴⁸ See de Souza e Silva and Urani, *Children in Drug Trafficking*, p. 20 (citing data from the 2da. Vara da Infância e Juventude).

²⁴⁹ See ILO Convention 182, concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (“Worst Forms of Child Labour Convention”), adopted June 17, 1999, 38 I.L.M. 1207 (entered into force November 19, 2000), art. 3(c). Brazil ratified the Worst Forms of Child Labour Convention on February 2, 2002.

drug trade.²⁵⁰ Initiatives such as these are a ready fit with the rehabilitative purpose and “socio-educational” mission of the juvenile justice system.

The Right to Education

The right to education is set forth in the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Protocol of San Salvador. Each of these treaties specifies that primary education must be “compulsory and available free to all.” Secondary education, including vocational education, must be “available and accessible to every child,” with the progressive introduction of free secondary education.²⁵¹

International standards clarify that detention status is not a permissible basis for the denial of education to children. As reaffirmed in the U.N. Rules for the Protection of Juveniles, youths do not lose their right to an education when they are confined. “Every juvenile of compulsory school age” who is deprived of his or her liberty “has the right to an education suited to his or her needs and abilities,” education which should be “designed to prepare him or her for return to society.”²⁵² The Beijing Rules call upon government officials to ensure that children deprived of their liberty “do not leave the institution at an educational disadvantage.”²⁵³

²⁵⁰ See de Souza e Silva and Urani, *Children in Drug Trafficking*, pp. 43-47.

²⁵¹ The International Covenant on Economic, Social and Cultural Rights provides that primary education “shall be available to all” and that secondary education “shall be made generally available and accessible to all by every appropriate means.” International Covenant on Economic, Social and Cultural Rights, art. 13. Article 28 of the Convention on the Rights of the Child recognizes “the right of the child to education”; states party undertake to make secondary education “available and accessible to every child.” The Protocol of San Salvador contains similar provisions. See Protocol of San Salvador, art. 13(3).

²⁵² U.N. Rules for the Protection of Juveniles, art. 38.

²⁵³ Beijing Rules, art. 26.6.

APPENDIX A: DETENTION CENTERS VISITED FOR THIS REPORT

Centro de Atendimento Intensivo-Belford Roxo (CAI-Baixada)

CAI-Baixada held 187 youths, sixty-seven more than its capacity of 120, when Human Rights Watch visited on July 28, 2003. In an indication of the severity of overcrowding at the facility, we saw youths sleeping in the infirmary because there was no other place to put them. Nine guards, one for every twenty youths, were on duty; they work one twenty-four-hour shift every three days. In addition, the facility should have a psychologist, a social worker, and an educational specialist, but two of the three professional positions had been vacant for three months. When we discussed the level of overcrowding at CAI-Baixada with Dr. Sérgio Novo, director general of DEGASE, he told us that the facility was overcrowded as a result of an effort to keep youths close their families.²⁵⁴

Compounding the problems of overcrowding and understaffing, CAI-Baxaida was in poor repair and did not have many essential supplies. When we asked about food, for example, the staff member told us, “There’s a lack of basics here, of things like rice.”²⁵⁵

Unlike the other centers we visited, youths in CAI-Baixada are not separated by drug gang. “Everyone is mixed together,” a volunteer told us. “They’re in the same rooms. They lose their identity” as a member of the gang, she said.²⁵⁶

Educandário Santo Expedito

Santo Expedito held 175 youths in seven dormitories when we visited it on July 30, 2003. The center was originally designed as an adult prison and became a juvenile detention facility in 1999. The infrastructure was decrepit, with exposed electrical outlets and holes in many of the roofs. Several of the living areas of the facility were not used at the time of our visit because the walls and ceilings were in danger of collapse, detention center officials told us, meaning that its actual capacity was less than the 166 it was designed to house. According to Dr. Sérgio Novo, funds had been allocated to renovate Santo Expedito into a “model” facility. He was not able to tell us when construction would begin; when we spoke with him in July 2003 DEGASE had not yet opened bidding on the project.²⁵⁷

²⁵⁴ Human Rights Watch interview with Dr. Sérgio Novo, July 31, 2003.

²⁵⁵ Human Rights Watch interview with staff member, CAI-Baixada, July 28, 2003.

²⁵⁶ Human Rights Watch interview with detention center volunteer, Rio de Janeiro, July 28, 2003.

²⁵⁷ Human Rights Watch interview with Dr. Sérgio Novo, July 31, 2003.

Educandário Santos Dumont

Santos Dumont is Rio de Janeiro's only detention center for girls under the age of eighteen. It held fifty-six girls on the day of our visit in July 2003, in excess of its capacity of forty detainees. Sixteen were pretrial detainees; the others were serving sentences. Some girls reported that they were hit by guards as punishment for talking back or failing to observe rules. Several also told us that they were placed in isolation for up to one week for being caught with marijuana or for similar offenses.

