

“Making Their Own Rules”

Police Beatings, Rape, and Torture of Children in Papua New Guinea

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Glossary

to belt, bash – to hit, beat up

buai – betel nut mixed with lime and mustard stick that when chewed, produces copious, bright red saliva and a mild stimulant effect

to change your face – to beat so badly that the face is disfigured

five-kina police – police who can be bribed

line-up – sex act involving multiple males having sex with one person, typically absent consent (see “pack rape”)

mobile squads – special police units with paramilitary training responsible for suppressing public disorder but used more broadly, known for especially violent tactics

men who have sex with men – term used particularly by people working in the field of HIV/AIDS to describe males who engage in sexual behavior with other males, but do not necessarily identify as “gay,” “homosexual,” or “bisexual”

pack rape – gang rape

panel beating – to beat from head to toe

raskol – popular term used to describe members of criminal gangs

remand – pretrial detention

reserve and auxiliary police – police designed to supplement regular police officers; reserve and auxiliary police receive less training and pay than regular officers

snake bail – a bribe

task force – a special police unit formed by a police station commander

wantok – pidgin term referring to a relative, near or distant, to whom one feels allegiance or obligation; literally, those who speak the same language

wantrouble – pidgin term referring to a wantok with whom one gets into trouble; member of the same band of delinquents

I. Summary

When police arrested Steven E., age sixteen, for pick-pocketing five hundred kina (U.S.\$160) from a soldier, three reserve police officers in a truck chased him to the edge of the sea and caught him, he said.¹ He was unarmed, and the officers began to beat him:

I was covered in blood. They also hit me with a gun butt and made me go into the sea. They told me to wash the blood off before I got into the vehicle. I was finding it very difficult to breathe. I was really exhausted because they had been bashing me up.

Then the officers tied his hands and legs.

I didn't get into the vehicle—they threw me in . . . the back of the truck. They drove me around town and told people I was a criminal, a pickpocket who they caught. . . . They were saying, “Can you see the criminal in here? This is a pickpocket. This pig—we are going to take him and kill him.”

They were talking on a speaker. . . . I couldn't tell if people could see me because my eyes were full of blood. . . . There was one policeman in the back with me and he was beating me. . . . They did one trip around town and then brought me to the police station.

At the station:

They held my head and hit it against the vehicle on the front bumper. . . . This cut me here [indicating his right eyebrow and cheek]. . . .

Then they took me into the station and started questioning me about the money. . . in a small room where they interview criminals. . . The [five]

¹ Human Rights Watch interview with sixteen-year-old boy, Wewak, September 18, 2004. The names of all children in this report have been changed to protect their privacy. Throughout this report the exchange rate used is 3.12 kina to the U.S. dollar and 1.34 Australian dollars to the U.S. dollar, with U.S. dollar amounts greater than ten rounded to the nearest dollar.

who questioned me were totally different than the ones who caught me. But I would recognize them all again. . . .

First they cut me with the scissors. They put the scissors there [indicating his back and right side] and cut my skin.

Steven E. showed us two thin scars, each around one inch long, that he said were from being cut with scissors.² “Then the police officer came with a smoke fire [large stick of tobacco] and burned me. I was wearing a shirt and they took it off,” he told us. He also showed us two round scars on each side of his back that he said were from where the police burned him. A pediatrician who viewed photographs of the scars told us that the fact that the scars were round, were located on both sides of the back, and were well-circumscribed and demarcated “makes it much more suspicious that they were deliberately inflicted and not an accident.” While she said she could not say for certain that they were from burns, she noted that “the increased pigmentation and that the scars are flush with the skin” were consistent with a healed burn.³

Steven E. continued:

They made me take off all my clothes. I was bare naked with them. When they were burning me, they were saying things like, “rotten kids, running around spoiling the place, just another stupid kid in town.” . . . Two of them were burning me at the same time.

A police lady came walking in, and they told me to turn around and look at the lady. I was naked. Then another police officer said, “No, don’t do that.” . . . They told me to stand so she could take a look at me. I had to do what they said—they had guns. They told her to see me naked. It was a joke to them and they started laughing. She laughed too. She came and had a look and left. . . .

I admitted everything to the police. Before they put me in the cell, I admitted everything.

² A pediatrician who viewed photographs of the scars noted that they “were consistent with the injury described.” Human Rights Watch interview with Dr. Annie Sparrow, pediatrician, New York, January 19, 2005.

³ Ibid.

After police questioned him, Steven E. told us, they put him in a cell naked. After about an hour, he said, they brought him some shorts.

There were men of all ages in my cell. Many were adults. There were plenty. . . . I didn't count. . . .

The cell was very stinky. I couldn't sleep that night because of the pain. I was leaning against the wall. . . . There weren't any beds and there was no proper bedding—no blankets or mats. There was shit all over the place. Especially during the day it was really smelly as the sun was shining. There was a toilet, but it was spoiled and there wasn't any water. There was no medicine. I wasn't even able to wash because there wasn't any water. My parents brought me food and water from home. In the cell, they would give us one litre of water in the afternoon and a few dried biscuits. . . .

I stayed there for two weeks. Then my parents bailed me out. It cost one hundred kina [U.S.\$32]. . . .

I never told anyone in the court what happened to me. The magistrate asked me, "Did you do this," and I admitted it. He didn't ask me how the police treated me. I didn't have a lawyer. There wasn't a social worker there. I was only there with my parents.

Papua New Guinea's serious crime problem is being met with a violent police response. Children, who make up nearly half of the country's some 5.6 million people, are especially vulnerable. The experience of Steven E. reflects that of many children at the hands of the Royal Papua New Guinea Constabulary, the country's police force. Brutal beatings, rape, and torture of children, as well as confinement in sordid police lockup, are widespread police practices. Although even high level government officials acknowledge this, almost nothing has been done to stop it.

The vast majority of children who are arrested are severely beaten and often tortured by members of the police. Almost everyone Human Rights Watch interviewed in each area we visited who had been arrested was beaten. Children reported being kicked and beaten by gun butts, crowbars ("pins bars"), wooden batons, fists, rubber hoses, and chairs.

Boys described being shot and knifed while in custody. Girls told us that they had been forced to chew and swallow condoms. Many of those we interviewed showed us fresh wounds and scars on their heads, faces, arms, legs, and torsos that they said were from police. Serious injuries to the face, particularly around the eyes, were common.

According to victims and eyewitnesses, police typically beat individuals at the moment of arrest, during the time they are transported to the station, and often at the station itself. Beatings are so routine that police make little or no attempt to hide them, beating children in front of the general public and international observers. A man who said police beat him and forced him to fight naked with other detainees in a police station when he was sixteen or seventeen years old noted: “We thought it was their job and we just had to accept it.” Although police violence is endemic and adults described similar experiences, children’s particular vulnerability and the assumption that boys and young men are “raskols”—members of criminal gangs—make children especially easy targets.

Girls often are subjected by police to sexual abuse, including rape—frequently pack rape (gang rape, also described as “lineup sex”). Because girls are rarely charged, tried, and sentenced, their contact with the police often goes formally unrecognized. Girls and women told us about rapes in police stations, vehicles, barracks, and other locations. Some described seeing police rape girls vaginally and orally, sometimes using objects such as beer bottles. Alice O. recounted being stopped on the highlands highway with her friends when she was fourteen or fifteen years old:

The cops came and got the girls one by one. There were five guys. There were five girls so they each had one for themselves. One came to me. I was crying and said, “You guys hit me already.” . . . The same guy who hit me wanted to take me out. I said, “You have already belted around so how can I go?” He booted me on the ass and slapped me. He pushed me. I had a lump on my back and bruises on my bum. . . .

After that, they took the other four out. They did whatever they could do with them. . . . There was moonlight. It was on the dirt. It was right in front of me. I could see through the window. It was forcible. The others had injuries from where they were belted—they had bruises on their bums and where they were forced to have sex.

Alice O. did not claim that she was raped. But, as she described, girls and women are often detained briefly by police on pretextual grounds, raped, and then released without

ever being taken to a police station. If they are taken to the station, they are at risk of being raped at the station.

Boys and men also reported sexual abuse by police, including oral and anal rape and attempts to force them to have sex with other detainees.

More commonly, we heard accounts from boys in which they described instances of sexual humiliation, such as being forced to run or fight naked, ordered to expose themselves to female police officers, or stripped during interrogation. Some boys told us that police beat them on the genitals. Muna G. said that when he was about fourteen years old, police arrested him with his friends for loitering. At the police station, he told us, “They stood us at the charging table and told us to take off our trousers and put our penises on the table. The police removed their necklaces, the chains that were around their necks, and hit our penises on the table. They struck really hard—they were big chains.” Muna G. was later released without charge.

Many of the abuses the children recounted rise to the level of torture. Under international law, torture consists of intentional acts by public officials that cause severe physical or mental pain or suffering for the purpose of obtaining information or a confession, or for punishment, intimidation, or discrimination. We heard accounts in which police intentionally inflicted severe pain and suffering, apparently motivated by the desire to punish those suspected of wrongdoing. Boys perceived to be part of raskol gangs are often targeted for abuse. Police similarly target street vendors, sex workers, and boys and men who engage in homosexual conduct. (In Papua New Guinea, it is illegal to “live. . . on the earnings of prostitution”; sodomy, and, in some places, selling on the street are also illegal.) In other cases, police use violence to obtain confessions. For instance, we interviewed children whom police had burned, cut, whipped while naked, and humiliated during their interrogations in order to coerce them to confess to a crime.

At police stations, many children are detained for weeks or months in squalid conditions that violate basic international standards. Most said that police provided them with no medical care, even when seriously injured. In addition, children are routinely mixed with adults in police lockup, where boys are at increased risk of sexual assault at the hands of older detainees. We found boys under the age of eighteen held together with adult detainees in nearly every police lockup we visited. In several of these police stations, separate cells were available but were being used for adults. In some stations, children lacked bedding and sufficient food and water.

Police abuse of children and members of marginalized groups, including rape and other crimes of sexual violence, is not only a problem in and of itself: it may also fuel Papua New Guinea's burgeoning AIDS epidemic. Experts believe that at least 80,000 people—almost 2 percent of the population, the highest rate in the South Pacific region—are living with HIV in Papua New Guinea. By 2010, experts predict, at least 13 percent of the population may be HIV-positive. AIDS has been the leading cause of death in Port Moresby General Hospital since mid-2001.

Police sexual abuse of both boys and girls increases the risk of HIV for all victims, male and female. Police abuse of marginalized populations, such as sex workers and men and boys engaged in homosexual conduct, also increases HIV risk by driving them underground and away from potentially lifesaving information on HIV prevention and health services. Stigmatization of sex workers as "AIDS carriers" may prevent people from seeking HIV-related services for fear of being stigmatized as sex workers. Police harassment of individuals carrying condoms may also deter condom use. All of these acts undermine desperately needed HIV/AIDS prevention work by non-governmental organizations (NGOs) and the government.

In 2003, the government, as a result of the efforts of the United Nations Children's Fund (UNICEF) and an interagency working group of government and civil society representatives, began to create a juvenile justice system, as envisioned by the 1991 Juvenile Courts Act. As of May 2005, seven juvenile courts were operating in some capacity in seven locations in the country. In 2004 and the first half of 2005, policies for dealing with juveniles were adopted for police, magistrates, and correctional officials. These policies severely limit the circumstances under which children can be detained and require separation from adults. The challenge remains to implement these policies. In April 2005, fifteen volunteer juvenile court officers were commissioned to monitor police treatment of children in police stations, and the police opened a single processing center intended for all children detained in Port Moresby, the country's capital. These developments are significant and commendable. However, the next step—changes in how children are treated—had yet to be seen at the time of writing. A critical component—one not yet addressed—will be accountability for police violence.

At present, there is almost no willingness on the part of the police to investigate or prosecute its members. With little or no penalty for violators, training for police has had little effect on violence against children. Indeed, the causes of police violence appear to run far deeper than simply a need for more training: they relate to a collapse of management and discipline throughout the force.

In 2004, an administrative committee commissioned by the minister for internal security issued a report finding a breakdown of discipline and loss of integrity that has destroyed public confidence in the police force and rendered it “largely ineffective.” The committee also found “lack of demonstrable government will and commitment to effective law enforcement and wider related issues of broad community safety and an effective, sustainable, law, order and justice framework.” The committee made a detailed series of recommendations, including the appointment of a Police Ombudsman. If acted upon, the recommendations would likely go a long way towards reforming the police. In June 2005, the police commissioner and other officers accepted the report and agreed to create teams to implement the recommendations. However, the actual implementation will require significant political will and resources that have yet to be demonstrated.

Government mechanisms external to the police that might hold police accountable and provide victims with redress—the public solicitor’s office, the ombudsmen’s commission, and civil claims against the state—have not been effective in diminishing police violence. The public solicitor’s office lacks the resources to represent many children charged with crimes. The ombudsman’s commission, while widely commended for taking on government corruption, has little capacity to investigate reports of police abuse. Despite extraordinary costs to the state, civil claims for police violence fail to provide adequate remedies for many victims because procedural barriers prevent many from pursuing legitimate claims. Where victims are able to bring successful claims, the penalties imposed fail to deter police violence because they are borne by the state, not by the police force or individual officers themselves. There are periodic initiatives to create a national human rights commission, but these efforts have been stalled without reaching Parliament. Others in the justice system, such as judges, appear to ignore or accept police violence.

International funding plays an important role in Papua New Guinea, particularly for policing. Because of the two countries’ proximity, colonial history, and continuing special relationship, Australia wields enormous influence. Australia is Papua New Guinea’s largest foreign donor, giving \$A 492.3 million (U.S.\$367.4 million) in development aid in 2005-2006; in turn, Papua New Guinea is the largest per capita recipient of Australian development aid. Much of Australia’s aid is directed to the police force, which has received funding and technical assistance, including training, through the Australian Agency for International Development (AusAID) for more than fifteen years. This assistance, Australian officials admit, has had no effect on police violence.

In 2004, Australia dramatically increased its aid for the police by \$A 805 million (U.S.\$600.8 million) over five years under the Enhanced Cooperation Programme (ECP), which originated in part in response to growing instability in Papua New Guinea

and out of concerns that the country was a weak link in Australia's anti-terrorism strategy. Under the program, more than 200 Australian police were to be deployed with Papua New Guinea police—this component was on hold as of August 2005 after Papua New Guinea's Supreme Court declared the immunity agreement for Australian officers unconstitutional. Australians are still filling other government positions as advisors.

Australia does not condition receipt of police aid on respect for human rights norms and does not take a rights based approach to development generally. As one AusAID official told us in Canberra, "We don't play a direct advocacy role as a bilateral donor."

Other donors include China, the European Union, Germany, Japan, New Zealand, the World Bank, and the Asian Development Bank, which focus on health (including HIV/AIDS), education, infrastructure, agriculture, and financial reform, not policing. In the areas of juvenile justice, UNICEF has taken the lead, with AusAID and, in Bougainville, the New Zealand Agency for International Development (NZAID) providing funding for some aspects.

Papua New Guinea's international legal obligations prohibit torture; cruel, inhuman, or degrading treatment or punishment; rape; and sexual assault. International law also requires that children be detained only as a measure of last resort, for the shortest appropriate period of time. When they are detained, children must be provided adequate medical care and be separated from adults. In addition, the United Nations (U.N.) has developed a series of principles and minimum rules on the use of force by law enforcement officials and the detention of children that inform the interpretation of country's obligations under international law. Papua New Guinea's law reflects many but not all of these principles.

Key Recommendations

Some authorities in Papua New Guinea are aware of problems in how the state treats children and have begun to introduce appropriate policy changes to reduce the rates of detention of children. Police violence, however, has not been addressed. The problem of police violence is so endemic, so institutionally engrained, that efforts to reduce it will not succeed unless made part of widespread reforms and demanded from the highest levels of government to the public.

Any serious effort to stop police violence, including severe beatings, rape, and torture of children, must include three key components: public repudiation of police violence by officials; criminal prosecution of perpetrators; and ongoing, independent monitoring of

police violence. Suggestions of immediate steps that Papua New Guinea authorities can take in each area are outlined below.

- The minister of police and the police commissioner should publicly repudiate police use of torture, rape, and excessive force against children. The commissioner, with the support of the government, should make clear the guidelines for the use of force consistent with international legal standards, including the Convention on the Rights of the Child, the U.N. Code of Conduct for Law Enforcement Officials, and the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The commissioner should fully implement throughout the country the 2005 Police Juvenile Justice Policy and Protocols that mandates that children be detained only in “extreme or special circumstances” and never with adults.
- The Royal Papua New Guinea Constabulary should take swift and meaningful action against police officers who torture, rape, or use excessive force against children. This should include administrative measures, including dismissal, and criminal prosecution. Commanding officers who know or should know of such acts and who fail to take action to prevent and punish them should face similar sanctions.
- The government should immediately designate an independent body outside the police force to monitor police violence against children. This body should have the mandate and resources to regularly enter police lockup and detention centers without notice; interview all children alone, regardless of whether the child makes a complaint; question detainees about their ages and any allegations of violence; collect other evidence of abuse from children; compel police to provide evidence; and refer cases for prosecution. If the Ombudsman’s Commission is given this responsibility, it should also be provided with adequate resources to do so. If a Human Rights Commission or Police Ombudsman (recommended by the September 2004 administrative review of the police) is created, the government should consider giving one of these bodies this responsibility. However, responsibility should be assigned to an existing body until a new body is operational.

Given the critical role of international donors, particularly Australia, in funding the police sector in Papua New Guinea, a serious effort to eradicate police violence against children in Papua New Guinea will require a far more active role on the part of the international community. Although not unaware of the problem, donors have not made a concerted effort or devised a comprehensive strategy to assist in curbing police abuses

against children. To supplement existing efforts, international donors, including the Australian government, should:

- raise with the government of Papua New Guinea in all official meetings and at the highest level concerns over police violence, including torture, rape, and excessive force against children;
- prioritize accountability for police violence against children in continued and expanded support for mechanisms internal and external to the police force; and
- provide assistance for the development of local human rights groups with the capacity for independent monitoring of police violence and agencies that can provide services for victims.

Additional recommendations can be found at the end of this report.

Methods and Scope

This report is based on research in Papua New Guinea in September 2004, as well as additional information gathered by our researchers between May 2004 and July 2005. Because Papua New Guinea is extremely diverse—there are more than 800 language groups, more than 600 islands, and no roads connecting the capital city with other parts of the country—we visited five representative areas: Port Moresby, the capital; Goroka, in the Highlands; Wewak, along the northern coast; Kokopo (Rabaul), in East New Britain; and Alotau, in Milne Bay. This selection should not be taken to indicate that police violence against children is in any way confined to these areas. In each of the five places, we visited facilities where children were detained, nine in total, including police lockups, juvenile remand centers, and correctional institutions. We also visited a number of urban settlements especially targeted by police and spoke directly with victims.

During the course of our research, we interviewed more than 160 people, including thirty child victims of police violence; young adults who had experienced police violence as children; medical personnel; social workers; NGO staff; lawyers; academics; police officials at various levels, including rank and file officers, an assistant commissioner of police, and the head of internal investigations; government officials in the National AIDS Council, the Ombudsman's Commission, the Office of the Public Solicitor, and the Ministry of Justice; the Secretary of Education; members of the Juvenile Justice Working Group; Australian government officials from AusAID, the Australian Federal Police, and the Australian foreign affairs department; employees of the Australian-based contractor ACIL; U.N. staff; and the current and a former United States (U.S.) ambassador to Papua New Guinea.

Human Rights Watch has investigated and reported on police violence against children in Brazil, Bulgaria, Colombia, Egypt, Guatemala, India, Jamaica, Kenya, Northern Ireland, Pakistan, Russia, Sudan, and Turkey. We have documented detention conditions for children in several of these countries and also the United States. Human Rights Watch has reported on police actions and the spread of HIV/AIDS in Bangladesh, Canada, India, Jamaica, Kazakhstan, Russia, and Thailand.

In this report, the word “child” refers to anyone under the age of eighteen.⁴ Where individuals did not know or were uncertain about their age, this is indicated in the text. The names of all children in this report have been changed and, in some instances, place names or other identifying information withheld. This is done to protect their privacy and preclude retaliation.

II. Background

Papua New Guinea is widely portrayed as one of the more dangerous countries in the world not at war. There is no question that the country, and its police force, face a serious violent crime problem, including gang crime, armed highway robbery, tribal fighting in the Highlands, conflicts related to resource development such as mining, and election-related conflict.⁵ White collar crime, fraud, and corruption among politicians are also serious problems.⁶ According to surveys and media reports, an unusually high proportion of people, especially in the capital, Port Moresby, and other urban areas, live in fear of and are victims of crime.⁷ Crime also exacts an enormous economic cost from

⁴ 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.” Convention on the Rights of the Child, adopted November 20, 1989, 1577 U.N.T.S. 3 (entered into force September 2, 1990), art 1. Papua New Guinea ratified the convention on March 1, 1993. Papua New Guinea’s 1991 Juvenile Courts Act, in section 2, also defines as a juvenile anyone between the ages of seven and eighteen.

⁵ Data on crime are highly unreliable. What exist indicate that violent crime is high and is proportionately greater than in many of Papua New Guinea’s neighbors. See Sinclair Dinnen, “Building Bridges: Law and Justice Reform in Papua New Guinea,” Discussion Paper, February 2002; Sinclair Dinnen, *Law and Order in a Weak State* (Honolulu: University of Hawai’i Press, 2001), pp. 4-4, 35, 61-62. See also Law and Justice Sector Working Group, “National Law and Justice Policy and Plan of Action Toward Restorative Justice,” December 1999, pp. 10-12; Wayne Stringer, “Royal Papua New Guinea Constabulary: Review of Community Policing Approaches,” 2000, sec. 1. However, a 2004 household survey of crime in Port Moresby found that most residents believed that crime, while high, had stayed the same or decreased in the last year. Justice Advisory Group and National Research Institute, “Community Crime Survey Data: Port Moresby and Bougainville,” 2004.

⁶ Ibid.; see Institute of National Affairs, *National Integrity Systems TI Country Study Report: Papua New Guinea 2003*, March 2003 (regarding corruption in Papua New Guinea).

⁷ See, for example, Justice Advisory Group and National Research Institute, “Community Crime Survey Data: Port Moresby and Bougainville”; U. Zveic and A. Alvassi del Frate, *Criminal Victimization in the Developing World* (New York: U.N. Interregional Crime and Justice Research Institute, 1995); R. Sikani, “Criminal Threat in Papua New Guinea,” in *Australia—Papua New Guinea: Crime and the Bilateral Relationship*, B. Bohea, ed.

the country in resources devoted to addressing it, loss of productive work time, additional health care expenses, foreign investment deterred, and other costs.⁸

Situated on the eastern half of the island of New Guinea and some 600 other islands north of Australia in the Coral Sea, Papua New Guinea is the largest country in the South Pacific. It is also one of the most diverse in the world, linguistically and geographically, with speakers of more than 800 languages and extremely difficult terrain. The country's capital, Port Moresby, is not connected by road to any major city or town, and around 85 percent of Papua New Guineans live in rural areas, subsisting on agriculture, forestry, and fishing.

Before colonization in the nineteenth century, the inhabitants of New Guinea and the adjacent islands lived in small, reasonably autonomous societal units, linked by trade, intermarriage, and warfare.⁹ However, most communities remained insular, numbering in the hundreds or at most thousands, with no overarching regional government or political organization.¹⁰ Allegiances and obligations to local, kin-based groups—one's “wantoks”—continue to be very strong, and reciprocity and retaliation (“payback”) remain important means of social control.