The center was cleaner than most of the boys' facilities, but it also offered girls fewer activities than some of the boys' detention centers did. Vocational training, for example, was not available at Santos Dumont. (Marinete Laureano, the center's director, told us that girls could receive vocational training in the nearby João Luis Alves detention center, but none of the girls we interviewed had been offered that option.) The only outdoor recreational area was a small patio; in comparison, many of the boys' facilities had one or more soccer fields and other spaces for recreation.

Four girls were pregnant at the time of our visit, and two others were nursing newborns. The center did not have the staff to provide pre-natal health care to those who needed it, nor did it offer routine gynecological examinations to all girls. Laureano told us that Santos Dumont would soon have a gynecological officer on staff.

Toothpaste, tampons, and medication were in particularly short supply, youths and staff told us. "We do the best we can with what we have," Laureano said. "We need everything."²⁵⁸

Escola João Luiz Alves

At the time of our visit in July 2003, sixty-six youths between the ages of twelve and sixteen were assigned to João Luiz Alves, a number well under its capacity of 120. In addition to those youths, the facility was temporarily housing nineteen youths who had attempted to escape from Padre Severino earlier that month. These youths were held in a separate wing of the facility, and detention center officials appeared to make efforts to keep them from coming into contact with the regular population. Of all of the centers we visited, only João Luiz Alves routinely offered education to detained youths, and it had the best recreational facilities, including a swimming pool and a large gymnasium, both of which youths reported being able to use on a regular basis.

²⁵⁸ Human Rights Watch interview with Marinete Laureano, July 29, 2003.

Marcelo F., a thirteen-year-old in João Luis Alves, told Human Rights Watch that youths are housed according to faction but participate in activities together during the day.²⁵⁹ When Human Rights Watch asked Peter da Costa, the detention center's director, about the level of violence, he suggested that the center did not have a serious problem with violence. "There are a lot of scuffles, but they're kids' things," he said, although he conceded that fights were most likely to break out between members of rival factions.²⁶⁰ Nevertheless, in June 2002, press accounts reported that youths associated with the largest faction began a disturbance in which one boy from an opposing faction sustained stab wounds, four DEGASE agents were held hostage, and various youths were victims of excessive smoke inhalation in a fire that broke out during the disturbance.²⁶¹

Instituto Padre Severino

Designed to hold 165 youths, Padre Severino had a population of 225 on the day of Human Rights Watch's visit, of whom approximately 90 percent of youths in detention were associated with the Comando Vermelho and the remaining 10 percent were affiliated with the Terceiro Comando. Cells were filthy and overcrowded, and on the day of our visit several of the cells were flooded with water gushing from a burst pipe. When the public prosecutor's office conducted a surprise inspection in July 2003, prosecutors found thirteen youths confined in a cramped, windowless cell; the youths reported that they had been subjected to constant beatings.²⁶² Although the center is classified as a pretrial facility, it held sentenced youths as well as those awaiting trial. Because the facility is technically a pretrial detention facility intended to house youths for no more than forty-five days, it had limited recreational facilities. It offered no classes, in violation of Brazilian law.

²⁵⁹ Human Rights Watch interview with Marcelo F., Escola João Luiz Alves, July 29, 2003.

²⁶⁰ Human Rights Watch interview with Peter da Costa, July 29, 2003.

²⁶¹ Ronaldo Braga, "Pitboys se apresentam à justiça e são detidos," *O Globo* (Rio de Janeiro), June 13, 2002.

²⁶² Human Rights Watch interview with Dr. Regiane Cristina Dias Pinto and Dr. Clisange Ferreira Gonçalves, July 31, 2004.

APPENDIX B: LETTER TO GOVERNOR OF RIO DE JANEIRO

August 11, 2003

Exma. Sra.

Rosângela Rosinha Garotinho Barros Assed Matheus de Oliveira

Governor of the State of Rio de Janeiro

Palácio Guanabara - Rua Pinheiro Machado s/nº

Laranjeiras, Rio de Janeiro

RJ, Brasil 22.238-900

Dear Governor Garotinho:

I write to express Human Rights Watch's concerns for the health of youths in the Escola Santo Expedito, the Instituto Padre Severino, and the Cai-Baixada detention center in the State of Rio de Janeiro. Most of the youths at these detention centers are infected with scabies, a contagious parasitic disease caused by infestation of the *Scarcoptes scabiei* mite.

As you know, Human Rights Watch conducts regular, systematic investigations of human rights abuses in some seventy countries around the world. Two representatives of the Children's Rights Division visited five Rio de Janeiro detention centers between July 28 and August 8, 2003.

Staff at the Escola Santo Expedito, the Instituto Padre Severino, and the Cai-Baixada detention center informed us that scabies was rampant among the youth population at each facility. When we toured the centers and spoke with youths, they complained of skin rashes and severe itching. Many of these youths showed us large, red, pimple-like spots on their arms and legs; others had crusty patches spread over their bodies.

Scabies is treatable with medications that are readily available. If left untreated, scabies causes severe itching and may spread over the body. Those with scabies are at risk of secondary bacterial infections if they scratch the affected areas. In addition, because scabies may be transmitted by skin contact, the failure to treat youths puts detention center staff and their families at risk of contracting the disease.

Conditions in the three facilities and other detention centers are ideal for the spread of scabies. These detention centers are overcrowded, with as many as twenty youths to a cell. Many youths told us that they share mattresses. Youths are generally not monitored when they are locked in their cells, increasing the likelihood of voluntary and coerced sexual activity.

In addition, bedding and clothing are laundered infrequently—in one detention center, for example, staff reported that bedding had not been changed in three weeks. Youths also complained that they are not always issued soap and are sometimes given insufficient time to bathe.

When we spoke with Sérgio Novo, director of the General Department of Sócio-Educational Action (Departamento Geral de Ações Sócio-Educativas, DEGASE), on July 31, he told us that scabies was a seasonal problem in Rio de Janeiro's juvenile detention centers and that it was due in large part to a youth population "not educated in terms of hygiene."

The state has an affirmative obligation to ensure that its detention centers meet basic standards of hygiene and to provide for the basic health needs of those who are deprived of their liberty. As the Human Rights Committee has observed, states have "a positive obligation toward persons who are particularly vulnerable because of their status as persons deprived of liberty." This obligation flows from the right of individuals deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person, a right guaranteed by article 10(1) of the International Covenant on Civil and Political Rights (ICCPR).

The U.N. Rules for the Protection of Juveniles, "intended to establish minimum standards accepted by the United Nations for the protection of juveniles deprived of their liberty in all forms," call for the following measures, among others, to protect the health and ensure the human dignity of children in detention:

- Adequate preventive and remedial medical care
- Prompt examination by a doctor of every youth who is ill, complains of illness, or demonstrates symptoms of physical or mental difficulties.
- Separate and sufficient bedding, which should be clean when issued, kept in good order, and changed often enough to ensure cleanliness.
- Accessible and clean sanitary installations.

In addition, the state's failure to provide adequate medical treatment to detained children with scabies may amount to cruel, inhuman, and degrading treatment, in violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Brazil ratified the Convention against Torture in 1989.

We ask you to direct DEGASE and the Secretariat of Health to take the following steps as a matter of priority:

- Conduct thorough medical examinations of all youths in the Escola Santo Expedito, the Instituto Padre Severino, and the Cai-Baixada detention center.
- Provide immediate treatment to all youths found to be infected with scabies, with follow-up treatment as necessary.
- Wash all clothing, bedding, and towels in hot water and follow the other steps outlined by DEGASE's health unit to prevent a recurrence of the disease.
- Provide youths with sufficient soap and adequate opportunity to bathe.
- Provide every youth with his or her own mattress and bedding.
- Ensure that living areas and sanitary facilities are cleaned frequently enough to meet all requirements of health and human dignity.

We would appreciate being notified of the steps your government takes in response to these serious concerns.

Sincerely,

Michael Bochenek
Counsel
Children's Rights Division

ACKNOWLEDGMENTS

This report was written by Michael Bochenek, Fernando Delgado, Stephen Hanmer, and Helena Romanach. Michael Bochenek is counsel to the Children's Rights Division of Human Rights Watch. Fernando Delgado is a 2004 A.B. graduate of Princeton University and the Henry Richardson Labouisse '26 Fellow for Human Rights Watch in Rio de Janeiro for 2004-2005. Stephen Hanmer is a third-year law and social work student at Columbia University. Helena Romanach is a Brazilian lawyer and a 2004 LL.M. graduate of the New York University School of Law. Bochenek and Hanmer conducted a two-week field investigation following eight weeks of preparatory work by Hanmer in Rio de Janeiro. Romanach gathered additional research from New York and São Paulo, and Delgado conducted further research in Rio de Janeiro following the conclusion of the field investigation.

Lois Whitman, executive director of the Children's Rights Division; Sahr Muhammedally, Alan R. Finberg Fellow in the Children's Rights Division; Wilder Tayler, legal and policy director of Human Rights Watch; and Iain Levine, program director of Human Rights Watch, edited the report. Joanne Mariner, deputy director of the Americas Division, and Jamie Fellner, director of the U.S. Program, also reviewed and commented on the manuscript. John Emerson designed the maps. Fitzroy Hepkins, Andrea Holley, Veronica Matushaj, and Dana Sommers provided production assistance. Reginaldo Alcantara translated the report from English into Portuguese.

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We would also like to thank the federal and state officials who agreed to be interviewed for this report and who facilitated access to juvenile detention facilities, including Dr. Guaraci de Campos Vianna, chief judge, 2da. Vara da Infância e Juventude, Rio de Janeiro; Dr. Sérgio Novo, director general, Departamento Geral de Ações Sócio-Educativas, Rio de Janeiro; Dr. Nilmário Miranda, minister, Special Secretariat of Human Rights, Brasília; Dr. João Luiz Duboc Pinaud, former secretary of state for human rights, state of Rio de Janeiro; Dr. Regiane Cristina Dias Pinto and Dr. Clisange Ferreira Gonçalves, public prosecutors, 4o. Centro de Apoio Operacional das

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Finally, we would like to thank the many children and parents we interviewed, whose names have been changed in this report to protect their privacy.

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