In 1884, Germany formally annexed the northeastern portion of New Guinea, and Britain declared a protectorate over the southeast, following Dutch annexation of the western half of the island (now the province of Papua, also referred to as Irian Jaya, in Indonesia). In 1906, Britain transferred its rights to British New Guinea to newly independent Australia, which changed the name to the Territory of Papua. Australian troops invaded German New Guinea (Kaiser-Wilhelmsland) in World War I and gained control over the territory in a League of Nations mandate. Japan invaded New Guinea and some of the Territory of Papua in 1942. In 1945, the territories were combined into the Territory of Papua and New Guinea. Australia granted limited home rule in 1951 and

(Port Moresby: National Research Institute, 1999), cited in Dinnen, *Building Bridges: Law and Justice Reform in Papua New Guinea*, notes 8, 9.

⁸ See, for example, Sean Dorney, *Papua New Guinea: People, Politics and History Since 1975* (Sydney: Australian Broadcasting Corporation Books, 2000), p. 297.

⁹ *A Papua New Guinea Political Chronicle 1967-1991*, Clive Moore with Mary Kooymen, eds. (Bathurst, New South Wales: Crawford House Publishing, 1998), p. xvi.

¹⁰ Ibid., Sinclair Dinnen, “In Weakness and Strength—State, Societies and Order in Papua New Guinea,” *Weak and Strong States in Asia-Pacific Societies*, Peter Dauvergne, ed. (St. Leonards, New South Wales: Allen & Unwin, 1998), pp. 40-41.

autonomy in home affairs in 1960. Papua New Guinea became independent from Australia on September 16, 1975.¹¹

Papua New Guinea's population is young and growing rapidly: with around 5.6 million people, the population has almost tripled since independence.¹² Nearly half are children.¹³ The government has struggled to provide basic health and education services, especially in rural areas, and these services have declined in recent years. The country's infant mortality rate and maternal mortality rate are among the highest in the world; life expectancy at birth was fifty-eight in 2003.¹⁴ The adult literacy rate was 64 percent in 2003; less than half of all school-age children are enrolled in school.¹⁵ Poverty and unemployment increased in the 1990s and 2000s; only 5 percent of those who left school found employment in the formal sector in 2002.¹⁶ The country ranks the lowest in the Pacific on UNDP's Human Development Index and in the lowest third of all nations.¹⁷ Rural poverty is particularly acute, spurring migration to urban areas that lack the infrastructure to receive them, fueling tensions in urban settlements.

Children and Crime in Papua New Guinea

The rise in crime since independence in 1975 has been attributed to the following: a lack of legitimate income-generating opportunities and an increasing gap in socio-economic levels; rapid social, economic, and technological change and resulting social stress; the

¹¹ For more information, see, for example, *A Papua New Guinea Political Chronicle 1967-1991*, Moore with Kooyman, eds.

¹² Available population estimates vary somewhat.

¹³ UNICEF, "At a glance: Papua New Guinea, Statistics," http://www.unicef.org/infobycountry/papuangu_statistics.html (retrieved May 4, 2005) (stating that 2.7 million Papua New Guineans were under age eighteen in 2003).

¹⁴ Ibid.

¹⁵ Gross enrollment rates were 61 percent for elementary school and 18 percent for secondary school. AusAID, "PNG Education Sector Affordability Studies Services Order No. 09187/07, Paper 4, Overview of Financing the Education Sector," September 2003, pp. 34-35; UNDP, *Human Development Report 2004* (New York: UNDP, 2004), p. 141, http://hdr.undp.org/reports/global/2004/pdf/hdr04_HDI.pdf. It should be noted that there is considerable disparity in numbers given by different sources for these data.

¹⁶ AusAID, "Framework: Australia's Aid Program to Papua New Guinea," October 21, 2002, p. 5.

¹⁷ Papua New Guinea ranked 133 out of 177 countries on UNDP's Human Development Index. UNDP, *Human Development Report 2004*, p. 141. UNDP's Human Poverty Index for Papua New Guinea is 37 percent, placing the country sixty-second out of ninety-five developing countries for which the index has been calculated. The Human Poverty Index (HPI) "focuses on the proportion of people below a threshold level in basic dimensions of human development—living a long healthy life, having access to education, and a decent standard of living, much as the poverty headcount measures the proportion of people below a certain income level." United Nations Development Program, "Country Fact Sheets: Papua New Guinea," 2004 http://hdr.undp.org/statistics/data/country_fact_sheets/cty_fs_PNG.html (retrieved May 5, 2005). See also International Bank for Reconstruction and Development, International Development Association, "Interim Strategy Note for Papua New Guinea," no. 31790-PG, March 18, 2005, paras. 1, 16.

colonial legacy and tribal history; the unlikelihood of being caught or convicted for a crime; and greater access to firearms, in part through the conflict on the island of Bougainville from 1989 to 1998.¹⁸ Although adult men are also organizers and beneficiaries of organized crime,¹⁹ media reports and public attention have focused on adolescent boys and young men—so-called raskols—as perpetrators. According to UNICEF, “even when accused of only minor offenses, juveniles are often dealt with harshly by the police and courts because of the popular perception that all young people in conflict with the law are ‘raskols’ preying on the community.”²⁰

Juvenile crime in urban areas is said to have emerged during the decade leading up to independence, coinciding with the legalization of alcohol and increased migration to cities, especially by single men and boys.²¹ According to Professor Sinclair Dinnen, a professor at the Australian National University and close observer of crime and policing in Papua New Guinea, gangs provided these migrants with social and material support, helped transmit masculine values where traditional methods were absent, and were not subject to the social controls imposed on deviant behavior in the village.²² The government of Papua New Guinea has reported that many juvenile offenders have “been forced to drop out of school due to the inability of parents or guardians to pay fees or clothe them adequately.”²³ We also heard reports that some girls sell sex in order to pay for school fees and other expenses.²⁴

¹⁸ See Dinnen, *Law and Order in a Weak State*, pp. 36 (citing the 1983 Morgan Report), 42-43, 62 (regarding greater access to firearms); Wayne Stringer, *Royal Papua New Guinea Constabulary: Review of Community Policing Approaches*, 2000, sec. 1. From 1989-1998, Papua New Guinea experienced a conflict on the island of Bougainville related to the control of and the practices of the island’s Australian-owned copper mine. An agreement was reached 1997, a ceasefire went into effect in April 1998, and a peace agreement was signed in August 2001 involving a framework for disarmament and autonomy for Bougainville.

¹⁹ Human Rights Watch interview with Sinclair Dinnen, School of Pacific and Asian Studies, Australian National University, Canberra, October 5, 2004.

²⁰ UNICEF, “PNG Children in Conflict with the Law: An Assessment of the Juvenile Justice System,” September 2001, p. 5.

²¹ Dinnen, *Law and Order in a Weak State*, pp. 56-61.

²² Ibid., p. 56-59. Traditional means of social control among the Melanesian societies that form Papua New Guinea include payback—or the threat of retaliation—“self-help” justice carried out against the offender or a close relative by the victim or the victim’s kin; ostracism; withholding approval or respect through shaming, gossip, and ridicule; and accusations or threats of sorcery. Ibid., p. 15 (citing work by Michael Taylor).

²³ Papua New Guinea, “Initial Reports of States Parties Due in 2000,” Committee on the Rights of the Child, U.N. Doc. CRC/C/28/Add.20, July 21, 2003, paras. 361-62. The United Nations Guidelines for the Prevention of Juvenile Delinquency also note the role of schools in preventing juvenile delinquency. United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), G.A. Res. 45/112, annex, 45 U.N. GAOR Supp. (No. 49A) at 201, U.N. Doc. A/45/49 (1990), sec. B.

²⁴ Human Rights Watch interview with NGO staff working with women and girls in prostitution, Goroka, September 21, 2004; Human Rights Watch interview with staff member, Institute for Medical Research, Goroka, September 23, 2004. See also Help Resources, UNICEF-PNG, “A Situational Analysis of Child Sexual Abuse & the Commercial Sexual Exploitation of Children in Papua New Guinea,” draft dated January 2005, pp. 48, 72; Monitoring and Research Branch, National Department of Health; World Vision; and University of Papua New

Basic statistics about children in conflict with the law are not collected, and those that are available are not considered reliable.²⁵ Offenses reported by government officials range from pickpocketing and loitering to bank robbery, rape, and murder.²⁶

Jim Wan, an assistant police commissioner, told us:

People say we have a youth problem, but if you go through the crime desk, youths are not major offenders. It's the seriousness of crimes that they are involved in, not the numbers of crimes, that brings them to the fore. . . . We've had thirteen- and fourteen-year-olds in for murder, rape, bank robbery. Usually they are on drugs. . . . Ages seven to eleven are usually pickpocketing.²⁷

Guinea, "Qualitative Assessment and Response Report on HIV/AIDS/STI Situation Among Sex Workers and their Clients in Port Moresby, Papua New Guinea," 2004, p. 24; Kerry Arabena, "Report on the Transex Project," October 2000, Appendix 2, "Transex Project Workshops," October 1-27, 2000, p. 35 (reporting results of workshop for HIV/AIDS peer educators); and Wilfred Peters, Advisor Peer Education, National AIDS Council Secretariat, "Project Design: Targeting Sex Workers of 29 Sites in NCD," proposal for funding submitted to AusAID, n.d., sec. "Sex for school fees."

²⁵ See Papua New Guinea, "Initial Reports of States Parties Due in 2000," paras. 68, 361 (stating that basic monitoring and disaggregation of statistics for age, gender, and "urban/rural" is "sorely missing in the fields of juvenile justice"); Sinclair Dinnen, "World Factbook of Criminal Justice Systems: Papua New Guinea," National Research Institute, n.d., <http://www.ojp.gov/bjs/pub/ascii/wfbcjpng.txt> (retrieved May 10, 2005) (regarding reliability of data); Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004 (stating that statistics on crime are unreliable because police are concentrated in urban areas; vast numbers of crimes are never reported to the police, even in areas where police are present; and where crime is reported, police may not record it); Human Rights Watch interview with Jim Wan, Assistant Commissioner of Police, Port Moresby, September 30, 2004.

When Human Rights Watch inspected the log books in Wewak police station, detainees' ages were not recorded. In Kokopo police station, East New Britain, a white board posted in the station said there were "nil" juveniles in custody; however, three boys in cells with adults told us they were under eighteen and had been there for two and three months.

²⁶ The government reported to the Committee on the Rights of the Child that the "most common offenses" children commit are "stealing, breaking and entering, unlawful loitering, unlawful damage to property and possession of drugs," but "[t]he nature of juvenile offense has changed over the past 10 years from mainly petty theft and other economic crimes to include armed robbery, bank robberies and rape." Papua New Guinea, "Initial Reports of States Parties Due in 2000," para. 36. The police station commander in Wewak told Human Rights Watch that police there arrest youths for "breaking and stealing, pick-pocketing, robbery, and rape," homebrew (alcohol), and drugs. Human Rights Watch interview with Daniel Kayver, Police Station Commander, Wewak Police Station, East Sepik Province, September 20, 2004.

²⁷ Human Rights Watch interview with Wan, Assistant Commissioner of Police, Port Moresby, September 30, 2004.

Human Rights Watch could not obtain any figures on the total number of individuals or the number of children detained at a given time in police lockup.²⁸ As of May 23, 2005, 4,036 people were recorded as imprisoned in the country's correctional institutions (prisons), of whom eighty were reported to be boys on remand and ninety were boys convicted of crimes.²⁹ However, these figures did not include children detained in police stations, juvenile remand centers, or housed in prisons with adults. As of July 2005, there were nineteen or twenty operational prisons.³⁰ Five of these have juvenile sections, although, as Human Rights Watch observed at Bomana prison, even where a juvenile section exists, full separation between juveniles and adults is not always maintained.³¹ (The detention of children with adults is discussed in the section on conditions of detention, below.)

Girls

Although it is likely that more boys than girls are beaten and tortured by police, it is also likely that abuse of girls by police is vastly underreported by official statistics of girls and women in conflict with the law. Few girls and women are actually charged with crimes and brought before the courts.³² As of July 24, 2003, only 5.6 percent of convicted adult detainees and 3.9 percent of adult remand detainees were women. According to a senior corrections official, the female detainee population tends to constitute around 2.5 percent of the entire detainee population.³³ A member of the Juvenile Justice Working Group told Human Rights Watch, "There is no detention for girls in the country, but this doesn't mean we don't have girl juvenile offenders. We don't have any estimates for girl juvenile detainees."³⁴

²⁸ There are reportedly sixteen operational rural lock-ups across the country and roughly ninety-three police stations. E-mail from Vijaya Raman, UNICEF-PNG, to Human Rights Watch, July 13, 2005 (citing information from Correctional Services and the National Economic and Fiscal Commission).

²⁹ National Economic and Fiscal Commission (NEFC), Papua New Guinea Correctional Service, "Papua New Guinea Correctional Service: Detainees Statistic," May 23, 2005 (chart provided to Human Rights Watch by e-mail, July 13, 2005).

³⁰ Ibid., (listing twenty prisons); e-mail to Human Rights Watch from Raman, UNICEF-PNG, July 13, 2005 ("Correctional Services states there are 19 prisons across the country," excluding the non-operational prison in Bougainville and the prison in Tari, which was "closed down due to land disputes and tribal conflicts").

³¹ E-mail from Raman, UNICEF-PNG, to Human Rights Watch, July 13, 2005 ("Correctional Services states that there are 5 juvenile centres across the country. These are: Bomana, Baisu, Boimo, Kerwat, Beon").

³² Martha Macintyre, "Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes," *Papua New Guinea Law and Justice Sector Program: Gender Analysis, Poverty Reduction Analysis, Poverty and Gender Commission, Regional Partnerships, Public Sector Expenditure Situational Analysis (Final)* (hereafter *Gender Analysis* . . .), ACIL, December 15, 2003, p. 63; Human Rights Watch interview with Wan, Assistant Commissioner of Police, Port Moresby, September 30, 2004 (stating that "Girls are not a problem").

³³ Abby McLeod, "Gender Analysis of Law and Justice Sector Agencies," *Gender Analysis* . . . , p. 46.

³⁴ Human Rights Watch group interview with several members of the Juvenile Justice Working Group, Port Moresby, October 1, 2004.

As explained in the section below on rape, the low number of girls and women actually charged with and convicted of crimes obscures the fact that many more women and girls come into contact with police. Victims of police violence, including sexual violence, may never show up in police records and may justifiably fear retaliation from police and stigmatization from their communities if they report the abuse.

Police violence against girls occurs in a context of widespread violence against women and girls.³⁵ (Indeed, both boys and girls in Papua New Guinea face violence from sources other than police.) Papua New Guinea reported to the Committee on the Rights of the Child in 2002 that “[g]ender discrimination is universal in Papua New Guinea, and begins at birth. . . . There is a high incidence of reported and unreported rape and pack [gang] rapes in Papua New Guinea and a widely held fear of potential sexual assault on girl children.”³⁶ The low status of girls and women is also reflected in discrimination against them in education, health care, and access to paid employment; heavy unpaid workloads; polygamy; and poor access to justice.³⁷ For example, as explained below, police often refuse to respond to complaints of sexual or domestic violence or sometimes demand sex from victims.³⁸

Police Procedures and Children

Although in practice children accused of crimes are still subjected to many or all of the same procedures as adults, Papua New Guinean law requires police to follow special procedures when dealing with children. New policies for magistrates and police adopted

³⁵ For various analyses of violence against women and girls in Papua New Guinea, see Papua New Guinea Law Reform Commission, *Final Report on Domestic Violence* (1992); Cyndi Banks, “Contextualizing Sexual Violence: Rape and Carnal Knowledge in Papua New Guinea”; Anou Borrey, “Sexual Violence in Perspective: The Case of Papua New Guinea”; Sarah Garap, “Struggles of Women and Girls—Simbu Province, Papua New Guinea”; and Maxine Anjiga Makail, “Domestic Violence in Port Moresby,” *Reflections on Violence in Melanesia*, Sinclair Dinnen, and Allison Ley, eds. (Leichhardt/Canberra: Hawkins Press/Asia Pacific Press, 2000); Sarah Garap, “Gender in PNG: Program Context and Points of Entry,” *Gender Analysis* . . . ; Laura Zimmer-Tamakoshi, “Wild Pigs and Dog Men’: Rape and Domestic Violence as ‘Women’s Issues’ in Papua New Guinea,” *Gender in Cross-Cultural Perspective*, Caroline B. Brettell and Carolyn F. Sargent, eds., 2d ed. (New Jersey: Prentice Hall, 1997).

³⁶ Papua New Guinea, “Initial Reports of States Parties Due in 2000,” paras. 108-110.

³⁷ Garap, “Gender in PNG: Program Context and Points of Entry,” and Robyn Slarke, “Women and Village Courts,” *Gender Analysis* . . . , pp. 16, 20, 52-66; International Bank for Reconstruction and Development, International Development Association, “Interim Strategy Note for Papua New Guinea,” para. 16 (“women . . . account for only 20 percent of the formal sector workplace”).

³⁸ Human Rights Watch interview with sergeant, Goroka police station, Goroka, September 23, 2004 (male police officers do not take seriously complaints of domestic violence). See also Macintyre, “Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes,” *Gender Analysis* . . . , pp. 56, 65-66 (“crimes of violence against women are very common, they are under-reported and . . . the justice system does not deal with offenders and victims in ways that protect women’s rights as citizens”).

in 2004 promise better implementation of these procedures, but their full effect remained to be seen at the time of writing.

The Juvenile Courts Act, which Parliament passed in 1991 but which did not fully enter into force until 2003 because the government failed to gazette it fully until then, places responsibility for juvenile justice with the Department of Justice and the Attorney General and spells out procedures for children. Parts of the act were just beginning to be implemented when Human Rights Watch visited, due to the efforts of the Juvenile Justice Working Group, an interagency group of government and community representatives that is supported by UNICEF.³⁹ The working group and UNICEF drafted a juvenile courts protocol for magistrates, adopted in 2004; one for police was adopted in 2005; and draft minimum standards for juvenile institutions had been drafted but not adopted as of July 2005.⁴⁰ These protocols detail and expand procedures for police, police prosecutors, and magistrates when dealing with children, and focus on diverting children from the formal justice system, reducing the detention of children, and separating them from adults when they are detained. The working group also drafted a new Juvenile Justice Act in 2005, which had not yet been presented to Parliament at the time of writing.

The age of criminal responsibility in Papua New Guinea is seven, below what the committee which interprets the Convention on the Rights of the Child considers internationally acceptable.⁴¹ However, under the Criminal Code, a child under age fourteen is not considered fully responsible unless he or she “had capacity to know that he ought not to do the act or make the omission.”⁴²

³⁹ Human Rights Watch group interview with several members of the Juvenile Justice Working Group, Port Moresby, October 1, 2004. As of May 2005, the working group had decided to draft a new juvenile justice act, rather than revising the old one. E-mail from Vijaya Raman, UNICEF-PNG, to Human Rights Watch, May 15, 2005.

⁴⁰ Magisterial Service of Papua New Guinea, “Juvenile Court Protocols for Magistrates,” 2004; Royal Papua New Guinea Constabulary, “Subject: Police Juvenile Justice Policy and Protocols,” circular no. 04/2004, file no. 1-7-103, dated December 30, 2004, and signed by the police commissioner February 28, 2005. The policy was in the process of being published as a handbook for police in July 2005.

⁴¹ Juvenile Courts Act (1991), § 2; Committee on the Rights of the Child, “Concluding Observations: Papua New Guinea,” U.N. Doc. CRC/C/Add.229, January 30, 2004, para. 526. The Committee has not said what the minimum age of criminal responsibility should be.

⁴² Criminal Code (1974), consolidated to No. 12 of 1993, § 30. Because most children’s births are not registered, establishing a child’s exact age is often not possible and must ultimately be decided by the court. Papua New Guinea, “Initial Reports of States Parties Due in 2000,” paras. 74-76; Juvenile Courts Act, § 3 (considerations for determining age). A volunteer juvenile court officer explained: “Most kids don’t know their age. The children’s court sends them to a dentist to determine age.” Human Rights Watch interview with volunteer juvenile court officer, Port Moresby, September 14, 2004. Other ways to establish a child’s age include baptism records and the Department of Health’s Baby Health Record Card. Papua New Guinea, “Initial Reports of States Parties Due in 2000,” paras. 74-76. Where age is unclear, the magistrates protocol requires

By law, police have the power to arrest without a warrant any person they suspect has committed or is about to commit a crime, but they must immediately take the person to the police station.⁴³ Under the new policies, one station is to be designated to process all children arrested in each of seven regions of the country. These stations are to have a separate section for children and officers trained to work with children. In Port Moresby, the capital, the first processing area opened in Boroko police station on April 26, 2005.⁴⁴ (It should be noted that for this measure to address police violence against children in custody in Port Moresby, police will necessarily have to address violence and torture of children in Boroko station, as documented in this report.) Where there is no designated processing center, the policy specifies that “every effort will be made to process, hold or detain juveniles in separate rooms from adults and female juveniles kept separate from males.”⁴⁵

The magistrates and police protocols assign specific responsibilities for ensuring that procedures for children are followed to officers in local police stations; in particular, one officer per shift is nominated as the police juvenile officer and made responsible for supervising all juvenile matters. The new policy also directs the director of prosecution in the national police headquarters to deploy two officers as a dedicated Juvenile Protocol Monitoring Unit. Their duties include monitoring the policy’s implementation, training police on the policy, and collecting data on juvenile cases.⁴⁶

The Juvenile Courts Act provides for the appointment of juvenile court officers who are to monitor police treatment of children at the station, especially when parents are not available. The act gives these officers the power to enter any place where children are detained, including police lockups, to interview children; be present during interrogation; advise children of their rights; question an arresting officer; attend court; and make submissions regarding a sentence.⁴⁷ Juvenile court officers are to report “any concerns” to the police station commander.⁴⁸ Hindering or obstructing a juvenile court officer is a

police officers to defer to a juvenile court officer’s determination or, where no juvenile court officer is available, “determine that the young person is a juvenile.” Magisterial Service of Papua New Guinea, “Juvenile Court Protocols for Magistrates,” p. 6.

⁴³ Arrest Act (1977), §§ 3, 7. The Juvenile Courts Act provides no guidance on the arrest of children.

⁴⁴ Ibid., sec. 5.6; e-mail from Raman, UNICEF-PNG, to Human Rights Watch, May 16, 2005; Human Rights Watch interview with Wan, Assistant Commissioner of Police, Port Moresby, September 30, 2004. According to UNICEF, AusAID funded the centers in Port Moresby and Lae and has agreed to construct facilities in five other areas as well. Human Rights Watch telephone interview with Grant and Raman, UNICEF-PNG, July 12, 2005.

⁴⁵ Royal Papua New Guinea Constabulary, “Subject: Police Juvenile Justice Policy and Protocols,” sec. 5.6.

⁴⁶ Ibid., sec. 10.

⁴⁷ Juvenile Courts Act, § 13.

⁴⁸ Royal Papua New Guinea Constabulary, “Subject: Police Juvenile Justice Policy and Protocols,” sec. 6.

criminal offense.⁴⁹ Although the act envisions that juvenile court officers would be created as paid positions, no money was made available. In April 2005, fifteen volunteers from local NGOs began working as juvenile court officers.⁵⁰ Outside the capital, some probation officers were taking on this role, and community-based corrections officers were tasked with training community leaders to act as juvenile court officers.⁵¹

When police arrest a child, they are required by law to notify a parent or a juvenile court officer.⁵² Before formally arresting and charging a child, police must consider the option of diversion.⁵³

The law does not explicitly prohibit police from questioning children without an adult or juvenile court officer present, although juvenile court officers have the power to be present during the interrogation of a child.⁵⁴ In practice, almost all the children we interviewed said they were questioned with only police present; the head of Wewak's internal investigation unit told us that neither probation officers nor others are present when police question children in Wewak.⁵⁵

Detention of children in police cells is limited by the police and magistrates' policies to designated juvenile cells and only under exceptional circumstances. These circumstances are defined as:

- to prevent escape where there is strong evidence that the juvenile may try to escape,
- to protect them from their own actions or actions of others,
- to protect others from the actions of juveniles.⁵⁶

⁴⁹ Ibid., sec. 7.3.

⁵⁰ E-mail from Raman, UNICEF-PNG, to Human Rights Watch, May 16, 2005.

⁵¹ In Kokopo, for example, a probation officer told us that she was working as a juvenile court officer, although, she said, the station could not always contact her on the weekends. Human Rights Watch interview with juvenile court officer, Kokopo police station, East New Britain, September 27, 2004. See Royal Papua New Guinea Constabulary, "Subject: Police Juvenile Justice Policy and Protocols," sec. 6.

⁵² Ibid., sec. 6; Juvenile Courts Act, §§ 19-21.

⁵³ Magisterial Service of Papua New Guinea, "Juvenile Court Protocols for Magistrates," p. 23.

⁵⁴ Juvenile Courts Act, § 13; Magisterial Service of Papua New Guinea, "Juvenile Court Protocols for Magistrates," pp. 15-16.

⁵⁵ Human Rights Watch interview with Nelson Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

⁵⁶ Magisterial Service of Papua New Guinea, "Juvenile Court Protocols for Magistrates," pp. 12, 24; Royal Papua New Guinea Constabulary, "Subject: Police Juvenile Justice Policy and Protocols," secs. 2.1, 4.3.

Although it was not clear at this writing how this policy would be interpreted or how effectively it would be implemented, the latter exception as written could be broadly interpreted to apply to a large category of children. (As explained below, these are the same limitations on the use of force against children.)

According to the Juvenile Courts Act, children ages seven to seventeen who are not charged with homicide, rape, or another offense punishable by death or life imprisonment must be tried in juvenile courts, the first of which began operating in September 2003.⁵⁷ As of June 2005, seven juvenile courts were operating in some capacity in the country.⁵⁸ According to a member of the Juvenile Justice Working Group, the committee hopes to have juvenile courts in all nineteen provinces by the end of 2005.⁵⁹

III. Police Violence

Violence is a routine part of policing in Papua New Guinea. In interviews with Human Rights Watch, children reported being severely beaten, shot, burned, and cut by police. Children also face rape and other forms of sexual abuse by police. In a number of instances, victims described treatment by police that constitutes torture.⁶⁰

Although both children and adults who come into contact with police are at risk, children are especially vulnerable. We heard mixed reports about whether police are more likely to use violence against children than adults, but those we interviewed who worked directly with children in conflict with the law told us that they were—that police could more easily intimidate children, that they viewed teenage boys as “raskols,” and that they sought out girls and young women for rape.

A doctor with long-term experience treating detainees and others physically abused by police explained: “It’s the same with adults, but kids are much more vulnerable. They are not able to stand up for themselves. For under-eighteens, police like to bash up first and

⁵⁷ Juvenile Courts Act, part IV.

⁵⁸ The Juvenile Courts Act outlines the functions of the juvenile courts. Human Rights Watch has not observed or collected evidence about the proceedings of these courts.

⁵⁹ Human Rights Watch group interview with several members of the Juvenile Justice Working Group, Port Moresby, October 1, 2004. All of the magistrates in the province have been trained to sit as juvenile court magistrates members of the group told us. *Ibid.*

⁶⁰ Convention on the Rights of the Child, art. 37; 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).

ask questions later.”⁶¹ Staff at a juvenile remand center noted: “The treatment police give boys is different than adults. Because they think a boy will do less against them. So it’s not the same as adults. If they tell him to run, he will run. If they say sit and crawl, he will.”⁶²

The government acknowledged the problem in its report to the Committee on the Rights of the Child in 2002: “Young offenders are often handled roughly. This sometimes involves extreme violence and intimidation by the police and other law-enforcing or prison authorities.”⁶³

Drawing on interviews with dozens of children, this chapter first details the types of police abuse that children face—including beatings, rape, and other serious crimes. It then examines the situation of children particularly vulnerable to such abuse. The final section sets forth applicable legal standards, demonstrating that many children in Papua New Guinea are subjected to torture and other forms of inhumane treatment unambiguously outlawed under both domestic and international law.

Severe Beatings, Shootings, and Other Violence

“The first thing is belting. . . . There are kids, age fourteen and fifteen, here. The police come belt them up. A lot of small kids get belted up.”

“They remove their big police belt or use the gun butt.”

“Or the stick. The truncheon.”

“And the iron.”

“Any iron or stone they see on the ground here, they use it to belt people up.”

—Three men in a Port Moresby urban settlement who had witnessed police beating children, September 16, 2004

⁶¹ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

⁶² Human Rights Watch interview with staff member of juvenile remand center, September 18, 2004. Similarly, the director of an NGO in Goroka told us, “[y]outh are the most targeted people who get victimized by police brutality . . . because they can’t defend themselves.” Human Rights Watch interview with Naomi Yupae, co-coordinator, Eastern Highlands Family Voice Inc., Goroka, September 22, 2004.

⁶³ Papua New Guinea, “Initial Reports of States Parties Due in 2000,” para. 128.

The vast majority of children who are arrested are severely beaten by members of the police. Almost everyone Human Rights Watch interviewed in each area we visited who had been arrested was beaten, although our sample was not statistically representative. At every stage in the process, from first contact with police to the police station, severe beatings and other forms of violence are common. Police beat individuals at the moment of arrest, continue to beat them while they are being transported to the station, and often beat them one or more times at the station. Some are beaten on the street and then released. Almost all children we interviewed in every area we visited who had been arrested said that police officers beat them up or worse, regardless of whether they were armed, otherwise resisted, or had surrendered. Children reported being kicked and beaten by gun butts, crowbars (“pins bars”), wooden batons, fists, rubber hoses, and chairs. Many of those we interviewed showed us fresh wounds and scars on their heads, faces, arms, legs, and torsos. Several boys showed us scars they said were from being shot by police. Serious injuries to the face, particularly around the eyes, were common, and one boy told us that police broke his jaw.⁶⁴

NGOs and medical professionals confirmed that they had attended cases of children badly injured by police upon arrest.⁶⁵ A doctor with long-term experience treating detainees in Papua New Guinea told us that injuries from police beatings “can range from soft tissue damage to fractures.”⁶⁶ “I’ve seen evidence of people allegedly assaulted [by police] with gun butts, wooden batons, chairs,” he said. Head injuries were often from:

Gun butts, usually the butt of the rifle or shotgun. If they’re using an assault rifle, it has a metal butt and makes a contused laceration. It takes a long time to heal. . . . In most places the evidence is compelling and consistent. It’s not just the skin that’s broken—you go through layers right to the skull. . . . If it’s a sharp cut, clean, that you can suture—it takes a week to get a good union. But a bash, when the cut is pulverized, it takes weeks because you can’t suture. . . . It leaves a more significant scar, and in the tropics things are likely to get infected.⁶⁷

⁶⁴ Human Rights Watch interview with seventeen-year-old boy, Goroka, September 22, 2004.

⁶⁵ For example, a staff member of East New Britain Sosel Eksen Komiti (ENBSEK) described attending a case of youth “thirteen to eighteen years old who were released after being badly beaten up. They were bashed up, with broken faces, brutalized. Their faces were totally deformed and disfigured, like a person who goes to war. They were released and then their relatives had to take them to the hospital.” Human Rights Watch interview with staff member, ENBSEK, Kokopo, East New Britain, September 28, 2004.

⁶⁶ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

⁶⁷ Ibid.

Many children described police inflicting severe pain and suffering designed to make them confess to a crime or to punish them for things they may have done. The doctor noted:

In my experience, interviewing and lockup is when most of the damage is done. . . . Broken bones—they used the stools in the police station with metal legs. Severe, sadistic stuff—a group with one person. Supposedly to get kids to give evidence. . . . Prisoners—the amount of damage they already had on their bodies—they said it was during investigation and lock up.⁶⁸

Some government officials have acknowledged that violence is part of police practices. For example, the police force's Internal Affairs Directorate acknowledged in a 2004 document that "offenses regularly committed by undisciplined police" include "[e]xcessive and often unprovoked violence when arresting a suspect."⁶⁹ The head of criminal investigations for Wewak admitted that police often hit detainees during questioning: "If you cooperate, why should I punch you? Sometimes you're called in, you blow up . . . Those that commit crimes will tell lies. That's when people start getting frustrated, then they try to bash him up, punch him."⁷⁰ Later he told us that police guidelines prohibited punching a suspect during questioning and that officers followed the guidelines because the defendant would be asked in court if he were punched or threatened to talk.⁷¹ Papua New Guinea's Evidence Act does provide that confessions induced by threats shall not be received into evidence,⁷² but, as explained below, this provision appears often not applied.

Children's Testimonies

Edmund P., age fifteen, said he had been in prison for one week awaiting his next court date when we interviewed him.⁷³ His right eye was completely blackened and the outer half of the white of his right eye was blood red. Along his cheekbone were pink patches of new skin and scabs. He also showed us lumps and healing cuts on his head. Three

⁶⁸ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

⁶⁹ John Maru, Chief Superintendent, Director Internal Affairs, "Discipline: The role of the Internal Affairs Directorate & Discipline Management Issues for Supervisors," September 5, 2004, sec. 4.2.

⁷⁰ Human Rights Watch interview with Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

⁷¹ Ibid.

⁷² Evidence Act (1975), § 28.

⁷³ Human Rights Watch interview with fifteen-year-old boy, Papua New Guinea, October 1, 2004.

police officers, armed and in uniform, had arrested him for possessing a gun, he said. Edmund P. described what happened:

The police caught me at a supermarket. I was alone. . . .

They started bashing me up when I was still holding the gun. But after they took the gun away, one policeman kicked me in the head with his boot. This was how I got the black eye.

Then the police hit him with their fists, a piece of wood, and their gun butts, he said.

After they took the gun but while I was still outside the supermarket, one policeman cut my hand with a pocket knife. He was holding my hand tightly when he cut it, but I wasn't handcuffed. All the policemen were holding me. They were saying things like, "You are the troublemaker."⁷⁴

The end of Edmund P.'s left pinky finger was deeply split, very swollen, and red. According to a pediatrician who viewed photos of the wound, the injury was consistent with an intentional injury.⁷⁵

Elias C., age twelve, described being arrested in August 2004 for breaking into a horseracing machine, a gambling game. "I put my hands up and surrendered but they belted me up anyway."⁷⁶ The police and a local security guard kicked and hit him, he said:

They told me to lie down and they kicked me with their black police boots. I got a black eye. . . . The police hit me on my neck and on the other eye. My neck started bleeding. . . . I couldn't open my mouth to eat and I still have pain. I can't open my mouth really wide.⁷⁷

Then the officers took him to Boroko police station in Port Moresby, he told us:

⁷⁴ Ibid.

⁷⁵ Human Rights Watch interview with Dr. Annie Sparrow, pediatrician, New York, January 19, 2005.

⁷⁶ Human Rights Watch interview with twelve-year-old boy, Port Moresby, September 16, 2004.

⁷⁷ Weeks after the incident, when we interviewed him in detention, he told us, "I still haven't seen a doctor or a nurse, and I haven't got any medicine."

They put me in a room to make the statement. Then the police just whipped me up with umbrella wire. They hit me all over my face and back. I had whip marks on the sides of my cheeks and my face and my head. They swelled up. There was only one person who whipped me up. The policeman who kicked me earlier was there and the other one was writing my statement. They asked me if I was one of them and I said it wasn't me.

After they whipped me, they took me back to the cell. I don't know what the statement said—they didn't show it to me.⁷⁸

Carol A., age seventeen, who was arrested in the 2004 raid on the Three-Mile Guesthouse described in the appendix to this report, told us that the police whipped her with rubber hose, leaving bruises on her back.⁷⁹ Leilani S., age sixteen, arrested at the same time, said that "the police bashed me with a big stick," causing her side to swell.⁸⁰

Kevin B., age fifteen, showed us a thin scar where his left ear attached to his head and scars on the back of his head and told us that three or four policemen arrested him in 2003:

I said I was innocent, but they arrested me anyway. They said, "You are lying and we'll bash you up." And they did. They bashed me up and cut up my ear. This was from a big stick—a hard wooden baton. It was about three feet long.⁸¹

Then, he said, the officers took him to Waigani police station in Port Moresby, where around five policemen beat him and other detainees in the cell block:

They told me to take my pants off and I was naked. Then they beat me. . . As they were bashing me up, they kept saying, "lick cunt." They kept saying these same words over and over again. They were also whipping me with a long rubber hose. . . . They whipped me on the back of my body and the front.

⁷⁸ Ibid.

⁷⁹ Human Rights Watch interview with seventeen-year-old girl, Port Moresby, September 15, 2004.

⁸⁰ Human Rights Watch interview with sixteen-year-old girl, Port Moresby, September 15, 2004.

⁸¹ Human Rights Watch interview with fifteen-year-old boy, Port Moresby, October 1, 2004.

Afterwards, I was bleeding and they told me to shower—to wash the blood off. My hands were really hurting and bleeding because they had bashed them with the rubber hose.⁸²

Yoshida T., a sixteen-year-old street vendor, told us that the Friday before we interviewed him task force police arrested him for selling at Four-Mile in Port Moresby. One officer “threw me in the car and put his foot on my face. He had on black boots that scratched my face and cut my mouth with my teeth and it bled. I was lying down inside the car and he put his foot on my face. . . . He also punched me in the chest. He was not a small man—he was a big tough man.”⁸³

Yoshidah T. also said that police stopped him and his friends in 2003 and accused them of stealing a bale of secondhand clothes:

They took us up to Touaguba Hill and lined us up and broke new branches from the trees and started beating all the boys up. They told us to stand up one by one and run away. One would stand up, get whipped, and run away. Then the other would come. . . . I had some marks on my head from this—I still have pain in my head. Some of the other boys had scratches and marks on their jaws. Others had scratches on their legs and pains and swollen places where they were hit with the sticks.⁸⁴

Sydney V., age sixteen, said that police in East Sepik province beat him in the car on the way to Wewak police station in July 2004: “They used the barrel of the gun on my backside, on my hips, on the side of my hips, on the bone.”⁸⁵ At Wewak police station, police forced him to remove his shirt and beat him with a fan belt as they interrogated him.⁸⁶

Amana T., age fifteen, said that police arrested him on September 6, 2004, on his way to school. “They caught me and asked me for the money, and I told them that I had used it already. Then they beat me up. They kicked me with their boots. Three police did this.

⁸² Ibid. Kevin B. showed us the middle finger of his hand, disfigured below the joint, a result of the beating he said.

⁸³ Human Rights Watch interview with sixteen-year-old boy, Port Moresby, September 16, 2004.

⁸⁴ Ibid.

⁸⁵ Human Rights Watch interview with sixteen-year-old boy, Wewak, September 19, 2004.

⁸⁶ Ibid.

And they bumped me on a brick wall. . . . They kicked me hard. I was putting my hands like this,” he said, using his hands to shield his face.⁸⁷

They were kicking my hands, kicking my legs, bouncing me against the brick wall. They kicked my knees and stepped on my toes. . . . I didn’t deny it. I said it was me. They brought me to the station and they belted me again. I think it wasn’t the rule of the policeman. They make their own rules.⁸⁸

Channel B., age eleven, described what happened when he went to nearby police barracks to buy firecrackers from a police officer’s mother:

There were two policemen who were drunk. . . . They grabbed me on the back of the neck and held me upside down from the collar of my jacket. They started hitting me with a cane. They hit me on the back and legs. . . . Then they threw me head-first onto the ground. They had an M-16 and shot it into the air. They were about fifteen feet away at this point, outside of the barracks. I got up and started running and I ran to my parents.⁸⁹

His mother said that when she went back to the barracks to complain, “I asked them for compensation and they gave ten kina [U.S.\$3.21], a chicken, and a bag of betel nut.”⁹⁰

Warren V., age fifteen, said he was arrested and taken to Badili police station in Port Moresby in mid-2003. At the station, he said, police began to beat him with an iron bar:

They told me to call out the names of the others when they were belting me up, but I didn’t name anyone. . . . Then they brought some food for me and told me to eat the food. I didn’t want to eat it but they insisted. It was bread and some cordial [soft drink]. They wanted me to eat the food so I would say everything. After I ate, they said, “If you tell us the truth, we will stop belting you up.” There was blood running from my

⁸⁷ Human Rights Watch interview with fifteen-year-old boy, Port Moresby, September 16, 2004.

⁸⁸ Ibid.

⁸⁹ Human Rights Watch interview with eleven-year-old boy and his mother, urban settlement, Wewak, September 18, 2004.

⁹⁰ Ibid.

wrist and my legs. . . . They badly bashed me up, so I told them about the charges. But I didn't speak until they bashed me up.⁹¹

Kalan P., age seventeen, explained that his parents took him to a Port Moresby police station around July 2004 after getting word that he was wanted for a robbery. The police took him inside for questioning:

There were two CID [criminal investigation division] officers questioning us . . . in their office. . . . The policeman got an axe and used the dull side and hit me on the forearm and knee. He hit me three times on the arm and once on the knee. They also hit my friend with the axe. They wanted me to tell the true story about the holdup. They were trying to beat us up to make us say, but we couldn't talk because we didn't do that thing.⁹²

Kakalem N., age seventeen, also said that Wewak police beat him with an axe handle on his back and kicked him upon arrest and in the car on the way to the police station.⁹³

Nelson R. told us he was fourteen years old but did not know the year he was born; he looked younger. He said he was arrested the week before for stealing a man's shoes and taken to Waigani police station in Port Moresby.

There's a room where they take people for writing reports. It has tables and chairs. . . . There were about seven policemen present. They were from the task force—they had on dark blue uniforms with six pockets. There were three policemen. They pushed me in the back, lifted me up, and threw me down on the floor. They hit me with a stick, and I blocked it with my arm. Blood came out of my head because they threw me head first onto the cement floor. It really hurt. They swore at me, and told me to ““kaikai kan [eat cunt].” They said, “If you get in trouble, you will really feel some pain.” . . .

They took my statement there. I don't know what the statement said. They didn't show me. . . .

⁹¹ Human Rights Watch interview with fifteen-year-old boy, Port Moresby, October 1, 2004.

⁹² Human Rights Watch interview with seventeen-year-old boy, Port Moresby, September 16, 2004.

⁹³ Human Rights Watch interview with seventeen-year-old boy, Wewak, September 19, 2004.

I was telling the police, “it’s my first time, don’t beat me up,” but they didn’t listen to me.⁹⁴

Philip D. said he was arrested in Rabaul, East New Britain, in April 2003. At the station, he told us, “[t]hey beat me up with all sorts of things—a bottle, iron, sticks. . . . In the CID [criminal investigation division] room, when I was sitting there, one policeman turned and punched me and the other one kicked me. Another one beat me with an iron bar to force me to tell what I had done. I am still feeling pain in my ribs because of the kick I received with the boot. . . . They used an iron bar to hit me on the legs.”⁹⁵ Philip showed us marks on his legs that he said were from where police hit him.

Gabriel R., age twelve, said that task force police beat him with an iron bar in front of his home in June 2004:

They hit me on the face, and I had a swollen face and legs. . . . I was bleeding from my mouth and my nose, and my legs were swollen and they hurt. I couldn’t really walk after that. . . . At my house the police asked me, ‘Did you guys hold up a vehicle?’ I said, ‘No.’⁹⁶

Several children told us that police shot them.⁹⁷ For example, Jackson S., age seventeen, said that four police officers arrested him for robbery on February 13, 2004, at around 10 a.m.: “I was at home when they came in just trying to shoot my legs. My mother just ran down and covered me [so that the police couldn’t shoot me]. They told my parents to take me down to the police car. . . . I pleaded with them to take me to Boroko [police station], but they took me to an unknown place and shot me in both legs. I was shocked to see the holes in my legs. . . . I had heavy bleeding. I almost passed out.”⁹⁸

Beatings are so routine that police make little or no attempt to hide them, beating children in front of the general public and international observers. In interviews with NGOs, people working within the justice system, and others in Papua New Guinea,

⁹⁴ Human Rights Watch interview with fourteen-year-old boy, Port Moresby, September 16, 2004.

⁹⁵ Human Rights Watch interview with boy under age eighteen, Wewak, September 19, 2004.

⁹⁶ Human Rights Watch interview with twelve-year-old boy, Port Moresby, October 1, 2004.

⁹⁷ Police shootings of suspects are also widely reported in the Papua New Guinea press. See, for example, Clifford Faiparik, “City Family Faces a Night of Terror,” *The National* (Papua New Guinea), April 4, 2005; Daniel Korimba, “Gang Leader Shot Dead,” *The National*, May 23, 2005, p. 3; Wanita Wakus, “Cop Shop Raided: Police Retaliate by Shooting Dead a Suspect,” *Post-Courier* (Papua New Guinea), May 25, 2005; “Suspect Dies in Hospital,” *Post-Courier*, June 20, 2005, p. 4.

⁹⁸ Human Rights Watch interview with seventeen-year-old boy, Port Moresby, September 16, 2004.

many volunteered that they had witnessed police openly beating children on the street and in police stations.⁹⁹ For example, Sinclair Dinnen described witnessing in Waigani police station in 2004 police beating a screaming thirteen- or fourteen-year-old boy who, he said, was caught stealing clothes from washing lines.¹⁰⁰ In a group interview in a community in Wewak with around 120 people of all ages, male and female, around one-quarter raised their hands when asked if they had seen with their own eyes the police hit someone.¹⁰¹ Eighteen said they had been personally struck by police. A hospital staff member in East New Britain also described witnessing the police set the public on a handcuffed suspect one morning in mid-2004:

Recently someone held up someone at a store. The police put him in their vehicle and drove him to the back of the cemetery. This was in the back of the children's ward so we saw it. He was about half a football field away from where I was. It wasn't far. . . .

He was given to the public to bash. There was a crowd around. He was handcuffed and sitting in the police car and everyone came to give him a blow. Someone got a ripe paw paw and pushed it into his mouth. He was young, maybe seventeen or eighteen. He looked secondary school-age. . . . He had bruises all over his face. Some of his teeth came out. They broke one of his arms. . . .

It was fifteen to thirty minutes that there were people bashing him. Then they [the police] took him to one part of the hospital.¹⁰²

Human Rights Watch researchers, while interviewing the head of the task force in the Wewak police station, heard the sounds of blows from the room next door. Officers at the station told us that the victim of a theft was beating the person arrested for the crime.

⁹⁹ For example, a community police officer noted: "I've been at the police station quite a while and I've seen them bashing little kids—those who were selling things, pickpockets. They hit them like it's nobody's business. They can really bleed. Their faces can really change." Human Rights Watch interviews with a community police officer, Wewak, September 19, 2004.

¹⁰⁰ Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

¹⁰¹ Human Rights Watch group interview, community in Wewak, September 18, 2004.

¹⁰² Human Rights Watch interview with hospital employee, village, East New Britain, September 29, 2004.

Rape and Sexual Abuse of Girls and Boys

Girls and sometimes boys are vulnerable to sexual abuse by police. In interviews with Human Rights Watch, girls and women told us about rapes, including pack rape, in police stations, vehicles, barracks, and other locations. In some cases, police carried out rapes in front of witnesses. Witnesses described seeing police rape girls and women vaginally and orally, sometimes using objects such as beer bottles. Girls and women who are street vendors, sex workers, and victims reporting crimes to police, as well as boys and men who engage in homosexual conduct, appear to be especially targeted.

Girls

So many women are arrested by police. They end up in jail and have some personal contact with police. I should say rape. We cannot help ourselves. . . . Especially the very young girls. They have to give themselves. It cannot be helped. They are scared. Women are the worst affected by the police.

—Woman detained and sexually harassed by police,
Wewak, September 18, 2004

Sexual abuse by police of girls is less visible, and thus less acknowledged, than police beatings of boys. One reason is that few girls and women are charged, prosecuted, and convicted, so the number officially in contact with the justice system appears low. Victims of police abuse, with justification, fear retaliation if they report the abuse. And, as explained below, offenders are rarely disciplined.¹⁰³ A doctor explained:

It's hard to get hard proof, but having dealt especially with teenage girls who have been in cells, their accounts of almost ritual abuse in exchange for not pressing charges is a common scenario. If they provide sex, the police let them go home.

It's almost impossible to get documentary proof because the girls are so scared of retribution. I've never known one yet who was willing to write down a statement because of fear of retribution. It's not just young girls, it's also women. It seems to have gotten worse in the last ten years, especially in Port Moresby.¹⁰⁴

¹⁰³ See Macintyre, "Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes," *Gender Analysis* . . . , pp. 66-67.

¹⁰⁴ Human Rights Watch interview with doctor with long-term experience treating detainees and others physically abused by police, Port Moresby, September 20, 2004.

As in many parts of the world, rape and sexual abuse carry stigma for the victim and few services for victims are available; these problems also contribute to abuses going unreported.¹⁰⁵ Staff of an NGO that works with sex workers in Port Moresby told us: “If someone is known to sell and they are in custody, they will be raped and nobody is going to talk about it.”¹⁰⁶

Given these difficulties, Human Rights Watch did not interview any girls who said they were raped themselves. However, we did interview people who said they witnessed girls’ rapes. We also reviewed written statements made by girls shortly after police raped them and interviewed medical professionals and social workers who had provided professional treatment to victims.

Police often detain girls and women on pretextual grounds, rape them, and release them without ever taking them to the police station; in some cases police demand sex in exchange for release.¹⁰⁷ “They never take us to the station and charge us,” explained a nineteen-year-old woman who later said she had witnessed police rape others. “They take us to the bushes and forcefully have sex with us.”¹⁰⁸ A policeman in Goroka told an NGO/UNICEF researcher in 2004 that it is common for night duty police to threaten

¹⁰⁵ See, for example, Garap, “Gender in PNG: Program Context and Points of Entry,” *Gender Analysis . . .*, p. 7 (regarding lack of services for women and children who are victims of violence and abuse); Macintyre, “Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes,” *Gender Analysis . . .*, pp. 59-69 (regarding the reasons rape is unreported in Papua New Guinea, the effects of rape on victims, the lack of services for women and child victims, and the male-dominated nature of the justice system); and Laura Zimmer, “Sexual Exploitation and Male Dominance in Papua New Guinea,” *Point 14: Human Sexuality*, 1990.

¹⁰⁶ Human Rights Watch interview with NGO staff member, Port Moresby, September 20, 2004.

¹⁰⁷ An eighteen-year-old woman arrested in the Three-Mile Guesthouse raid told us that during the raid: “One of the policemen went straight to me and said, ‘Let’s go to the room and have sex, and I won’t take you to the station.’ I refused so he took a full beer bottle and hit me on the heel. I am still wounded from this.” Police then arrested the woman and detained her for two nights. Human Rights Watch interview, Port Moresby, September 15, 2004.

A staff member of the Institute for Medical Research, which has conducted research on HIV and run a project for sex workers, confirmed that women had told her of police coercing sex with threats to lock them up in the police station. Human Rights Watch interview with staff member, Institute for Medical Research, Goroka, September 23, 2004. See also Arabena, “Report on the Transex Project,” Appendix 2, “Transex Project Workshops,” p. 27 (explanation of why police are a high risk group for HIV: “They talk about line-ups, hit and runs and they do group sex while they are on the job. When they go out and arrest a woman they say to her they can lock her up or put her in the jail, they say to her if you give us sex we’ll let you go, you know.”); Macintyre, “Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes,” *Gender Analysis . . .*, p. 67; Joseph Anang, Carol Jenkins, and Dorothy Russel, “An innovative intervention research project to encourage police, security men and sex workers in Port Moresby, to practise safer sex,” paper for conference on Resistance to Behavioral Change to Reduce HIV/AIDS Infection in Predominantly Heterosexual Epidemics in Third World Countries, April 28-30, 1999, Australian National University, Canberra Health Transition Centre, National Centre for Epidemiology and Population Health.

¹⁰⁸ Human Rights Watch interview with nineteen-year-old woman in group interview with women, Goroka, September 22, 2004.

young women in police custody with long prison sentences “unless they agree to let the police take turns having intercourse with them.”¹⁰⁹ He also admitted that police often offer lifts to young girls on the roadside and rape them:

In fact we force ourselves on them. Other times we pick up very young girls and buy them beer and then have sex with them. . . . Many policemen think they are above the law when in their uniforms. After I got STI [sexually transmitted infection] I no longer take part in this sexual abuse activity. But the practice continues even now.¹¹⁰

Another policeman in Eastern Highlands Province told the same NGO/UNICEF researcher: “Most policemen in night duties use the women and girls kept in custody for sex. On the pretext of taking their stories they are taken to offices where policemen also have sex with them.”¹¹¹

Similarly, a staff member of the National AIDS Council who spent four years working with sex workers in Lae confirmed that:

Because of the uniforms, police can do anything with women: line-ups in the cell, line-ups in the vehicle, lines-ups at a common site they take women to. A lot of police say, “If you don’t offer sex, we’ll take you to the cell.” So the women tend to offer sex to avoid this. . . .

“Line-up” means five or six policemen line up on one woman.¹¹²

Misibel P. described witnessing police officers rape her sixteen-year-old half-sister in September 2004.¹¹³ The Tuesday before we interviewed her, she said, at around 7 p.m., she and her sister were selling betel nut and cigarettes with a group of vendors in Goroka when a police car came and chased them:

¹⁰⁹ Help Resources, UNICEF-PNG, “A Situational Analysis of Child Sexual Abuse & the Commercial Sexual Exploitation of Children in Papua New Guinea,” p. 48.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Human Rights Watch interview with Wilfred Peters, National AIDS Council, Port Moresby, September 30, 2004.

¹¹³ Human Rights Watch interview with woman around age twenty-five, Goroka, September 22, 2004.

We were the unfortunate ones because we got caught. They told us to stop because we were holding betel nut and smokes [which are illegal to sell in Goroka]. . . . They said things like, “*pipia meri*—you garbage women. Don’t walk around town. Sell your garbage where you live.” . . . They said, “We are going to the station to sort out the problems.”

We were scared so we got into the car, but they never took us to the police station.

After driving around for about an hour, smoking and chewing betel nut, the police took her, her sister, and another woman in her mid-twenties up to a local mountain, Misibel P. said.

Police officers told [the two others] to get out of the vehicles and chose them. Forcefully. Some policemen asked me to have sex but I said, “I have a lot of kids.” . . . [My sister] was a virgin—sixteen years old. She had just had a period one week before. They took her up. The other one was a sex worker. I witnessed it. I saw it a few meters away with my own eyes. I saw everything.

When they finished, they returned our betel nut and smokes because we had sex with them. . . . They let us out at about 8:30.

Now, Misibel P. told us, her sister “just stays in the house”; she is scared to leave the neighborhood and go to town. “After the incident, she had difficulty walking. And she had problems with urination. . . . She wants to take legal action, but she is scared that her older brother would think that it was voluntary. She’s just scared of any male and thinks they might do the same thing.”¹¹⁴

Sharon A.,¹¹⁵ age sixteen, reported that five policemen abducted and raped her in police barracks in Port Moresby on March 15, 2004. In written statement recorded the day after, Sharon A. described what happened:

At 11:00 PM on the 15th March, 2004, I was at the post office walking towards Boroko police station. I was walking with a girl friend of mine

¹¹⁴ Ibid.

¹¹⁵ As with all victims of police violence quoted in this report, the girl’s name has been changed.

by the name of [name withheld]. While we were walking down a mobile [squad] vehicle ten seater (dark blue) ZGB.826 driven from Boroko police station towards post office (back road). My girl friend saw them and ran away. She was walking at my back so I did not know until the 10 seater [a mobile squad vehicle] stopped in front of me. I was asked to jump in the vehicle. But I refused. But one member came out from the back of the vehicle with a cable wire and belted me twice at my buttock and forced me to jump into the vehicle which I did fearing that they will beat me more. . . .

The vehicle parked at the back of the first mobile [squad] single quarters [at McGregor police station barracks]. . . .

When the vehicle was parked, 4 members got off the vehicle and I was left with the vehicle driver. Driver forced, me to suck his penis and I kept resisting. He forced my head down and I kept pushing my head back up. That was at the back sit of the vehicle. He then forcefully pull my six pocket jeans down and my pants also. I resisted and pulled my jeans up and he kept doing the same thing until I gave up, fearing he might beat me. So he managed to put me down at the back of the vehicle and had sex with me until he released sperm into me. He did that without a condom. He left me and went away. I tried to lift my pants and jean. Another policeman, in uniform came to me and forced me to have sex. He came and put me down and had sex with me. He then left and another came. By the time I was feeling so weak with the force exerted on me. He left and the other two followed. Then all five of them had sex with me.

By then a friend of mine came to my rescue and insisted to take me away. After some argument. He succeeded and got me away to his room until dawn. He escorted me to the bus stop gave me bus fare and left me off and told me not to come back to MacGregor.¹¹⁶

¹¹⁶ Signed "Statement of Facts," recorded by Bomal Gonapa, Policy and Legal Advisor, National AIDS Council, March 16, 2004 (spellings of those of the original document; name withheld, on file with Human Rights Watch). Bomal Gonapa confirmed to Human Rights Watch that he took the statements of girls taken on this date to McGregor Barracks. E-mail to Human Rights Watch from Bomal Gonapa, Policy and Legal Advisor, National AIDS Council, May 5, 2005.

Human Rights Watch interviewed the friend who was with Sharon A. when police officers abducted her. The friend said that she saw police force Sharon A. into the vehicle and that Sharon A. told her shortly afterwards that police raped her.¹¹⁷ An NGO whose staff spoke with a girl and provided her with services in the two days after the incident reported that she told them the same story.¹¹⁸

Other women also described similar incidents. For example, Ehari T., age nineteen, told us that five mobile squad officers abducted her and several other sex workers in Goroka in 2003.¹¹⁹ Sometime before midnight, she said, she and some other women were outside waiting for clients. Police wearing mobile squad uniforms forced them to get into a police vehicle, “for Charlie 12, a ten-seater,” she said, and took them up to “Mountain Kiss.” “The police don’t do anything to me because my brother is on the force,” she told us.

They told me to sit and wait in the car. They had forceful sex with the others. . . . I saw it with my own eyes. They were having intercourse just a few meters from our car. I told [the other girls] to take legal action, and I’m prepared to be a witness. But the girls say they are scared. They know that they will still have to go out at night and will have problems with police.¹²⁰

Alice O., age nineteen, who also told us that several drunk police officers had tried to rape her the weekend before, described being abused by police when she was around fourteen or fifteen years old.¹²¹ The police stopped a truck that Alice O. and five other girls were riding in, she said. “A police car stopped us at the crossing near a bridge on the highlands highway. A cop opened the door. The truck didn’t have a light on. He said, ‘You guys drinking?’ Only one person was drinking.” The officer began beating the driver, she told us. Then,

He told the driver to take off and leave us. The driver said, “I said I would drop them off at the dance.” The cop said, “If you don’t get in the car, we will charge you for drinking in the car.” So he got in.

¹¹⁷ Human Rights Watch interview with eighteen-year-old woman, Port Moresby, September 15, 2004.

¹¹⁸ “Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents,” signed by Christopher Hersey, Project Manager, Poro Sapot Project, Save the Children in Papua New Guinea, March 20, 2004, p. 3.

¹¹⁹ Human Rights Watch interview with nineteen-year-old woman, Goroka, September 22, 2004.

¹²⁰ Ibid.

¹²¹ Human Rights Watch interview with nineteen-year-old woman, Goroka, September 22, 2004.

The cops came and got the girls one by one. There were five guys. There were five girls so they each had one for themselves. One came to me. I was crying and said, “You guys hit me already.” . . . The same guy who hit me wanted to take me out. I said, “You have already belted around so how can I go?” He booted me on the ass and slapped me. He pushed me. I had a lump on my back and bruises on my bum. . . .

After that, they took the other four out. They did whatever they could do with them. . . . There was moonlight. It was on the dirt. It was right in front of me. I could see through the window. It was forcible. The others had injuries from where they were belted—they had bruises on their bums and where they were forced to have sex.¹²²

Alice O. did not claim that she was raped.

Like these women and girls, many victims are never taken to the police station and do not show up in the limited records kept there. However, girls and women who are taken to police stations may be raped there as well.¹²³ For example, in Wewak, there are no cells for girls or women, who, the officers there told us, sleep at the front desk or in the courtyard. A woman in Wewak described her arrest in 1997: “I thought they were going to put me in the jail. It was nighttime.” However, she said, she was left to sleep in a hallway at the station. Around 1 a.m., she told us, she felt an officer groping her. He said to her, “‘If you do this to me, I’ll help.’ I said, ‘Are you kidding?’” and he replied, “‘I am trying to help you, if you give yourself to me.’”¹²⁴

A doctor also confirmed:

In the course of my work, I’ve interviewed girls who said it happened. Both girls in prisons and there in cells or who have come to me afterwards. They would come to me worried about STIs [sexually transmitted infections].

¹²² Ibid.

¹²³ See also Anne Borrey, “Ol Kalabus Meri: A Study of Female Prisoners in Papua New Guinea,” Papua New Guinea Law Report Commission, Occasional Paper no. 21, 1992, p. 23.

¹²⁴ Human Rights Watch interview, Wewak, September 18, 2004.

It's anecdotal, but in many of the cases, the physical findings were totally consistent with both physical and sexual abuse. A lot of the time, for example, proving allegations of oral rape is extremely difficult. Vaginal rape is easier because you can see more trauma. But of those I've dealt with, when I've examined them, there is evidence that vaginal sexual abuse has occurred.¹²⁵

A community police officer, the head of a women's organization, caseworkers for a local NGO, and Sinclair Dinnen also told Human Rights Watch that this was the practice.¹²⁶

High-level officials are aware that police are raping girls and women in cells.¹²⁷ Both a 2004 administrative review of the police commissioned by the Minister of Interior and documents provided by the Internal Affairs Directorate in 2004 confirm that police officers have raped women and girls in police stations and cells.¹²⁸ The head of the sexual offenses squad in Kokopo, East New Britain, considered one of the most effective sexual offenses squads in the country, told us that he had handled two such cases in the last two years: "Females charged, locked up in cells—policemen are entering and sexually abusing girls in custody. . . . There is a separate cell block for women and girls, but policemen use their key. His duty was to look after the cells, and he ended up

¹²⁵ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

¹²⁶ Human Rights Watch interviews with community police officer, Wewak, September 19, 2004; Yupae, Eastern Highlands Family Voice Inc., Goroka, September 22, 2004; Dinnen, Australian National University, Canberra, October 5, 2004. A caseworker whose clients are sex workers reported that:

Sex workers are raped in groups. Police force them to suck their penises. They even fuck their asses, even force them to swallow condoms, even they force them to blow up condoms and march through the streets They use the barrels of their guns to hit their breasts and vaginas. . . . When they come across a sex worker late at night and if they're on their own, they beat them up or force them to the police truck. They take them to a remote location and rape them by inserting sticks and other objects into their vagina. They can force them to have sex if they happen to meet a young sex worker with a male client. In Lae, I saw a sex worker who was forced to have sex without a condom with a client. [A police officer] threw the condoms away and forced the worker to have sex without condoms. I brought that case up with the police, but nothing much was done.

Human Rights Watch group interview with NGO caseworkers, Port Moresby, September 15, 2004.

¹²⁷ Police rape has also been occasionally reported in Papua New Guinea press. See, for example, Fred Raka, "Kimbe Tense over Rape Incident," *The Independent* (Papua New Guinea), June 15, 2000, p. 21 (on-duty mobile squad officers arrested and raped in their quarters a young women in Kimbe, West New Britain province); "Constable Held for Rape of Girl, 16," *Post-Courier* (Papua New Guinea), September 9, 1999; "Constable Dismissed, Officer Suspended Over Rape Allegations," *The National* (Papua New Guinea), March 16, 2004, p. 2; "Release of Two Cops 'Surprises,'" *Post-Courier*, May 5, 2005, p. 7 (magistrate finds insufficient evidence to prosecute policemen accused of raping a women in a police cell in the Southern Highlands).

¹²⁸ Institute of National Affairs, Government of Papua New Guinea, *Report of the Royal Papua New Guinea Constabulary Administrative Review Committee to the Minister for Internal Security Hon. Bire Kimisopa* (hereafter "Kimisopa Report"), September 2004, p. 38; Maru, "Discipline: The role of the Internal Affairs Directorate & Discipline Management Issues for Supervisors," sec. 4.2.

doing other things instead.”¹²⁹ As of September 2004, the cases were pending in national court.¹³⁰

One of the more widely-publicized incidents of police rape occurred on March 12, 2004, when police raided an alleged brothel in Port Moresby, known as the Three-Mile Guesthouse. This case is recounted in detail in the appendix because the abuses were flagrant, because of the large number of victims, and because it illustrates how police actions promote the spread of HIV/AIDS. In addition, because no officers had been punished at the time of writing, despite numerous witnesses and other available evidence, the case illustrates the degree of impunity under which the police force operates.

According to evidence collected by Human Rights Watch, at around 2:30 or 3:00 in the afternoon, police burst into the Three-Mile Guesthouse where a band was playing, rounded up all of the girls and women present, hit them with sticks, bottles, iron bars, gun butts, and rubber hoses, and covered them with food, beer, soft drinks, and betel nut spit.¹³¹ One of the women arrested told Human Rights Watch that a police officer “pissed into a half-full beer and made us drink a sip.”¹³² At least one woman was raped at the guesthouse by several officers. More than twenty girls and women reported that police forced them to chew, and in many cases swallow, condoms. Many were also forced to blow up condoms like balloons and hold them as they were marched through the streets to Boroko police station. Along the way, police and bystanders hit the marchers, threw objects at them, and shouted things such as, “Look! These are the real AIDS carriers!”

Local newspaper and television reporters met them at the station where they were made to sit out front and were lectured by the metropolitan commander about AIDS. Forty-one girls and women were charged with “living on the earnings of prostitution” and locked in cells without food or medical care. That night, police officers took at least four girls out of their cells and raped them. After two nights in detention, the women and

¹²⁹ Human Rights Watch interview with Detective Sergeant Roland T. Funmat, head, Sexual Offenses Squad, Kokopo police station, East New Britain, September 27, 2004.

¹³⁰ Ibid.

¹³¹ This section is based on Human Rights Watch interviews with four women and girls arrested in the incident, copies of police records, signed statements the women and girls made shortly after the incident, a written statement prepared by NGO witnesses to some of the events; and interviews with staff of NGOs and the National AIDS Council who interviewed many of the women and girls and who were present at the police station at various points.

¹³² Human Rights Watch interview with woman arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004.

girls were released; charges against them were later dropped. The officers involved had faced no sanction for their actions at the time of writing.

Women and girls and NGO staff who work with them also reported that some police officers demand sex when approached for assistance. According to a woman who said she went to the Port Moresby police during a child custody dispute in mid-2004: “The policeman said, ‘I’ll help you but I use you first. If not, it’s your problem.’ I had no choice so I had to give my skin to him.”¹³³ A group of sex workers told us that they couldn’t seek protection from police because “they won’t help us without sex, so we just leave.”¹³⁴ Staff of the NGO that works with the women confirmed: “They say when there is an issue and they go to the police for help, the police will say, ‘Suck my dick.’ So they won’t go.”¹³⁵

The head of the sexual offenses squad in Kokopo, East New Britain, described similar cases that he was prosecuting: “These children have come to the police to seek assistance and the policemen turn around and abuse them. These were not family situations—they were involved in official duties.”¹³⁶

Boys

Boys also reported sexual abuse by police, including anal and oral rape, attempts to force them to have sex with other detainees, and humiliation involving nakedness. Boys are routinely detained with men in police stations and are vulnerable to sexual abuse from other detainees as well.

We heard two rape accounts involving boys, both of whom were picked up by police officers as they left nightclubs that boys and men who engage in homosexual conduct are known to patronize. In one case, which occurred in 2004, a police officer stopped a sixteen-year-old and an adult man when they left a nightclub late at night. The officer ordered the two to perform fellatio on him, the man told us. “I said, well, we have no choice; we just have to do it. My friend did it, and then I took over. It was like, we were

¹³³ Human Rights Watch interview, Port Moresby, September 15, 2004.

¹³⁴ Human Rights Watch group interview with sex workers, Port Moresby, September 15, 2004.

¹³⁵ Human Rights Watch interview with Eunice Bruce, World Vision, Port Moresby, September 15, 2004.

¹³⁶ Human Rights Watch interview with Funmat, Sexual Offenses Squad, Kokopo police station, East New Britain province, September 27, 2004.

taking turns. It was not safe. After that, he told [the sixteen-year-old] to bend over, bend down, and he did what he wanted to with him. He fucked him.”¹³⁷

A doctor described recently treating similar cases:

Some of the stories I get from young fellows there indicate that quite often if the police pick them up, they sexually abuse them. One guy, about seventeen years old, said he was walking in Boroko in obviously effeminate dress. He claims he was taken into a cell and made to give oral sex to five or six officers until a senior officer walked in. There was no evidence, but I don’t think he was fantasizing. The fear that he felt when he was forced to submit. . . . He talked about his own experience and said it was fairly recent and he was very concerned [about AIDS] because the police had a reputation for being highly sexually active.¹³⁸

We also heard reports of police beating girls and boys on the genitals and forcing males to have sex with other males in detention. Muna G., around nineteen years old, said police arrested him with a group of about thirteen boys and young men when they were on their way to a birthday party in 1999 and forced them to go to the police station:

¹³⁷ Human Rights Watch interview, Port Moresby, September 29, 2004. Another man in Port Moresby told Human Rights Watch that police beat and raped another boy and him in 1996 when he was sixteen or seventeen. At the end of his account, he described the rape of the other boy, using “she” to refer to the boy:

He was having sex with her repeatedly. She didn’t want to. She was begging for him to stop. She was screaming. But he wouldn’t stop.

The officer punched him before beginning to rape his friend.

I fell on the floor. Then he started getting at [the other boy], tearing her blouse, pulling off the miniskirt she wore. While he was doing it, he was telling me that I’ll be the next one. [The other boy] was begging I was telling him to stop. . . . After that he dropped us off where he picked us up.

Afterwards, he told us, they took down the vehicle’s number plate and went to the station the next day. The police paid him and the other boy one hundred kina (U.S.\$32) each. The man said that he had never told anyone what happened:

While they were doing that to me, they told me that I mustn’t raise the matter with the police station. If they see that the matter is reported, they’re going to come back after me and kill me. They were always using threatening words. There aren’t any safe remedies for a gay man.

As a result of that experience, he said,

I never go out all that often. I never go shopping with my family; I never felt freedom. . . . I felt very scared. . . . I felt it was very risky for me. . . . I still feel that way.

Human Rights Watch interview, Port Moresby, September 29, 2004.

¹³⁸ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

We were told to hold each other's ears. We had to pass by the residences and businesses on the way to the nearest police station, one hundred metres away, still holding each other's ears. We were told whoever took his hands off would be beaten.

They stood us at the charging table and told us to take off our trousers and put our penises on the table. The police removed their necklaces, the chains that were around their necks, and hit our penises on the table. They struck really hard—they were big chains. . . . They did this one by one. I can't really recall how long it took. They repeated this. The police went around and around; they beat each of us and came around again. . .

We showed the invite cards to prove [that we were going to a party]. We were going to be charged with loitering, but then someone came in and intervened. He asked them to release us, and we were freed the same night.

They reviewed everyone and sent us out two by two. The youngest, the fifteen-year-old, and the oldest, who was thirty-three, were forced to remain back, and they forced the young bloke, the fifteen-year-old, to [try to] have sex with the older one, anal sex. They told them what to do, but they could not do it, so they only beat them up and sent them off. They had swollen legs and said they had been beaten with sticks. Both were injured on their knees.”¹³⁹

Similarly, a man in an urban settlement in Port Moresby told us that while he was detained in a police station in 2004, police ordered him to have sex with another man.¹⁴⁰

The doctor also described treating “a sixteen or seventeen-year-old boy who they [police] stripped naked, tied him up, had tinned fish smeared on his genitals and the police dogs set on him. There was tremendous damage that took years to repair. Tremendous psychological and physical damage.”¹⁴¹

¹³⁹ Human Rights Watch interview, Kokopo, East New Britain province, September 28, 2004.

¹⁴⁰ Human Rights Watch group interview, urban settlement, Port Moresby, September 17, 2004.

¹⁴¹ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

Most commonly, we heard accounts from boys in which they described instances of sexualized humiliation, such as being forced to run or fight naked, put naked in a cell visible to the public, stripped during interrogation, and ordered to expose themselves to female police officers.¹⁴²

Menzie M. described being arrested with other boys when he was sixteen or seventeen years old for allegedly stealing a chicken. The police came while they were cooking the chicken under the house, he told us:

They took us to Waigani police station. . . . About eight or nine policemen were there. The police lined up and made us go through them and as we passed through, each belted us up. . . . They used a grass knife, metal, to whip us on the back. They told us to touch our toes and hit us from the legs all the way up. The station commander was there and all the rest were ordinary police. . . . This was inside the police station where they do reports. We were weak because they belted us up.

Then they told us to take our clothes off. . . . They told us to get naked and then to fight. We were scared so we had to follow what he said. They had big iron bars. We fought. Some of us were bleeding. We didn't want them to hit us again so we had to do what they said. . . . I had bruises on my back. We were all bruised up.¹⁴³

Menzie M. said he was released the next day without being charged.

These practices appear to be chronic, and we heard cases that went back more than a decade.¹⁴⁴

¹⁴² Human Rights Watch interview with twenty-one-year-old man, urban settlement, Port Moresby, September 17, 2004 (describing an incident when he was sixteen or seventeen years old in which police arrested him and several other boys, took them to "the area where they do reports" in Waigani police station, and forced them to take off their clothes and fight each other); Human Rights Watch interview with sixteen-year-old boy, September 18, 2004 (describing Wewak police officers forcing him to expose himself to a female officer); Human Rights Watch interview with Dr. Abby McLeod, Australian National University, Canberra, October 5, 2004 (stating that she saw detainees at Waigani police station in Port Moresby put naked into cells visible to the public market).

¹⁴³ Human Rights Watch interview with twenty-one-year-old man, Port Moresby, September 17, 2004.

¹⁴⁴ For example, the doctor described a case he had treated some ten years before:

I've seen a case of a teenager who . . . was stripped naked and made to masturbate, and they laughed when he couldn't get an erection. Then they bashed him until they broke his arm and then they made him do it again with the unbroken arm. I didn't see it, but he told me and the physical evidence of abuse was there. His story is that he was made to do this in front of other people.

Police Abuse of Especially Vulnerable Persons

Although anyone arrested is at risk of violence, police appear to target those who are the least powerful and most stigmatized, including sex workers, boys and men who engage in homosexual conduct, and street vendors. The illegality of certain acts serves as an excuse to inflict on-the-spot punishment and to deter victims from complaining.

Sex work, which girls reportedly begin as young as twelve or thirteen,¹⁴⁵ is not itself illegal, but living on the earnings of prostitution, keeping a brothel, or knowingly allowing one's premises to be used as a brothel are “summary” (minor) offenses.¹⁴⁶ Recent amendments to the Criminal Code exempt children from prostitution charges; however, the Summary Offenses Act, which criminalizes living on the earnings of prostitution, has not been explicitly harmonized with the new law.¹⁴⁷ In a 2004 survey of seventy-nine sex workers in Port Moresby, 61 percent reported “police sexual assault/physical abuse” as one of the main problems faced, more than any other response, and that “policemen are the biggest perpetrators of rape and also they never use condoms.”¹⁴⁸

Homosexual conduct—described in Papua New Guinea’s law as “carnal knowledge against the order of nature”—is illegal under the Criminal Code.¹⁴⁹ A man who described himself as gay and said that police officers had raped him told Human Rights Watch:

Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

¹⁴⁵ Human Rights Watch interview with staff member, Institute for Medical Research, Goroka, September 23, 2004; Monitoring and Research Branch, National Department of Health . . . , “Qualitative Assessment and Response Report on HIV/AIDS/STI Situation Among Sex Workers and their Clients in Port Moresby, Papua New Guinea.” For more information about commercial sexual exploitation of children in Papua New Guinea, see Help Resources and UNICEF-PNG, “A Situational Analysis of Child Sexual Abuse & the Commercial Sexual Exploitation of Children in Papua New Guinea”; for more information about sex work generally in Papua New Guinea, see Macintyre, “Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes,” *Gender Analysis* . . . , pp. 64-65.

¹⁴⁶ Summary Offences Act (1977), consolidated to No. 16 of 1993, §§ 55-57. Under section 55, “A person who knowingly lives wholly or in part on the earnings of prostitution is guilty of an offence,” punishable by a fine up to K 400 (U.S.\$128) or up to one year’s imprisonment. It is considered *prima facie* evidence of the offense if a person “lives with, or is constantly in the company of a prostitute” or “exercises[s] some degree of control or influence over the movements of a prostitute in such a manner as to show that person is assisting her to commit prostitution.”

¹⁴⁷ Criminal Code (Sexual Offences and Crimes Against Children Act) (2002), §§ 229(K), (L), (Q).

¹⁴⁸ Monitoring and Research Branch, National Department of Health . . . , “Qualitative Assessment and Response Report on HIV/AIDS/STI Situation Among Sex Workers and their Clients in Port Moresby, Papua New Guinea,” pp. 27-2, 328.

¹⁴⁹ Criminal Code, § 210.

A lot of abuse comes from police. They bash us up. They sometimes take us to the station pretending [to question us]. . . . They lock their office. . . . They want a blow job or they say, “I’m going to fuck you” . . . What can we do? They threaten us. They tell us not to shout. They tell us they are going to kill us.¹⁵⁰

Street vending was, until 2004, illegal in Port Moresby and other cities. In 2004, the law was changed to allow street vending in restricted areas during certain times.¹⁵¹ Although the law was reportedly intended, among other thing, to address police violence and harassment of street vendors, those whom we interviewed in September 2004 told us that these practices continued. Most told us that police would beat them and destroy their betel nut and other goods, but not formally arrest and charge them. For example, Abraham M., age twelve, told us that he survived by selling on the street small items such as batteries that he buys wholesale. “Sometimes when I’m selling,” he told us, the police “chase me and take the things and belt me up.”¹⁵² Ume Wainetti, of Papua New Guinea’s Family and Sexual Violence Committee, described the impact of police on street vendors:

Those who sell on the streets get chased by the police. Their goods get thrown away or taken away. They have so little that when their goods are taken away, they have no more to go back and buy goods again. They might make eight to ten kina each day, probably enough to buy food for the day.

Police break their Eskis, she said.

¹⁵⁰ Human Rights Watch interview, Port Moresby, September 29, 2004.

¹⁵¹ Informal Sector Development and Control Act (2004). As of July 13, 2005, according to news reports, informal sector vendors in Port Moresby were restricted to thirteen approved cites and specifically excluded from “all public bus stops, shot fronts, the Port Moresby General Hospital, urban clinics, schools and tertiary institutions, all public roads, car parks, traffic islands and road reserves, including Ela Beath, airports and seaports and all night clubs and hotels.” Penalties imposed by National Capital District Officers and police include removal and a fine. Bonny Bonsella, “Vendors Given Till Monday to Shift to Designated Spots,” *The National* (Papua New Guinea), July 6, 2005, p. 6. See also *Post-Courier* (Papua New Guinea), May 20, 2005, p. 6; “City Hall Moves on NCD Markets,” *Post-Courier*, July 11, 2005, <http://www.postcourier.com.pg/20050711/mohome.htm> (retrieved July 11, 2005); and Wanita Wakus, “Police Won’t Enforce Law, Says City Manager,” *Post-Courier*, April 20, 2005, p. 3. Elsewhere at the time of writing, there was ongoing debate about the restrictions placed on vendors. See, for example, “CIMC Condemns Town Authority,” *The National*, April 22, 2005, p. 8; “‘Oily Bath’ Condemned,” *Post-Courier*, April 20, 2005, p. 3 (quoting Mt. Hagen City Manager Pious Pirm as stating that street vendors were being dipped in oil-tainted water “as a control measure”); “Hagen Leader Wants Changes to Informal Sector Law,” *The National*, May 11, 2005; “Informal Sector in Be Made Aware.”

¹⁵² Human Rights Watch interview with twelve-year-old boy, urban settlement, Port Moresby, September 16, 2004.

An Eski is a cooler. . . . It's where they keep their ice water, ice blocks. When it's destroyed, that's her source of income gone. Or police will destroy the umbrellas that they sit under to sell.¹⁵³

A 2003 report on women, children, and policing noted a disproportionate impact of the prohibition on street vending on women and girls: “The laws against street vending that are meant to prevent littering discriminate against women whose only means of support is to sell food or betel nut on the street. The ways that NCDC [National Capital District Commission] officers, auxiliary police and regular police deal with women vendors often employ undue force and are a major factor in public hostility towards police.”¹⁵⁴

Legal Standards on Torture; Cruel, Inhuman, or Degrading Treatment or Punishment; Sexual Violence; and Police Use of Force

Few prohibitions in international human rights law are as unequivocal as the ban on torture and other cruel, inhuman, or degrading treatment or punishment. A large body of international legal authority has developed over the last fifty years that forbids the use of torture and other cruel, inhuman, or degrading treatment or punishment. The prohibition is embodied in the Universal Declaration of Human Rights, which states in article 5: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.” That right is reaffirmed in the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights (ICCPR), and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁵⁵ and is widely considered a *jus cogens* norm, that is, a binding and

¹⁵³ Human Rights Watch interview with Ume Wainetti, Family and Sexual Violence Committee, Port Moresby, September 15, 2004.

¹⁵⁴ Macintyre, “Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes,” *Gender Analysis* . . . , p. 63. See also Wayne Stringer, East Sepik Council of Women, “Submission to PNG Police Review,” 2004 (reserve and auxiliary officers victimize street vendors).

¹⁵⁵ Convention on the Rights of the Child, art. 37; International Convention on Civil and Political Rights (ICCPR), opened for signature December 16, 1966, 999 U.N.T.S. 171 (entered into force March 23, 1976), art. 7; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In addition to these treaties, declarations adopted during the last three decades prohibit torture and cruel, inhuman, or degrading treatment. The Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the U.N. on December 9, 1975, states in article 2 that “torture constitutes an *aggravated and deliberate* form of cruel, inhuman or degrading treatment or punishment,” while stressing in article 3 that no state may permit or tolerate it under any circumstances. The U.N. Rules for the Protection of Juveniles Deprived of their Liberty, the authoritative statement of minimum standards for the treatment of children in detention, prohibits personnel of detention facilities from inflicting, instigating, or tolerating “any act of torture or any form of harsh, cruel, inhuman or degrading treatment, punishment, correction or discipline under any pretext or circumstance whatsoever.” U.N. Rules for the Protection of Juveniles Deprived of their Liberty, G.A. res. 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990), para. 87(a). See also Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, G.A. res. 43/173, annex, 43 U.N. GAOR Supp. (No. 49)

peremptory norm of customary international law from which no derogation is permitted.¹⁵⁶

Papua New Guinea is not a party to the Convention against Torture or the ICCPR. It is, however, a party to the Convention on the Rights of the Child, which contains a prohibition on torture that mirrors that in both of the previous conventions. The Constitution of Papua New Guinea provides for the rights to life and freedom from inhuman treatment, including torture and treatment “that is cruel or otherwise inhuman, or is inconsistent with respect for the inherent dignity of the human person.”¹⁵⁷

The Convention against Torture defines torture as intentional acts by public officials that cause severe physical or mental pain or suffering for the purpose of obtaining information or a confession, or for punishment, intimidation, or discrimination.¹⁵⁸ Rape can also be an act of torture.¹⁵⁹ The definition of torture in the Convention against Torture is useful in determining the binding content of the prohibition contained in the Convention on the Rights of the Child and in customary international law. A number of the above-described cases fall within this definition and constitute torture.

at 298, U.N. Doc. A/43/49 (1988), principle 6; U.N. Code of Conduct for Law Enforcement Officials, adopted by General Assembly 34/169 of 17 December 1979, art. 5.

¹⁵⁶ Nigel Rodley, *The Treatment of Prisoners Under International Law*, 2d ed. (New York: Oxford University Press, 1999), p. 74; see Vienna Convention on the Law of Treaties, May 23, 1969, art. 53 (regarding the definition of *jus cogens* norms).

¹⁵⁷ Constitution of the Independent State of Papua New Guinea, arts. 32, 35, 36.

¹⁵⁸ Under article 1, torture is:

any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

¹⁵⁹ In 1992, the U.N. Special Rapporteur on Torture noted, “Since it was clear that rape or other forms of sexual assault against women in detention were particularly ignominious violations of the inherent dignity and the right to physical integrity of the human being, they accordingly constituted an act of torture.” “Statement of the U.N. Special Rapporteur on Torture to the U.N. Commission on Human Rights,” U.N. Commission on Human Rights, U.N. Doc. E/CN.4/1992/SR.21, Feb. 21, 1992, para. 35. See also “Report by the Special Rapporteur, P. Kooijmans, appointed pursuant to Commission on Human Rights resolution 1985/33,” U.N. Commission on Human Rights, U.N. Doc. E/CN.4/1986/15, February 19, 1986, p. 29. More recently, the U.N. Special Rapporteur on Torture recommended “that female security personnel be present during interrogation of women detainees, as interrogation and detention of detainees by exclusively male personnel constitute conditions that may be conducive to rape and sexual abuse of women prisoners or the threat or fear thereof.” “Report of the U.N. Special Rapporteur on Torture, Mr. Nigel S. Rodley, submitted pursuant to the Commission on Human Rights Resolution 1992/32,” U.N. Commission on Human Rights, U.N. Doc. E/CN.4/1995/34, Jan. 12, 1995, paras. 17-20.

Article 15 of the Convention against Torture requires states parties to ensure that statements obtained through torture not be used as evidence, except against the person accused of torture.¹⁶⁰ This provision prevents police from being rewarded for using torture to extract information. It also is a way of ensuring that children do not incriminate themselves, a protection they have under the Convention on the Rights of the Child as well as the ICCPR.¹⁶¹ Human Rights Watch considers such a rule a central element of the protection from torture as set out in the Convention on the Rights of the Child and customary international law. The law of Papua New Guinea does not specifically address statements obtained through torture, but confessions induced by threats are not admissible as evidence under the Evidence Act.¹⁶²

In cases where beatings, rape, and humiliation of children by police do not rise to the level of torture, they may nevertheless constitute cruel, inhuman, or degrading treatment or punishment. Cruel and inhuman treatment includes suffering that lacks one of the elements of torture or that does not reach the intensity of torture.¹⁶³ Particularly harsh conditions of detention, including deprivation of food, water, and medical treatment, may also constitute inhuman treatment.¹⁶⁴ Degrading treatment includes treatment that involves the humiliation of the victim or that is disproportionate to the circumstances of the case.¹⁶⁵ For example, in the cases above, forcing boys to fight naked or expose themselves to female police officers violates Papua New Guinea's obligation to prevent degrading treatment.

Violence in custody by police or other detainees also violates a child's right under the Convention on the Rights of the Child to protection from "all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child."¹⁶⁶ International law requires that states

¹⁶⁰ Article 15 of the Convention against Torture states: "Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made." See also Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 21.

¹⁶¹ Article 40 of the Convention on the Rights of the Child states that children "alleged as or accused of having infringed the penal law" shall not "be compelled to give testimony or to confess guilt."

¹⁶² Evidence Act, § 28.

¹⁶³ Manfred Nowak, *U.N. Covenant on Civil and Political Rights, CCPR Commentary* (Kheil: N.P. Engel, 1993), p. 131.

¹⁶⁴ Ibid., pp. 131-32 (citing decisions of the Human Rights Committee: *Buffo Carball v. Uruguay*, No. 33/1978; *Massiotti v. Uruguay*, No. 25/1978; *Marais v. Madagascar*, No. 49/1979, *Wight v. Madagascar*, No. 115/1982).

¹⁶⁵ Ibid., p. 133.

¹⁶⁶ Convention on the Rights of the Child, art. 19.

provide effective remedies for the breach of these principles, including compensation when injuries are inflicted on juveniles.¹⁶⁷

By ratifying the U.N. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1995, Papua New Guinea agreed to protect women and girls from sexual and other forms of gender-based violence perpetrated by state agents and private actors alike.¹⁶⁸ As a party to CEDAW, Papua New Guinea is obliged “to pursue by all appropriate means and without delay a policy of eliminating discrimination against women” including “any distinction, exclusion or restriction made on the basis of sex which has the purpose of impairing or nullifying the recognition, enjoyment or exercise by women . . . on a basis of equality of men or women, of human rights and fundamental freedoms.”¹⁶⁹ The U.N. Committee on the Elimination of Discrimination against Women, established under CEDAW, has noted that “[g]ender-based violence is a form of discrimination which seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.”¹⁷⁰ As part of its obligation to prevent violence against women, the government is required to ensure that female victims of violence have access to an effective remedy for the violation of their rights.¹⁷¹ The Convention on the Rights of the Child also establishes girls' right to protection from discrimination based on sex and their right to equal protection before the law.¹⁷²

In addition to binding treaties on torture; cruel, inhuman, or degrading treatment or punishment; and gender-based violence, the U.N. has developed detailed principles, minimum rules, and declarations on the actions and use of force by police. The U.N. Code of Conduct for Law Enforcement Officials expressly limits the use of force by police to situations in which it is “strictly necessary and to the extent required for the performance of their duty.”¹⁷³ Similarly, the U.N.’s Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that law enforcement officials, in

¹⁶⁷ U.N. Rules for the Protection of Juveniles Deprived of their Liberty, para. 7; Convention against Torture, arts. 12-14.

¹⁶⁸ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), G.A. Res. 34/180, U.N. Doc. A/34/46 (entered into force September 3, 1981). Papua New Guinea ratified the treaty on January 12, 1995.

¹⁶⁹ CEDAW, arts. 2, 1.

¹⁷⁰ Committee on the Elimination of Discrimination against Women, “Violence Against Women,” General Recommendation No. 19 (Eleventh session, 1992), (New York: United Nations), CEDAW/C 1992/L.1/Add.15, para. 1.

¹⁷¹ CEDAW, in article 2, obligates states to “establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination.”

¹⁷² Convention on the Rights of the Child, art. 2(1).

¹⁷³ U.N. Code of Conduct for Law Enforcement Officials, art. 3.

carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms.¹⁷⁴ When the use of force is unavoidable, law enforcement officials must “(a) exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; (b) minimize damage and injury . . . ; and (c) ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment.”¹⁷⁵ Firearms may only be used in very specific circumstances: “Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury [or] to prevent the perpetration of a particularly serious crime involving grave threat to life.”¹⁷⁶ According to the Basic Principles, “Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law.”¹⁷⁷ Although the Code of Conduct and the Basic Principles on the Use of Force and Firearms are not binding international law, they constitutes authoritative guidance for interpreting international human rights law regarding policing.

The Constitution of Papua New Guinea, as an exception to the prohibition of intentional deprivation of life, permits reasonable force for self defense, to “effect a lawful arrest or to prevent the escape of a person lawfully detained,” to “suppress a riot, and insurrection or a mutiny,” or to prevent a person “from committing an offence.”¹⁷⁸ Under Papua New Guinea’s 1977 Arrest Act, police may use all “reasonable means” to make an arrest when a person resists but not “greater force than is reasonable in the circumstances.”¹⁷⁹ Similarly, the police have the right to search an arrested person who is in lawful custody but must conduct the search with decency and no greater force than is reasonable.¹⁸⁰ The 2004 Juvenile Court Protocol for Magistrates states that police can use physical force on a juvenile only:

- to prevent escape where there is strong evidence that the juvenile may try to escape,
- to protect them from their own actions or actions of others,

¹⁷⁴ U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, General Provision 4.

¹⁷⁵ Ibid., general provision 5.

¹⁷⁶ Ibid., general provision 9.

¹⁷⁷ Ibid., general provision 7.

¹⁷⁸ Constitution of the Independent State of Papua New Guinea, art. 35.

¹⁷⁹ Arrest Act, § 14.

¹⁸⁰ Search Act (1977), § 4.

- to protect others from the actions of juveniles.¹⁸¹

The police officers Human Rights Watch interviewed in September 2004 did not appear to be familiar with these guidelines. Moreover, the latter exception as written could be broadly interpreted to apply to a large category of children

Assault, homicide, rape, corruption, and certain firearms offenses are crimes under Papua New Guinea law, whether or not the perpetrator is a public official. The penalties are higher when the victim is a child.¹⁸²

Collective Punishment

Human Rights Watch also documented two cases of collective punishment in Wewak, where we visited the sites of two houses that police had pulled down after arresting a boy or young man in the house for a crime. In one case, we interviewed parents who said that their son, who they said was around eighteen years or younger, was arrested in July 2004 for breaking and entering.¹⁸³ Early in the morning, the mother told us, four to six police cars came to the house. The provincial police commander, Leo Kabilo, was with them and said to the parents, “Your son has made this crime so you guys are coming down [from the house on stilts] and we’re pulling down the house.” The police tied a rope around the thatch and stick house and used a car to pull it down. Then, the mother told us, “They said, ‘Never rebuild your house. Leave this place.’”¹⁸⁴ At the time we visited, the family was living underneath a neighbor’s house, waiting for the son’s case to be resolved.

The collective punishment against the family inflicted by the police in this case constitutes arbitrary deprivation of property. The Universal Declaration of Human Rights in article 17 provides that “[n]o one shall be arbitrarily deprived of his property.

¹⁸¹ Magisterial Service of Papua New Guinea, “Juvenile Court Protocols for Magistrates,” p. 12. As noted above, these are the same criteria for when children may be detained in police cells.

¹⁸² Summary Offences Act; Criminal Code.

¹⁸³ Human Rights Watch interview with mother and group interview with father and neighbors, Wewak, September 18, 2004.

¹⁸⁴ Ibid.

IV. Conditions of Detention

Children detained at police stations told us of sordid conditions. Human Rights Watch researchers saw these firsthand when we toured police lockups in Alotau, Goroka, Kokopo, and Wewak. Children are routinely detained with adults, placing boys at increased risk of rape and other abuses from other detainees. Children on remand are detained with those who have already been convicted. Many children said they had no bedding and slept on a concrete floor, and that they were not given enough food or water for drinking or washing. Toilets were clogged or overflowing, and cells smeared with excrement. The smell was overpowering. At times cells were overcrowded. Almost no children said they were given medical care, even when seriously injured by police. In two cases, police appeared to intentionally deny medical care as a form of punishment. Some children said they were not allowed to see family members or that their parents were not told where they were.

Even the government has described police lockups as “usually foul, unclean and unhealthy” to the Committee on the Rights of the Child in 2002, and noted that “juveniles often spend some time there.”¹⁸⁵ Indeed, children routinely spend days or, outside of Port Moresby, weeks or even months in police lock up. This fact makes the poor conditions and detention with adults especially egregious. “Sometimes it takes weeks” before detainees go to court, the head of Wewak’s internal investigations unit admitted. “There are problems with cars and vehicles to take [the suspects]. You feel for them.”¹⁸⁶ Some children are eventually transferred to juvenile remand centers, others to prison, often to a prison’s juvenile wing. Human Rights Watch also visited three juvenile remand centers and the juvenile wings of two prisons, Bomana prison in Port Moresby and Boram prison in Wewak.

Conditions in Wewak, Goroka, Kokopo, and Alotau

Human Rights Watch researchers visited the police lockup in Wewak, East Sepik province, on September 20, 2004. Detainees were locked in a separate building with a single locked door that opened onto a small hallway and five unlocked rooms. There were no separate cells for women or children. We saw and spoke with ten detainees as a group, out of the earshot of prison guards; four said they were under age eighteen. The detainees were crowded into one of the four rooms because two of the three toilets had overflowed in the other rooms, covering the floors of all but one room with waste and

¹⁸⁵ Papua New Guinea, “Initial Reports of States Parties Due in 2000,” para. 377.

¹⁸⁶ Human Rights Watch interview with Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

filling the cells with a strong and offensive smell. The head of Wewak police's internal investigation section told us that the dry cell sometimes become so overcrowded that "nobody sleeps."¹⁸⁷ The walls were covered with graffiti that appeared to be written in feces and betel nut. There was no running water in the building, and a guard showed us a tap outside where, he said, detainees were on occasion brought for washing. The men and boys told us they received one liter of water a day and showed us the bottles stored on a sill. There was no bedding in the cells. The station commander told us: "These guys are eating one packet of biscuits in a day," emphasizing that he had no money to give them more. "That's why we allow relatives to bring in food."¹⁸⁸

At Goroka police station, Eastern Highlands province, there were cells that could have been used to separate children from adults. When we visited on September 23, 2004, there were twenty-nine or thirty males in a large common area; two women were in a different room on the side.¹⁸⁹ "At the moment we have no juveniles," the station commander told us, "From time to time we do have them." When asked, the police station commander told us that detainees were locked in separate cells in the afternoon.¹⁹⁰ The station commander also told us, among other things, that he would like to replace the lighting in the dim cellblock. "Most of the tubes have gone out," he said, gesturing around the cells. "We need to replace them with new ones so we can have good proper light."¹⁹¹

Moab Y. described being detained in Goroka two years earlier when he was around fifteen years old.¹⁹² There were seven or eight people in his cell, he said, which measured about three meters by three meters. "There were some big people and some small in the jail," he told us, indicating that some detainees were under the age of eighteen. "There was all sorts of rubbish inside. . . . Shit was lying around on the floor. There was no place to go, so we slept on the floor with the shit. There were no blankets; we slept on the ground." They were given biscuits once a day, he said, and given water "sometimes—they didn't give me water all the time."¹⁹³

¹⁸⁷ Ibid.

¹⁸⁸ Human Rights Watch interview with Kayver, Police Station Commander, Wewak Police Station, September 20, 2004.

¹⁸⁹ Police Station Commander Matitias Mangori said to us, "At the moment we have no juveniles. From time to time we do have them." Human Rights Watch interview, Goroka Police Station, September 23, 2004.

¹⁹⁰ Ibid.

¹⁹¹ Ibid.

¹⁹² Human Rights Watch interview with seventeen-year-old boy, Goroka, September 22, 2004.

¹⁹³ Ibid.

At Kokopo police station, East New Britain, we saw detainees being held in three separate cells. We spoke with detainees in two cells and saw detainees in the third, whom we were told were new arrivals. In the first cell we saw eight males, one of whom said he was seventeen years old and had been in the cell for eight months. In the second cell, which was larger, we counted thirty-one males, include two seventeen-year-olds and a sixteen-year-old, each of whom told us he had been there for three months. The men and boys said that they went days without going outside. Later we interviewed a man who said he was released from the lockup the previous week: “When you are kept in the cell,” he explained, “you’re not exposed to sunlight, just a small bit of light. Your skin gets yellow, you lose weight.”¹⁹⁴ In the larger cell we saw four toilets, two of which were broken, and a single tap for washing. We saw the detainees being served what they said was their only meal of the day—a plate of rice with a small amount of fish. They had no bedding or mosquito nets.

The same man who said he had been detained the previous week at the station described what it was like:

We had to drink from the tap [directly above] the toilet, and if you were really thirsty, you didn’t have any way to get water and no containers so you had to push yourself to drink from it. . . . There were some fifteen-year-olds and others—we were all together with the children. . . . There were about five boys in the cell, ages fifteen and up. I was in the small cell with these boys—cell number one. This cell is for newly arrested people suspected of robbery, rape. I was arrested as a suspect of willful damage and rape.¹⁹⁵

In contrast with the other stations we visited, the police station in Alotau, Milne Bay, was newly constructed by AusAID, but the cells were already filthy, smelled bad, and were smeared with excrement and betel nut. Three of the four cells were open to each other and we saw ten adult men detained there. Although the head of internal investigations for Alotau told us that children were detained in a cell separate from adults,¹⁹⁶ the detainees told us that a seventeen-year-old boy was being detained with them but was being questioned at the time we visited. The fourth cell was, the guard told us, used for a woman; when we saw her she was cooking for the men in a kitchen next to the cells.

¹⁹⁴ Human Rights Watch interview, village, East New Britain, September 28, 2004.

¹⁹⁵ Ibid.

¹⁹⁶ Human Rights Watch interview with Constable Joe Lemek, head of internal investigations, Alotau, Milne Bay, September 24, 2004.

We did not try to visit police lockups in Port Moresby. However, several boys who had been detained there in 2004 described what they were like. Luke J., age seventeen, said he was held at Boroko police station for one week. “I never experienced that kind of thing in my life,” he told us. “It was my first time in prison, and I was really scared. We used to sleep on the cement, where there was water. Everything was just smelling. There were nine of us in the cell.” Gesturing around us, he indicated a sleeping area roughly eight feet by ten feet. “The only food they give us is three pieces of biscuits. Every morning, three pieces of biscuits. In the evening, only rice. Nothing in the afternoon.”¹⁹⁷

Elias C., age twelve, said he had been detained in Boroko police station for four days.

I slept without food that night. Others in my cell block got food—I don’t know why they didn’t give me any. I was in a cell block on the other side. No one else was in the room with me. I was sleeping on the cement in the cell. I didn’t get any medical care for my bloody neck. The next morning they gave me tea and one biscuit and told me to stay put.¹⁹⁸

Yoshidah T., age sixteen, said he was held in a Port Moresby station overnight and then released without charge:

There was another guy in the cell, but he was bigger than me—maybe twenty or twenty-one. The police had really bashed him up. He had two black eyes and had been shot in the foot. The cell was smelly and there was blood all over it. The toilet was next to where we would sleep, so I didn’t sleep. I just stood all night. I had my shirt over my face all night because of the smell. Blood was coming out of the guy’s foot. There was blood all around on the floor. No one brought him any medicine or bandages. They did give us tea and bread—we shared a little piece of bread.¹⁹⁹

Jackson S., age seventeen, said he spent one week in Boroko police station in February 2004: “Boroko is not a good place for people to live because the toilets are not good toilets. Smells come up, and there’s water all over the place.” When asked him how big the cell was, he indicated an area that was about ten feet by ten feet. “I was in the cell by

¹⁹⁷ Human Rights Watch interview with seventeen-year-old boy, Port Moresby, September 16, 2004.

¹⁹⁸ Human Rights Watch interview with twelve-year-old boy, Port Moresby, September 16, 2004.

¹⁹⁹ Human Rights Watch interview with sixteen-year-old boy, Port Moresby, September 16, 2004.

myself.” He said guards did not give him water to drink or food. “I slept on the floor. I had a sheet.”²⁰⁰

Detention of Children with Adults

As explained elsewhere in this report, the Juvenile Courts Act, protocols on the act for magistrates and police, as well as the Convention on the Rights of the Child and other international standards, require police to separate children from adults in detention. In addition, under domestic and international law, children convicted of crimes should not be mixed with children who have not been convicted. The Committee on the Rights of the Child, reviewing Papua New Guinea’s implementation of the Convention on the Rights of the Child, expressed concern “that children in detention are not always separated from adults” and recommended that the government ensure that they are.²⁰¹

In our interviews, a few very young children in Port Moresby reported being separated from adults in police lockup. Most children said they were detained with adults. We found children in every police lockup we visited, except in Goroka (where no children were detained), even where separate cells were available. We interviewed boys, the youngest age twelve, who said they had been detained with adults at Six-Mile and Boroko police stations in Port Moresby.²⁰² Other boys reported being separated from adults in Boroko and Badili police stations.²⁰³

Five of Papua New Guinea’s nineteen or twenty operational prisons have juvenile sections,²⁰⁴ but full separation between juveniles and adults in these five is not necessarily maintained. For example, in Bomana prison, in Port Moresby, the juvenile section was open at the time we visited, and children were going into the common areas to mingle freely with adults. Moreover, a chart by the Papua New Guinea Correctional Service and the National Economic and Fiscal Commission (NEFC) dated May 23,

²⁰⁰ Human Rights Watch interview with seventeen-year-old boy, Port Moresby, September 16, 2004.

²⁰¹ Committee on the Rights of the Child, *Concluding Observations: Papua New Guinea*, para. 63.

²⁰² Human Rights Watch individual interviews with two seventeen-year-old boys, Port Moresby, September 16, 2004; sixteen-year-old boy, Port Moresby, September 16, 2004; twelve-year-old boy and fifteen-year-old boy, Port Moresby, October 1, 2004. Barry Turner, head of the Australian Federal Police in Port Moresby, recounted seeing a ten-year-old boy “in with hardened criminals” in a Port Moresby police station. Human Rights Watch interview with Barry Turner, Australian Federal Police, Port Moresby, September 30, 2004.

²⁰³ Human Rights Watch individual interviews with twelve-year-old boy, fifteen-year-old boy, seventeen-year-old boy, Port Moresby, September 16, 2004; twelve-year-old boy and fifteen-year-old boy, Port Moresby, October 1, 2004.

²⁰⁴ NEFC, Papua New Guinea Correctional Service, “Papua New Guinea Correctional Service: Detainees Statistic,” May 23, 2005 (listing twenty places holding convicted adult males); e-mail from Raman, UNICEF-PNG, to Human Rights Watch, July 13, 2005 (citing information obtained from Correctional Services).

2005, detailing the numbers of adults and juveniles convicted and on remand being held by the correctional service, lists children being held in fourteen out of twenty prisons.²⁰⁵ We also found children convicted of crimes detained with those on remand in police stations, church-run juvenile detention centers, and prisons.

Some government officials have blamed the practice of detaining children with adults on a lack of infrastructure.²⁰⁶ This is a significant problem. However, in several police stations, as already noted, separate cells were available but were not being used to separate children. For example, in Kokopo police station, we found three boys detained with adults, although there were three separate cells where detainees could be held. Instead, the cells were used to separate detainees on the basis of having newly arrived, of being accused of more serious crimes, and for other reasons. A whiteboard in the station noted “nil” for the number of juveniles and the head of the sexual offenses squad insisted that there were no children in detention at that point. On the wall at the entrance to the cells was a sign listing “Cell Procedures.” Rule number eight read: “Remandees, Fresh Cases, Juveniles, Females, and Prisoners arrested on warrant of arrest will be separated into different cells.”²⁰⁷ Papua New Guinea reported to the Committee on the Rights of the Child that where prisons have separate sections for juveniles, prison staff have “been known to place there mature male police, security and other government officers who are on remand or otherwise detained” for protective custody.²⁰⁸

The routine mixing of boys with adult men in police lockups and some prisons increases their risk of sexual assault at the hands of older detainees.²⁰⁹ “The younger a boy is in prison, the greater his risk is of being sexually assaulted by inmates,” a doctor with long-term experience treating detainees explained.²¹⁰ Papua New Guinea reported to the

²⁰⁵ NEFC, Papua New Guinea Correctional Service, “Papua New Guinea Correctional Service: Detainees Statistic,” May 23, 2005.

²⁰⁶ See Papua New Guinea, “Initial Reports of States Parties Due in 2000,” para. 128 (noting that “[c]hildren are not always separated from adult offenders, primarily because the State has not made adequate provision in this area).

²⁰⁷ Human Rights Watch tour of Kokopo police station and group interview with detainees, Kokopo police station, East New Britain, September 27, 2004.

²⁰⁸ Papua New Guinea, “Initial Reports of States Parties Due in 2000,” para. 376.

²⁰⁹ In many countries, young or youthful-looking inmates are at particular risk of rape in detention, according to previous studies and analyses. See, for example, Human Rights Watch; *No Escape: Male Rape in U.S. Prisons* (New York: Human Rights Watch, 2001) (regarding prisons in the U.S.); David Heilpern, *Fear or Favour—Sexual Assault on Young Prisoners* (New South Wales: Southern Cross University Press, 1998) (regarding prisons in Australia); Daniel Welzer-Lang, Lilian Mathieu, and Michael Faure, *Sexualités et violences en prison* (Lyon: Aleas, 1996), pp. 150-53 (regarding prisons in France); Carl Weiss and David James Friar, *Terror in the Prison: Homosexual Rape and Why Society Condones It* (Indianapolis: Bobbs-Merrill, 1974), p. 74.

²¹⁰ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

Committee on the Rights of the Child in 2002: “Young offenders also risk being sodomized and experience criminal acculturation, especially when they are mixed with adults.”²¹¹

Although Human Rights Watch did not interview boys who had been raped by other detainees, the head of the sexual offenses squad in East New Britain told us that “[t]here have been a few cases of rape in the cells of boys.”²¹² A guard at Boram Prison in Wewak also told us: “We recently had one person who described being raped. He asked to have his blood checked at the hospital. He checked for a [HIV] testing kit, but there weren’t any in the hospital. I raised the problem with the National AIDS Council. They said they would look at the matter.”²¹³

In addition to sexual abuse, boys detained with men are at risk of other forms of violence and criminal socialization. For example, Kalan P., age seventeen, explained what happened when he was detained in the adult wing of Bomana prison while awaiting trial:

When I got there the warden asked my age, . . . and then we went into the main [adult] compound with all different guys. There, other guys there came and asked me what I did. Then they bashed us up. They were older than us. One hit me on the head. Another broke a small bone in my hand and it still hurts me.²¹⁴

Kalan P. showed us a half-inch scar on his head that he said was from the beating.

Detention of Girls

Another problem is that not all police stations have separate cells for girls and women and that not all have women officers present at all times. In Wewak, which had only one cell, we saw girls sitting in a grassy courtyard whom police told us were detainees. The head of internal investigations for Wewak told us that if women and girls were arrested, there were no cells to put them in and they were kept in the police station. “They sleep

²¹¹ Papua New Guinea, “Initial Reports of States Parties Due in 2000,” para. 377.

²¹² Human Rights Watch interview with Funmat, Sexual Offenses Squad, Kokopo police station, East New Britain province, September 27, 2004; Human Rights Watch interview with Bruce Grant, Head of Protection, UNICEF-PNG, June 16, 2005 (noting that increased reporting of sexual offenses in Kokopo is an indication of the squad’s effectiveness).

²¹³ Human Rights Watch interview with guard, Boram prison, Wewak, September 19, 2004.

²¹⁴ Human Rights Watch interview with seventeen-year-old boy, Port Moresby, September 16, 2004.

in an office,” he explained. “Sometimes there are no female police officers in the station. There are three female police officers but they are working on shifts, so they are only there at night if they are on the night shift.”²¹⁵ A policewoman at the station told us that because there is no public transport at night, even when she is scheduled to work the night shift, she has to stay at home unless a police vehicle can pick her up. And “all the vehicles for our section are in the [repair] shop,” she said.²¹⁶

Having no separate cells for women and girls may make them especially at risk of sexual abuse by police when they are detained. A community police officer explained: “At the police station a girl who had been arrested doesn’t have a proper cell to sleep in, and she has to hang around the duty station, and the duty officer can say, ‘Come here for a while.’ They are vulnerable. I have seen this with my own eyes.”²¹⁷ However, as explained above, having separate cells does not by itself ensure their safety without additional monitoring and accountability for rape and sexual abuse.

Human Rights Watch did not visit police posts in very rural areas. However, according to Dr. Abby McLeod, who has studied and worked on policing in Papua New Guinea and has visited rural police lockups: “In any rural lockup in the provinces, they will mix women and men. In Mt. Hagen they put women in with men. . . . Policewomen tell me they don’t like putting women in with men because they will be raped.”²¹⁸

Denial of Medical Care

Police provide most detainees with no medical care, even when they are seriously injured.

Edmund P., whose arrest is described above, told us that after the police cut open his pinky finger with a pocket knife, he received no medical treatment until he was transferred to prison. “I never saw a doctor or a nurse or got any medical treatment until I came here [to the prison].” he said. “Here I was given some tablets, but I finished them.”²¹⁹ When we saw him in prison, his finger was unbandaged, very red and swollen, and split open at the end. A pediatrician who viewed photos of the wound told us that

²¹⁵ Human Rights Watch interview with Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

²¹⁶ Human Rights Watch interview with general-duty policewoman, Wewak, September 20, 2004.

²¹⁷ Human Rights Watch interview with community police officer, Wewak, September 19, 2004.

²¹⁸ Human Rights Watch interview with McLeod, Australian National University, Canberra, October 5, 2004.

²¹⁹ Human Rights Watch interview with fifteen-year-old boy, Port Moresby, October 1, 2004.

the wound showed signs of infection, but that it was healing, albeit abnormally.²²⁰ “It was certainly an injury that did not have medical treatment,” she noted. “It would have been easy to close.”²²¹

Jeffrey A., whose interrogation is described above, showed us a long scar across his eyebrow and cheekbone and told us it came from when police beat him on the street. At Boroko police station, where he was detained for three months, he said, “I didn’t get any medicine—my eye just eventually healed up.”²²²

Similarly, police provided the girls and women arrested in the March 2004 raid on the Three-Mile Guesthouse with no medical care, although some were bleeding and, according to NGO representatives who helped some detainees later get medical care, “one women’s hipbone had been chipped from being beaten by rifle butts.”²²³

A woman in Goroka described how she was able to get medical care for two relatives, ages seventeen and around sixteen, in December 2003:

Their eyes were all swollen—they had big faces with black eyes. The police had hit one of them in the eyebrow with a gun butt, and it was all scraped. Both were very injured. . . . It cost me two hundred kina [U.S.\$64] each to bail them out and take them to the hospital. I couldn’t have taken them to the hospital unless I had paid the bail. We had to get our *wantok* to talk with the police in order to get them out.²²⁴

In some cases police appear to intentionally withhold or delay medical care as additional punishment or to let the swelling go down to cover up what they have done.²²⁵ This can compound the initial injury and make the victim more vulnerable to infection, scarring,

²²⁰ Human Rights Watch interview with Dr. Annie Sparrow, pediatrician, New York, January 19, 2005.

²²¹ Ibid.

²²² Human Rights Watch interview with sixteen-year-old boy, Wewak, September 18, 2004.

²²³ “Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents,” signed by Hersey, p. 1.

²²⁴ Human Rights Watch interview, Goroka, September 23, 2004.

²²⁵ For example, according to a newspaper report citing to police reports, Wabag Police Station Commander Inspector Timothy Pomoso shot dead one man, shot and injured a second, “forced the Wabag General hospital staff not to attend to the injured [man], and not to keep the body of [the dead man] at the morgue when the victim and the deceased were taken there by relatives,” then “took the body of the deceased and the injured person and left them in front of the Wabag Police station for the public to view.” According to the news report, Pomoso was charged and released on bail as of March 2005. Clifford Faiparik, “Cop to Stand Trial,” *The National* (Papua New Guinea), March 1, 2005, p. 1.

permanent disability, and death. A doctor told us that he had seen “police keep the person in the cell without charging or creating a file until a lot of the swelling goes down. So by the time the person is able to access treatment, the wound is usually infected.”²²⁶

Kila U.’s arm had been amputated below the shoulder when we interviewed him. About six inches of loose flesh hung below his shoulder, marked by a long and twisted scar. A firm, well-circumscribed lump that felt like a foreign object protruded well above the skin surface towards the back of the shoulder. In August 2002, when he was seventeen years old, he was arrested for rape and murder, he told us.²²⁷ During the course of the arrest, he said, police shot him in the arm. Afterwards, they took him to Port Moresby General Hospital. “When I was taken to Port Moresby General Hospital, I know that I had two hands with me. . . . The doctor . . . asked me, ‘Did you do it?’ I said, ‘No.’” Then, he told us,

I heard the police say, “If he has two hands, he’ll be a hard core criminal. So if you cut off one, he cannot do anything.” . . . Because the police gave the order to the doctor when I was lying on the bed, I heard them speaking. I was badly bashed up, so I couldn’t do anything.

For around three weeks, Kila U. said, he was not given any medical treatment or medicine:

They left me there and didn’t treat me until my hand became smelly. . . . For three weeks I was lying in bed. I couldn’t walk. I had lost a lot of blood. . . .

Then they cut my arm off. . . . After they cut off my arm, they gave me tablets and put a bandage around my arm and washed off the blood. They gave me painkiller and [an antibiotic]. Some of the bullets are still in there. They still hurt—the bullets are still in!

The day after they cut off my arm, they took me to the police station for an interview. They interviewed me for the case of double murder. . . .

²²⁶ Human Rights Watch interview with doctor, Port Moresby, September 20, 2004.

²²⁷ Human Rights Watch interview, Port Moresby, October 1, 2004.

Then they took me back to the hospital. I stayed there for four weeks and then I came here [to prison].²²⁸

Separately, we interviewed a juvenile justice official who works in various police stations about the case.²²⁹ The official told us that he interviewed Kila U. in the police station in August 2002, the day after his arm was amputated, and that Kila U. had told him the same story then.

Jackson S., age seventeen, whose arrest in February 2004 is described above, explained what happened after police drove him to another place and shot him in both legs.²³⁰ His left leg was broken, he said, and the police took him to the hospital, deliberately jostling his leg while taking him there:

They were forcing me to walk into the hospital even though my leg was already broken. So they told the doctors not to treat me. They said, “He’s a criminal, so don’t treat him. Let him die.” . . . At 4 p.m. they bring me to the hospital. . . . At about 5 p.m. my family members came in and saw that my doctor doesn’t treat me, so they took me home and treated me themselves.

He never saw a doctor, he said. On March 1, he told us, criminal investigation division police came to his house and took him again:

They came and broke my leg again. I don’t know who it was, but they were called CID. They took me to Boroko cell. I got no treatment, no treatment. I was there for one week with no water and food; I just stayed there. . . . I talked to the guards. They didn’t treat me [for my wounds]. They took me to the toilet but they didn’t do anything for me. They didn’t beat me; they just leave me like this. I just sleep where I was. I didn’t leave the cell. . . . My father asked them to bring me to the hospital, but they didn’t do anything. . . .

²²⁸ Ibid.

²²⁹ Human Rights Watch interview with juvenile justice official, Port Moresby, October 1, 2004.

²³⁰ Human Rights Watch interview with seventeen-year-old boy, Port Moresby, September 16, 2004.

My father and mother bailed me so I could stay out of the jail. . . . They took me to hospital. They put on a splint, but they didn't operate on the bullets. The bullets are still inside. . . .

On one leg, the bone joined back. The other side joined, but it's still paining me.²³¹

A hospital nurse in East New Britain confirmed that in her experience, police often delay in bringing detainees for care and, when they leave detainees unguarded, the nurses are sometimes too afraid to treat them:

I work at a hospital and I have seen how police treat people. They don't treat them like they are somebody. When they have injuries then they don't bother treating them. . . . When [the detainees] are sick, they keep them until they are dying and then they take them to the hospital. They come, leave them in the hospital, and go away. . . . Only rarely do they bring food. . . . Even if we are trying to give medical care and they refuse, the police bash them up again. I have seen this. The prisoners don't stay long—the police take them out. . . .

When somebody has done something serious, we feel scared. . . . Sometimes the nurses are too afraid to give treatment.²³²

The head of Wewak's criminal investigation division told us that "vehicle problems" often kept them from taking detainees to the hospital: "If someone needs medical attention, . . . we take the medicine here. When it's time, we give the medicine. At the station we don't have medical supplies."²³³ Similarly, when we visited Kokopo police station lockup, none of the detainees told us they had seen a doctor or been given any medicine, although some said they had asked.²³⁴ But some detainees did not appear to know they had a right to medical care. A man who told us that he was held in police lockup for two months with untreated sores when he was fourteen asked: "I want to

²³¹ Ibid.

²³² Human Rights Watch interview with hospital nurse, village, East New Britain, September 29, 2004.

²³³ Human Rights Watch interview with Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

²³⁴ Human Rights Watch group interview with detainees, Kokopo police station, East New Britain, September 27, 2004.

understand what my rights really are. Should I get medical care even if I am bleeding from a police attack?”²³⁵

Legal Standards on the Detention of Children

The Convention on the Rights of the Child provides that 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.”²³⁶ The best interests of the child must be a primary consideration.²³⁷ International guidelines on the detention of juveniles also require that a parent or guardian be notified immediately when a child is apprehended.²³⁸

Papua New Guinea’s Constitution provides that all persons deprived of their liberty “shall be treated with humanity and with respect for the inherent dignity of the human person.”²³⁹ By law, once the person is brought to the station, the officer in charge must decide whether to release the person without charge or to charge the person with an offense.²⁴⁰ If the person is charged with an offense that is not a serious offense, police can grant or refuse bail.²⁴¹ If bail is refused, the person must be brought before a court as soon as possible to decide bail and bail conditions.²⁴²

²³⁵ Human Rights Watch interview with twenty-four-year-old man, village, East New Britain, September 28, 2004.

²³⁶ Convention on the Rights of the Child, art. 37(b). See also U.N. Rules for the Protection of Juveniles Deprived of their Liberty, para. 2; U.N. Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), G.A. res. 40.33, annex, 40 U.N. GAOR Supp. (No. 53), p. 207, U.N. Doc A/40/52 (1985), para. 13.

²³⁷ Convention on the Rights of the Child, art. 3. Under the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, paragraph 28:

The detention of juveniles should only take place under conditions that take full account of their particular needs, status and special requirements according to their age, personality, sex and type of offence, as well as mental and physical health, and which ensure their protection from harmful influences and risk situations. The principal criterion for the separation of different categories of juveniles deprived of their liberty should be the provision of the type of care best suited to the particular needs of the individuals concerned and the protection of their physical, mental and moral integrity and well-being.

²³⁸ The Beijing Rules, para. 10; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 16(3).

²³⁹ Constitution of Papua New Guinea, art. 37.

²⁴⁰ Under the Criminal Code legislation and the Summary Offences Act, police have no alternative other than to arrest and charge, if they wish to proceed against a person for an offense under either act.

²⁴¹ Bail Act (1977).

²⁴² Ibid.

Separation of children from adults is a basic requirement of international law.²⁴³ International standards also require the separation of untried children from those convicted of crimes.²⁴⁴ Papua New Guinea's constitution provides for the separation in custody of persons accused of a crime from those who have convicted, and those "under voting age" from others in custody; treatment appropriate to their age of "persons under voting age"; and refraining from transferring offenders to an area away from that of their relatives' residence "except for reasons of security or other good cause."²⁴⁵ Citizens may vote at age eighteen in Papua New Guinea. The Juvenile Courts Act requires the children under age seven be released to their parents, another responsible person, or a juvenile court officer; as a last resort they must be placed in a remand center or other place approved by the Director of the Juvenile Court Services. Children ages seven and older must be placed in a remand center or other approved place.²⁴⁶ Although the act does not explicitly say that children may not be detained with adults, the act authorizes the detention of children only in a juvenile section of a corrective institution, a juvenile institution, or a remand center.²⁴⁷ Protocols for magistrate and police on implementing the act also require detention in a separate juvenile cell.

Under the U.N. Rules for the Protection of Juveniles Deprived of their Liberty, the following information about each child must be recorded in every place where children are detained:

- Information on the identity of the juvenile;
- The fact of and reasons for commitment and the authority therefore;
- The day and hour of admission, transfer and release;
- Details of the notifications to parents and guardians on every admission, transfer or release of the juvenile in their care at the time of commitment;

²⁴³ 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"); U.N. Rules for the Protection of Juveniles Deprived of their Liberty, para. 29; The Beijing Rules, para. 13.4; Standard Minimum Rules for the Treatment of Prisoners, adopted August 30, 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the U.N. Economic and Social Council by resolution 663 C (XXIV), July 31, 1957, and 2076, May 13, 1977, para. 8(d).

²⁴⁴ U.N. Rules for the Protection of Juveniles Deprived of their Liberty, para. 17.

²⁴⁵ Constitution of the Independent State of Papua New Guinea, art. 37.

²⁴⁶ Juvenile Courts Act, §§ 19-21.

²⁴⁷ Ibid., § 47.

- Details of known physical and mental health problems, including drug and alcohol abuse.²⁴⁸

The Juvenile Courts Act requires that “[t]he Superintendent of an institution, other than the juvenile section of a corrective institution . . . keep a record in respect of each juvenile in custody of the institution” containing “such particulars as are prescribed.”²⁴⁹

International standards require that children deprived of their liberty “have the right to facilities and services that meet all the requirements of health and human dignity,” and to “be provided with separate and sufficient bedding, which should be clean when issued, kept in good order, and changed often enough to ensure cleanliness.”²⁵⁰ Children should be provided with adequate bathing and shower installations to enable every prisoner to bathe “as frequently as necessary for general hygiene . . . but at least once a week in a temperate climate.”²⁵¹ Children should also have access to clean drinking water at all times, and access to sanitary installations as necessary.²⁵² The U.N. Rules for the Protection of Juveniles Deprived of their Liberty further provide that children in detention must receive food at normal meal times and of a quality and quantity to satisfy the standards of health and hygiene.²⁵³ Conditions of extreme crowding in detention facilities violate children’s right under the Convention on the Rights of the Child to be treated with humanity and respect for the inherent dignity of the human person, facilitate the spread of disease, and may contribute to violence among detainees.

Draft “Minimum Standards for Juvenile Institutions” of the Department of Justice and Attorney General, which had not been implemented at the time of writing, contain provisions similar to those in the international standards, as do Papua New Guinea’s “Correctional Services Strategy for Management of Youth Detainees (2001),” which applies to children in the custody of correctional services.

²⁴⁸ U.N. Rules for the Protection of Juveniles Deprived of their Liberty, para. 21.

²⁴⁹ Juvenile Courts Act, § 59.

²⁵⁰ U.N. Rules for the Protection of Juveniles Deprived of their Liberty, paras. 30, 33.

²⁵¹ Standard Minimum Rules for the Treatment of Prisoners, para. 13.

²⁵² The U.N. Rules for the Protection of Juveniles Deprived of their Liberty, paragraphs 34 and 37, require that clean drinking water “be available to every juvenile at any time,” and that sanitary installations “be so located and of a sufficient standard to enable every juvenile to comply, as required, with their physical needs in privacy and in a clean and decent manner.”

²⁵³ The U.N. Rules for the Protection of Juveniles Deprived of their Liberty, paragraph 37, also state: “Every detention facility shall ensure that every juvenile receives food that is suitably prepared and presented at normal meal times and of a quality and quantity to satisfy the standards of dietetics, hygiene and health and, as far as possible, religious and cultural requirements. Clean drinking water should be available to every juvenile at any time.”

As detailed above, when viewed as a whole, the conditions of many police lockups amount to cruel, inhuman, or degrading treatment or punishment, in violation of the Convention on the Rights of the Child and customary international law.

Medical Care in Detention

The U.N. Rules for the Protection of Juveniles Deprived of their Liberty provide detailed guidelines on the minimum standards of medical care guaranteed children deprived of their liberty.²⁵⁴ The U.N. Rules require that children deprived of their liberty be provided with adequate preventive and remedial medical care.²⁵⁵ As part of that care, every child has a right to be examined by a physician immediately upon admission to a detention facility.²⁵⁶ Medical services should also seek to detect and treat any physical or mental illness, substance abuse, or other condition that may hinder the child's integration into society.²⁵⁷ Every detention facility should have immediate access to adequate medical facilities and staff trained in preventive health care and the handling of medical emergencies, and a medical officer should promptly examine every child who is ill, who complains of illness, or who shows symptoms of physical or mental difficulties.²⁵⁸ The U.N. Code of Conduct for Law Enforcement Officials also states that “law enforcement officials shall ensure the full protection of the health of persons in their custody and in particular, shall take immediate action to secure medical attention whenever required.”²⁵⁹

Papua New Guinea’s Juvenile Courts Act also requires that institutions for juveniles arrange for “the provision of medical treatment as required for a juvenile committed to it,” as do the draft “Minimum Standards for Juvenile Institutions” and “Correctional Services Strategy for Management of Youth Detainees (2001).”²⁶⁰

In serious cases, several of which are detailed above, the state’s failure to provide adequate medical treatment to children in police lockup amounts to cruel, inhuman, or degrading treatment or punishment.

²⁵⁴ Ibid., paras. 49-55. See also Standard Minimum Rules for the Treatment of Prisoners, paras. 22, 24-26 (requiring proper medical care, including psychiatric and dental care); Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, principle 24.

²⁵⁵ U.N. Rules for the Protection of Juveniles Deprived of their Liberty, para. 49.

²⁵⁶ Ibid., para. 50.

²⁵⁷ Ibid., para. 51.

²⁵⁸ Ibid., para. 51.

²⁵⁹ U.N. Code of Conduct for Law Enforcement Officials, art. 6.

²⁶⁰ Juvenile Courts Act, § 51.

V. Police Abuses and HIV/AIDS

When police commit rape, when they harass those who carry condoms, when they target sex workers and men who have sex with men, and when they publicly stigmatize sex workers as “AIDS carriers,” they are undermining desperately needed HIV/AIDS prevention work by NGOs and the government, and contributing to the spread of HIV in Papua New Guinea.

The HIV/AIDS Epidemic in Papua New Guinea

At least 80,000 people in Papua New Guinea—an estimated 3 to 4 percent of the adult population in the capital and over 1 percent in rural areas—are living with HIV.²⁶¹ Half are women.²⁶² The epidemic is considered to be generalized in the population and no longer confined to so-called high risk groups; the rate is the highest in the South Pacific region. By 2010, experts predict, at least 13 percent of the population may be HIV-positive.²⁶³ AIDS has been the leading cause of death in Port Moresby General Hospital since mid-2001.²⁶⁴

The National AIDS Council, a multi-sectoral committee created by the government in 1997 to manage, with the National Department of Health, the country’s response to the epidemic, attributes the rapid increase of HIV cases to the following:

- low rates of condom use, combined with poor understanding of HIV transmission;
- poor access to and poor quality of health services;
- the low status of women and girls reflected in their inferior access to health care and education, limited employment opportunities that result in their trading sex

²⁶¹ See UNICEF, “Families and Children Affected by HIV/AIDS and Other Vulnerable Children in Papua New Guinea: A National Situation Analysis,” draft dated January 31, 2005, p. 14 (citing expert consensus workshop held by the National AIDS Council and UNAIDS November 2004); International Bank for Reconstruction and Development, International Development Association, “Interim Strategy Note for Papua New Guinea,” para. 32. According to the National AIDS Council, surveillance is very weak, but in all areas where sentinel surveillance of antenatal women and sex workers has been conducted, HIV prevalence is higher than 1 percent. National AIDS Council, Papua New Guinea, *Papua New Guinea National Strategic Plan on HIV/AIDS, 2004-2008*, 2004, secs. 3.3, 2.2.

²⁶² Ibid.

²⁶³ UNICEF, “Families and Children Affected by HIV/AIDS and Other Vulnerable Children in Papua New Guinea: A National Situation Analysis,” pp. 15-16.

²⁶⁴ National AIDS Council, *Papua New Guinea National Strategic Plan on HIV/AIDS, 2004-2008*, sec. 2.2.

for money or goods, and high rates of violence against them, including “coerced sex, family or sexual violence” that place them at high risk of HIV infection;

- “exceptionally high and rising prevalence” of sexually transmitted infections, which increase the risk of HIV transmission; and
- a blood supply that is not entirely secure.²⁶⁵

In addition, little voluntary counseling and testing is available. In many parts of the country, it is difficult for people even to learn their HIV status, much less get care if they are HIV positive.²⁶⁶ As of 2004, there was “no treatment or prophylaxis available for children” and no post-exposure prophylaxis for health care workers and rape victims.²⁶⁷ Strong stigma and discrimination faced by people living with HIV/AIDS²⁶⁸ and, as explained in the next section, by sex workers, also discourages them from seeking the limited testing and care that is available.

Police Actions and the Spread of HIV

People are not thinking of the public health consequences of police action.

—Eunice Bruce, World Vision, Port Moresby,
September 15, 2004

Police actions can have significant impact on the spread of HIV/AIDS. Human Rights Watch research in several countries has shown that police abuse of children and members of marginalized groups such as sex workers and men and boys who engage in homosexual conduct, poor law enforcement for rape and other crimes of sexual violence, and police harassment of individuals carrying condoms undermines individuals' capacity to protect themselves and others from HIV.²⁶⁹

²⁶⁵ Ibid., secs. 2.2, 2.5, 3.1 (stating, “Blood donors are screened for HIV antibody but not HIV antigen, leaving a window open for HIV infection through blood products”). For more information about sexually transmitted diseases and HIV transmission, see United States Centers for Disease Control and Prevention, Fact Sheet: Prevention and Treatment of Sexually Transmitted Diseases as an HIV Prevention Strategy, <http://www.cdc.gov/hiv/pubs/facts/hivstd.htm> (retrieved October 27, 2003).

²⁶⁶ National AIDS Council, *Papua New Guinea National Strategic Plan on HIV/AIDS, 2004-2008*, secs. 3.1. 3.6.

²⁶⁷ Ibid., sec. 3.1. The provision of post-exposure prophylaxis—a short course of treatment with antiretroviral drugs that reduces the risk of HIV transmission—for occupational exposure and to sexual assault survivors is the standard of care in many countries.

²⁶⁸ Ibid., sec. 3.6.

²⁶⁹ See, for example, Human Rights Watch, Hated to Death: Homophobia, Violence, and Jamaica's HIV/AIDS Epidemic, vol. 16, no. 6(b), November 2004; Human Rights Watch, Unprotected: Sex, Condoms, and the Human Right to Health, vol. 16, no. 6(c), May 2004; Human Rights Watch, Ravaging the Vulnerable: Abuses Against Persons at High Risk of HIV Infection in Bangladesh, vol. 16, no. 6(c), August 2003; Human Rights

According to the National AIDS Council, a contributing factor to Papua New Guinea's AIDS epidemic is "[p]atterns of male sexual behavior including a high incidence of rape, line-ups or pack rape, sexual assault, and weak law enforcement."²⁷⁰ Physiologically girls and women are more vulnerable than men and boys to HIV infection during unprotected heterosexual vaginal sex.²⁷¹ Forced or coerced sex creates an additional risk of trauma: when the vagina or anus is dry and force is used, genital and anal injury are more likely, increasing the risk of HIV transmission. Forced oral sex may cause tears in the skin, also increasing the risk of transmission. Girls and young women face particular risks of contracting HIV through sexual violence and are physiologically more vulnerable than older women.²⁷² In cases of pack rape, exposure to multiple assailants increases the risk of transmission because it increases the likelihood of injury, as well as the risk of exposure to an HIV-positive attacker.

The very possession of condoms—a key tool in preventing the spread of HIV—can trigger police harassment and, in some instances, charges of prostitution in Papua New Guinea. For example, police statements accompanying the charge sheets of those arrested in the Three-Mile Guesthouse raid (detailed in the appendix to this report) list as evidence "used condoms sighted in the rooms and the premises where the defendants were sighted."²⁷³ More than twenty girls and women arrested in the raid reported that police ordered them to chew, and in many cases, to swallow, between one and four condoms.²⁷⁴ "Blow this condom for it goes in you, you do not feel ashame[d] of it," one

Watch, Epidemic of Abuse: Police Harassment of HIV/AIDS Outreach Workers in India, vol. 15, no. 5(c), July 2002.

²⁷⁰ National AIDS Council, Papua New Guinea National Strategic Plan on HIV/AIDS, 2004-2008, sec. 2.4.

²⁷¹ Factors that contribute to this increased risk include the larger surface area of the vagina and cervix, the high concentration of HIV in the semen of an infected man, and the fact that many of the other sexually transmitted diseases that increase HIV risk are often left untreated in girls and women (because they are asymptomatic or because health care is inaccessible).

²⁷² Girls and young women face even greater risk of HIV transmission than adult women because the vagina and cervix of young women are less mature and are less resistant to HIV and other sexually transmitted infections such as chlamydia and gonorrhea that increase HIV vulnerability; because changes in the reproductive tract during puberty make the tissue more susceptible to penetration by HIV; and because young women produce less of the vaginal secretions that provide a barrier to HIV transmission for older women. See, for example, Global Campaign for Microbicides, "About Microbicides: Women and HIV Risk," <http://www.global-campaign.org/womenhiv.htm> (retrieved August 28, 2003); UNAIDS, "AIDS: Five Years since ICPD—Emerging Issues and Challenges for Women, Young People, and Infants," Geneva, 1998, p. 11; Population Information Program, Center for Communications Programs, Johns Hopkins University, Population Reports: Youth and HIV/AIDS, vol. 23, no. 3, Fall 2001, p. 7 (citing studies).

²⁷³ Royal Papua New Guinea Constabulary, "Statement of Facts," n.d. (naming Inspector Bore and Inspector Florian, mobile squad, as witnesses and describing events of March 12, 2004).

²⁷⁴ Human Rights Watch individual interviews with three of the women and girls arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004; individual "Statement of Facts" from twenty-one women and girls, made between March 12 and March 20, 2004, recorded by staff of the National AIDS Council, the Poro Sapot Project of Save the Children in Papua New Guinea, and the National Capital District Provincial AIDS Committee (names withheld, on file with Human Rights Watch).

of the woman reported later that day that a policeman ordered her.²⁷⁵ Another young woman said that when an officer gave her a condom and told her to chew it, “I chewed and felt like vomiting so I started to take it out. He saw that and with his close fist hit me on my forehead and with his gun butt he hit me on my right buttock. So I swallowed the condom.”²⁷⁶ Human Rights Watch received reports that as recently as June 2005 city council police in Lae confiscated condoms in sex workers’ bags, “blow them up and throw them away.”²⁷⁷

Police have also harassed students for carrying condoms, impeding HIV/AIDS prevention efforts among youth. In October 2002, an NGO (that did not wish to be named here) wrote to the director of the National AIDS Council, Dr. Ninkama Moiya, regarding police harassment of youths carrying condoms.²⁷⁸ According to the letter’s author, the organization provides AIDS education in schools in urban slums.²⁷⁹ Older adolescents in the program, she wrote in the letter, told her that “they were abused and harassed by city policemen for having condom in their pockets,” and she told Human Rights Watch that the police ordered the students to chew the condoms.²⁸⁰ The letter’s author asked the director of the National AIDS Council to intervene with the police, to “advise the authorities concerned to advise their men to discourage what they are doing as it is against what we are preaching on 100% condom use.” When the director later told her he had not received the letter, she explained to us, she sent it again in January 2003. As of September 2004, she said, she had received no response to her letter.

Police harassment for condom possession also directly counteracts much-needed HIV/AIDS prevention work. For example, staff of the Poro Sapot Project of Save the Children in Papua New Guinea regularly distributes condoms to people at the Three Mile Guesthouse and told Human Rights Watch that they had distributed condoms there nine days before the raid.²⁸¹

²⁷⁵ “Statement of Facts” recorded by Ken Rabuba, March 12, 2004 (name withheld, on file with Human Rights Watch).

²⁷⁶ “Statement of Facts,” recorded by Bomal Gonapa, National AIDS Council, March 18, 2004 (name withheld, on file with Human Rights Watch).

²⁷⁷ E-mail from project director of NGO working with sex workers to Human Rights Watch, July 12, 2005 (reporting similar incidents in March, April, and June 2005).

²⁷⁸ Letter to Dr. Ninkama Moiya from NGO [name withheld], October 10, 2002 (on file with Human Rights Watch).

²⁷⁹ Human Rights Watch interview with NGO staff member, Port Moresby, September 15, 2005.

²⁸⁰ Ibid.; and letter to Dr. Ninkama Moiya from NGO [name withheld], October 10, 2002 (on file with Human Rights Watch).

²⁸¹ E-mail from director of NGO project working with sex workers to Human Rights Watch, June 30, 2005 (quoting data forms of staff member who distributed the condoms from March 3, 2004). The project’s staff also

Human Rights Watch also heard of one instance in which police physically attacked an HIV/AIDS outreach worker who was distributing condoms.²⁸² According to the director of the project, on January 28, 2005, between 9:00 and 10:00 in the morning, a young male staff member was distributing condoms and talking with people about HIV/AIDS at an old air strip in Lae where sex is commonly negotiated. The director, who was in the city at the time, told us:

He was first verbally abused by 2 uniformed policemen and another man in civilian clothes, who were drinking. As he walked away he was hit on the head by a large rock, cutting him and rendering him unconscious. The attack appeared to be based on his distributing condoms. The 3 men ran away. Passersby hailed a second police car . . . and took him to Lae's central police station, en route picking up one of the attackers. There police told [the outreach worker] that what he had been doing was wrong since by supplying condoms he was helping people "to pamuck" (have unbridled sex). The attacker was allowed to escape while [the outreach worker] was in the station. No further action was taken by the police. Still bleeding, [the outreach worker] was told to leave and made his way to our Lae office where staff took him to the Angau Memorial General Hospital for treatment. He received 5 stitches (the wound was 4x1.5 cm).²⁸³

Sex workers are inhibited from seeking health services by the general social stigma associated with selling sex and by the tendency of police to characterize them as "AIDS carriers." For example, an eighteen-year-old woman arrested in the Three Mile Guesthouse raid told Human Rights Watch that as the police marched them through the streets, they "were saying, 'Look, these are the real AIDS carriers.'"²⁸⁴ In a 2004 survey in Port Moresby, sex workers reported that "fear and shame" were the highest barrier to seeking health services.²⁸⁵ Stigma may also deter others from seeking health care services, especially for conditions associated with sex or sex work, for fear of being identified as a sex worker or an "AIDS carrier." This in turn can prevent people from receiving information about how to protect against HIV/AIDS, and about the care and treatment

told us that they distributed 5,604 male condoms to police in Port Moresby from March 1-12, 2004, including at the two police stations closest to the March 12 raid. *Ibid.*

²⁸² *Ibid.* The name of the NGO and the HIV/AIDS outreach worker are withheld by request.

²⁸³ *Ibid.*, (name on file with Human Rights Watch).

²⁸⁴ Human Rights Watch interview with eighteen-year-old woman, Port Moresby, September 15, 2004.

²⁸⁵ Monitoring and Research Branch, National Department of Health . . . , "Qualitative Assessment and Response Report on HIV/AIDS/STI Situation Among Sex Workers and their Clients in Port Moresby, Papua New Guinea," p. 28.

necessary and available for people living with the disease. In addition, it can prevent sex workers from receiving treatment for sexually transmitted infections, which in turn increase vulnerability to HIV transmission.

In Papua New Guinea, prisons do not distribute condoms even though sex and sexual violence are common in prisons. International guidelines call on states to make condoms available to prisoners throughout their period of detention.²⁸⁶

The National AIDS Council has recognized that condoms are a critical prevention tool and the importance of reaching out to sex workers, members of the police, corrections services, and defense forces, and others;²⁸⁷ staff told Human Rights Watch that they had conducted workshops and peer education for police.²⁸⁸

Papua New Guinea's HIV Management and Prevention Act (HAMP Act), which went into effect in October 2004 more than a year after it was certified, makes it illegal "to deny a person access, without reasonable excuse, to a means of protection from infection of himself or another by HIV," including information about the disease, condoms, and other items.²⁸⁹ The act also makes it illegal to discriminate against anyone because he or she is "infected or affected by HIV/AIDS," unless "the discrimination is no more detrimental than discrimination on the ground of having another life-threatening medical condition."²⁹⁰ The act does not explicitly require the state to provide condoms and it does not explicitly call for police to stop treating condoms as evidence of illegal sex work. As of mid-2005, it did not appear that police had changed their behavior in response to the act.

²⁸⁶ Office of the United Nations High Commissioner for Human Rights and the Joint United Nations Programme on HIV/AIDS, "HIV/AIDS and Human Rights International Guidelines," from the second international consultation on HIV/AIDS and human rights, 23-25 September 1996, Geneva, U.N. Doc. HR/PUB/98/1, Geneva, 1998, para. 29(e); World Health Organization, "Guidelines on HIV Infection and AIDS in Prisons," WHO/GPA/DIR/93.3 1993, reissued as UNAIDS/99.47/E, September 1999, art C.20.

²⁸⁷ National AIDS Council, *Papua New Guinea National Strategic Plan on HIV/AIDS 2004-2008*, sec. 3.2.

²⁸⁸ E-mail from Wilfred Peters, National AIDS Council, to Human Rights Watch, May 6, 2005.

²⁸⁹ HIV/AIDS Management and Prevention (HAMP) Act (2003), no. 4 of 2003, certified August 20, 2003, para. 11. Regarding detainees and persons in custody, the act specifically prohibits discrimination against "detainees and persons in custody" through segregating them or applying additional restrictions or penalties on them, or in access to medical care. The act also prohibits mandatory HIV testing in various circumstances and stigmatizing a person for being infected with or affected by HIV. *Ibid.*, paras. 7(e), 9-10.

²⁹⁰ HAMP Act (2003), para. 6.

VI. Failure of Police Response

The primary functions of the Police Force are . . . (a) to preserve peace and good order in the country; and (b) to maintain and, as necessary, enforce the law in an impartial and objective manner.

—Constitution of the Independent State of Papua New Guinea, sec. 197

The Royal Papua New Guinea Constabulary, the official name of the national police in Papua New Guinea, should be the first body to investigate and punish police violence. This rarely happens. There is almost no willingness on the part of the police to investigate or prosecute its members. With little or no penalty for violators, human rights training for police has had little effect. The failure of police response to abuses documented in this report are part of a broader problem in which the police force is largely unaccountable to the rest of government, increasingly ineffective, under-resourced, and completely undisciplined.

Structure of the Police Force

Under the Constitution, the commissioner of police is responsible for “the superintendence, efficient organization and control of the Force.”²⁹¹ The Constitution specifically provides that “the members of the Police Force are not subject to direction or control by any person outside the Force” in their powers “to lay, prosecute or withdraw charges in respect of offences.”²⁹² While the Constitution creates a ministerial post to deal with policing, the minister is only empowered to formulate broad police policy and has no power of command within the force.²⁹³ While such independence serves important functions, it may also prevent accountability for crimes committed by police.

The police administrative headquarters is located in Port Moresby with the country divided into five divisional commands, each with a divisional commander. In addition, each of the nineteen provinces has its own provincial police commander and provincial police headquarters.²⁹⁴ The size, structure, and deployment of the regular police force has remained more or less unchanged since independence, despite the population’s

²⁹¹ Constitution of the Independent State of Papua New Guinea, art. 198.

²⁹² Ibid., art. 197.

²⁹³ Ibid., art. 196.

²⁹⁴ See Dinnen, *World Factbook of Criminal Justice Systems: Papua New Guinea*.

having more than doubled, rising crime rates, and changes in social and economic conditions.²⁹⁵ In 2002, it was found that “[t]he deployment and use of police resources throughout the country bears no relationship to levels of reported crime.”²⁹⁶

As of September 2004, the commissioner of police commanded 5,250 regular officers, a police-to-population ratio of 1:1,121.²⁹⁷ The force has supplemented its numbers with some 4,200 reserve and auxiliary police, drawn from local communities, who receive far less training and less pay than regular police.²⁹⁸ In practice, the distinctions between reserve, auxiliary, and regular police have become blurred, and reserve and auxiliary police are now a major part of operational policing.²⁹⁹ Auxiliary police and reserves often wear regular police uniforms without names tags and, thus, may not be distinguishable from regular police.³⁰⁰ Even counting reserve and auxiliary officers, Papua New Guinea’s ratio of police to population falls below the 1:450 recommended by the U.N. and that of neighboring countries.³⁰¹ Women constituted only 5.4 percent of the uniformed police force in May 2003.³⁰² Most police are stationed in urban areas and live in barracks separate from the community; many rural areas are far from the nearest police station.

²⁹⁵ Public Sector Review Management Unit, Department of the Prime Minister and National Executive Council, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” October 2002, secs. 1.4.3, 7.1.

²⁹⁶ Ibid., sec. 7.1 (see tables comparing population, police resources, and reported serious crime).

²⁹⁷ Institute of National Affairs, *Kimisopa Report*, p. 34. The force’s authorized strength is 6,300, but it has never has been funded to this level. Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.1.

²⁹⁸ As of September 2004, there were 1,703 reserve police and 3,538 auxiliary police. Institute of National Affairs, *Kimisopa Report*, p. 42. Reserve police have all the powers of regular police but receive only two to six weeks of training, compared with six months for regular police. Regular police are supposed to supervise reserve police. Auxiliary police were intended to supplement regular police in rural areas and have powers limited to a specific geographic area. However, they are now employed in towns, often funded by businesses. Like reserve police, they receive less training than regular police. Ibid.

²⁹⁹ See Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.1.4 (noting that “the distinction between Regular Constabulary, Reserves and Auxiliaries has become so blurred in terms of powers and carriage of weapons as to be non-existent”). It has been noted that reserve, auxiliary, and special police are used to compensate for the failure to increase the numbers of regular police. Stringer, “Executive Summary,” *Royal Papua New Guinea Constabulary: Review of Community Policing Approaches*.

³⁰⁰ Human Rights Watch interview with John Maru, Chief Superintendent, Director Internal Affairs, Royal Papua New Guinea Constabulary, September 30, 2004.

³⁰¹ By comparison, the ratios for other jurisdictions are: Fiji 1:550, Solomon Islands 1:500, Queensland 1:475, Northern Territory of Australia 1:280. Institute of National Affairs, *Kimisopa Report*, pp. 40-41.

³⁰² McLeod, “Gender Analysis of Law and Justice Sector Agencies,” *Gender Analysis . . .*, p. 27.

Problems with the Performance of Basic Duties

The effectiveness of the Constabulary is in a state of serious decline, and the pace of deterioration is accelerating.

—Institute of National Affairs, Government of Papua New Guinea, *Report of the Royal Papua New Guinea Constabulary Administrative Review Committee to the Minister for Internal Security Hon. Bire Kimisopa*, September 2004, p. 49.

The police, described as being “the most crippled of any government agency” when handed from Australia to Papua New Guinea at independence,³⁰³ do not operate in all parts of the country. In their existing operations, they have been strongly criticized for failing to perform basic policing tasks. These include preventing crime, keeping records, conducting investigations, and prosecuting cases.³⁰⁴ A 2002 government study funded by AusAID found “that the law and justice system has become less and less capable of arresting and convicting criminals” and that institutions of justice are not acting as a deterrent to crime.³⁰⁵ The chances of being arrested for committing a crime are low, and lower the more serious the crime: “Nationally, there is a better than even chance of not being arrested for a major crime. In Port Moresby, there is almost a two in three chance of not being arrested.”³⁰⁶ Even when arrests are made, “[a]t least one quarter of all criminal cases fail because of mistakes.”³⁰⁷ Sinclair Dinnen suggests that the result “is a marked lack of deterrence and an environment where the rewards of crime generally outweigh the costs.”³⁰⁸

³⁰³ Dorney, *Papua New Guinea: People, Politics and History Since 1975*, p. 304.

³⁰⁴ For example, the working group to the 2004 Police Review found that “many members do not have a Police Note Book or pencils, pens and biros. Consequently no attempt has been made to keep any form of records. Members occasionally use a piece of paper if some is available, but record keeping is almost non-existent.” Institute of National Affairs, *Kimisopa Report*, p. 126. See also Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea”; Dinnen, *Building Bridges: Law and Justice Reform in Papua New Guinea*, p. 7; Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

³⁰⁵ Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” secs. 7.2.5, 6.3.

³⁰⁶ *Ibid.*, secs. 7.1.5, 6.8, 1.4.3 (noting that “80% of all arrests are for minor criminal offenses”).

³⁰⁷ *Ibid.*, sec. 1.4.3.

³⁰⁸ Dinnen, *Law and Order in a Weak State*, p. 42 (“In practice, the chances of offenders being apprehended are extremely low, many prosecutions fail on technical groups or through the lack of evidence, and mass prison escapes occur regularly.”)

The 2002 study concluded that police rely heavily on a retributive style of policing and on “confessions as the primary, if not exclusive, means of proving their case.”³⁰⁹ In response to periodic crises in law and order, the government has employed states of emergency, curfews, and special policing operations, such as military-style raids on villages and urban settlements to capture suspects and prison escapees.³¹⁰ Police raids in particular have often led to civil claims against the state for compensation for physical abuse and indiscriminate destruction of property, costing the state monies it desperately needs for other activities.³¹¹ According to Sinclair Dinnen, “In practice, it has often been difficult to distinguish between the retributive actions of police in certain areas and those of the so-called criminals.”³¹² Civil claims against the state are discussed below.

Although victims interviewed by Human Rights Watch described abuses by all kinds of police officers, from traffic police to reserve and auxiliary police, the latter two have been especially blamed for violence and other illegal acts.³¹³ For example, a 2002 report found that: “The Reserve and Community Auxiliary Police have become a burden rather than a benefit to policing. They are a poorly disciplined, trained and supervised force whose existence and behavior seriously undermine the role, integrity and performance of regular police. Successive Constabulary administrations have failed to act on reported problems.”³¹⁴

Victims in both rural and urban areas also singled out task forces and mobile squads, which are in theory composed of regular police, for their extreme brutality. The head of the police force’s internal affairs directorate explained how task forces operate: “A task force is a rapid response unit initially made by a commander who formed them for a particular objective, then disbanded them. But they’ve stayed over the years and are still carrying on.”³¹⁵ Mobile squads³¹⁶ exist in both rural and urban areas; according to an

³⁰⁹ Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.1.5. See also Dinnen, *World Factbook of Criminal Justice Systems: Papua New Guinea*; Dinnen, *Law and Order in a Weak State*, p. 65.

³¹⁰ Dinnen, *Law and Order in a Weak State*, pp. 36-37, 65-71.

³¹¹ *Ibid.*, p. 37.

³¹² *Ibid.*

³¹³ The head of the Royal Papua New Guinea Constabulary’s internal affairs unit told us that reserves and auxiliaries were responsible for most offenses handled by his office. Human Rights Watch interview with Maru, Director Internal Affairs, Royal Papua New Guinea Constabulary, September 30, 2004. See also Institute of National Affairs, *Kimisopa Report*.

³¹⁴ Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 1.4.3.

³¹⁵ Human Rights Watch interview with Maru, Director Internal Affairs, Royal Papua New Guinea Constabulary, September 30, 2004. “They are supposed to made of regular police,” he told us. “But you get reserves who want to be task force running around with them.”

assistant police commissioner: “They are primarily responsible for suppressing public disorder. In each regional center we have a mobile squad. For example, in the Highlands, they take on tribal fighting, elections.”³¹⁷ Mobile squads are the frequent targets of complaints, and individuals we interviewed described mobile squads raiding villages and urban settlements, burning houses, killing pigs, destroying gardens, and beating and sexually assaulting residents.³¹⁸ According to the head of internal affairs: “Most complaints come about the mobile squads because they are the group that goes into the thick of things and people are more litigious nowadays. In the urban areas, it’s the task force and the traffic cops—extorting money and setting up false road blocks to extort money to buy alcohol.”³¹⁹

Police officers have also been accused of regularly committing a range of disciplinary and criminal offenses other than the acts of violence detailed in this report. These include robbery, destruction of property, corruption, and drinking alcohol on duty.³²⁰ And a 2003 gender analysis of the law and justice sector agencies found discrimination against women police officers in placement, promotion, training, and benefits.³²¹ According to the study, policewomen reported that they were frequently sexually harassed, that the internal discipline process was gender biased, that domestic violence was prevalent in police barracks, and that reports of domestic violence were not taken seriously.³²² While beyond the scope of this report, these acts are important to note, as they are part of the climate of lawlessness and impunity in which the Royal Papua New Guinea Constabulary functions. Moreover, infractions such as the consumption of alcohol and drugs on duty contribute to violence, and many of the victims we interviewed told us that the officers involved were drunk.³²³

³¹⁶ Mobile squads were first established in the early 1970’s by the colonial government. Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

³¹⁷ Human Rights Watch interview with Wan, Assistant Commissioner of Police, Port Moresby, September 30, 2004.

³¹⁸ In a 2004 household survey of crime in Port Moresby, although those surveyed generally said they wanted a police presence, over half said they felt less safe with mobile squads around, while 38.1 percent said mobile squads made them feel safer. Justice Advisory Group and National Research Institute, “Community Crime Survey Data: Port Moresby and Bougainville,” chapter 6.

³¹⁹ Human Rights Watch interview with Maru, Director Internal Affairs, Royal Papua New Guinea Constabulary, September 30, 2004.

³²⁰ See, for example, Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.1.4; and Institute of National Affairs, *Kimisopa Report*.

³²¹ McLeod, “Gender Analysis of Law and Justice Sector Agencies,” *Gender Analysis . . .*, pp. 28, 48.

³²² Ibid., p. 31; Human Rights Watch interview with Yupae, Eastern Highlands Family Voice Inc., Goroka, September 22, 2004.

³²³ In a frank assessment of disciplinary problems within the Royal Papua New Guinea Constabulary, the force’s internal affairs directorate has noted that “[r]eports of drunken police, domestic violence involving drunken police and serious criminal or discipline offences committed by drunken police are commonplace throughout

Causes of Ineffectiveness and Violence

Studies by the government and international bodies point to a range of causes for police ineffectiveness and police crime. These include inadequate training and supervision;³²⁴ the failure to pay the salaries of regular, reserve, and auxiliary police, resulting in their collecting and pocketing illegal fines, committing theft, and working as unregulated private security guards where they may also commit abuses;³²⁵ the failure to allocate the most basic resources needed for policing, such as notebooks, fuel, and cameras; the colonial origins of the police as a “reactive paramilitary force” for the purpose of imposing government control, not protecting the population;³²⁶ and the recruitment of young men “with known criminal propensities” as auxiliary police, under the idea that this will prevent them from committing crimes.³²⁷ Other factors include a culture of “paybacks” in which police fear retaliation for reporting on a colleague and “bigmen” that encourages strong arm tactics, as well as a wantok system that demands loyalty to one’s clan or family group over all other obligations. Police also appeared to beat and torture children to get confessions and to punish them, especially because the conviction rate is low. Bruce Grant, head of protection for UNICEF in Papua New Guinea, who

Papua New Guinea.” Maru, “Discipline: The role of the Internal Affairs Directorate & Discipline Management Issues for Supervisors,” sec. 6.2.

³²⁴ Dinnen, *Law and Order in a Weak State*, p. 53.

³²⁵ Institute of National Affairs, *Kimisopa Report*, p. 60 (noting that although police salaries are comparable with other jobs in the country, police are frequently not paid); Stringer, *Royal Papua New Guinea Constabulary: Review of Community Policing Approaches*, sec. 3.7.4 (regarding the failure to pay reserve and auxiliary police on a regular basis, and stating: “Major business and commercial enterprises . . . now employ Reserve and Auxiliary police officers. They pay their wages but take no responsibility and are not liable criminally or civilly under statute for the actions of these persons or for compensation should death or disability occur as a result of employment.”); Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.1 (regarding police working as private security guards); Anang, Jenkins, and Russel, “An innovative intervention research project to encourage police, security men and sex workers in Port Moresby, to practise safer sex,” (information regarding security guards); Dinnen, *Law and Order in a Weak State*, p. 54.

³²⁶ See, for example, Stringer, *Royal Papua New Guinea Constabulary: Review of Community Policing Approaches*, “Executive Summary,” and sec. 1; Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” secs. 1.4.3, 7.1, 7.1.2. See also William Clifford, Louise Morauta, and Barry Stuart, *Law and Order in Papua New Guinea, Vol. I: Report and Recommendations*, September 1984, p. 206.

Dinnen has written:

The militaristic character of PNG policing is partly a historical legacy, but it is also an outcome of its current institutional deficiencies and inability to achieve ‘results’ by more routine means. The police seek to exercise control primarily through the deterrent impact of reactive operations. The problem is not just a matter of lack of resources but is related to more fundamental issues about the form of policing appropriate in the modern PNG environment.

Dinnen, *Law and Order in a Weak State*, p. 108.

³²⁷ Stringer, *Royal Papua New Guinea Constabulary: Review of Community Policing Approaches*, sec. 3.7.4. See also Human Rights Watch interview with McLeod, Australian National University, Canberra, October 5, 2004.

has been involved in reforming the juvenile justice system, explained: “You can’t do an investigation if your wantok is involved. So there is a lack of political will, a lack of recourses, a lack of commitment for follow-up, and no mechanisms.”³²⁸

Moreover, numerous studies have found that widespread police violence actually impairs police performance, eroding public trust and confidence, and making many people reluctant to cooperate with investigations and fearful of encountering them even to report crime.³²⁹ As a result, according to Sinclair Dinnen, the failure of police to conduct good criminal investigations is “in part a reflection that the community won’t cooperate because they are scared and dissatisfied. So the police tend to operate in a primitive way, partly out of frustration and partly to get a result that they can’t get by more professional means.”³³⁰

Impunity for Police

Discipline is in a state of almost total collapse.

—Institute of National Affairs, Government of Papua New Guinea, *Report of the Royal Papua New Guinea Constabulary Administrative Review Committee to the Minister for Internal Security Hon. Bire Kimisopa*, September 2004, p. 37.

One of the most glaring causes of police violence is near complete impunity for officers and for commanders who participate, order, or ignore it. The 2004 administrative review of the police found that “public confidence in the effectiveness of current disciplinary review machinery is at such a low level that many complaints against the police are no longer reported.”³³¹

³²⁸ Human Rights Watch interview with Grant, UNICEF-PNG, Port Moresby, September 14, 2004.

³²⁹ See Justice Advisory Group and National Research Institute, “Community Crime Survey Data: Port Moresby and Bougainville”; Institute of National Affairs, *Kimisopa Report*, p. 9; Anou Borrey, “Horsecamp Settlement, Port Moresby: A case study of unlawful killing and ethnic tension,” *Gender Analysis* . . . , p. 20 (“Police brutality fuels a vicious cycle whereby lack of community cooperation results in further administration of summary ‘justice’ and so on.”); Macintyre, “Major Law and Order Issues Affecting Women and Children, Issues in Policing and Judicial Processes,” *Gender Analysis* . . . , pp. 66-67 (“The use of violence by police (against men, women and children) is probably the most significant factor in the lack of confidence that women have in the police force.”); Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 1.4.3; Dinnen, *Law and Order in a Weak State*, p. 77 (“Avoiding police action whenever possible is viewed as being in the interests of all members of the [urban] community.”)

³³⁰ Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

³³¹ Institute of National Affairs, *Kimisopa Report*, p. 8.

According to police policies, the first place that police officers who commit the abuses described in this report should face sanction is within the force itself. These include criminal and administrative charges.

Juvenile court officers can assist in monitoring how police treat children, but their presence is limited and, because they report complaints back to the police themselves, rely on the police to impose sanctions. As a volunteer juvenile court officer explained, “I have the authority to tell police to stop beating someone and to refer the person to the police commander. I’ve never done this but I have been told in the workshop by the Attorney General’s office that I can. But they are careful not to beat people in front of us.”³³² A member of the Juvenile Justice Working Group also noted that having juvenile court officers will not stop the police from beating up a child before an officer gets to the station.³³³ Moreover, if juvenile court officers do report abuse a commanding officer, their reports must result in good faith investigations and appropriate sanctions by police in order to have effect.

The Royal Papua New Guinea Constabulary’s internal affairs directorate is responsible for public complaints against the force.³³⁴ The Enhanced Cooperation Programme between Australia and Papua New Guinea, discussed below, is providing support to this office. According to the internal affairs directorate, from January 1, 2004, to September 15, 2004, no police officers were convicted of crimes and none were imprisoned.³³⁵ Local criminal investigation divisions handle criminal investigations, with the internal affairs directorate responsible, in theory, for oversight. In practice, the directorate reports, the “director internal affairs is only occasionally consulted about the progress of criminal investigations against police and only occasionally advised of the outcome of the case.”³³⁶

Human Rights Watch interviewed criminal investigation officers in Wewak and Alotau and the head of the sexual offenses squad in Kokopo about investigations and prosecutions of police. The officer in Wewak was unable to provide us information on

³³² Human Rights Watch interview with juvenile court officer, Port Moresby, October 1, 2004.

³³³ Human Rights Watch interview with Juvenile Justice Working Group member, Port Moresby, September 15, 2004.

³³⁴ Human Rights Watch interview with Maru, Director Internal Affairs, Royal Papua New Guinea Constabulary, September 30, 2004.

³³⁵ John Maru, Chief Superintendent, Director Internal Affairs, “Internal Affairs Directorate Period Summary Report,” *Discipline Presentation: Working together for effective Discipline*, PPCs & Commanders Conference, Kimbe, West New Britain, September 20-24, 2004.

³³⁶ Maru, “Discipline: The role of the Internal Affairs Directorate & Discipline Management Issues for Supervisors,” sec. 7.1.

his province.³³⁷ In Kokopo, the head of the sexual offenses squad said that he had brought two criminal cases against police officers for sexually abusing girls in custody in the last three years.³³⁸ The officer in Alotau told us that his office had handled “a couple” of cases, one of which had been against him.³³⁹ In 2004, he said, while he was in his current position, he was charged with “brutality and assault.” “I got frustrated and I punched someone,” he explained. “I paid a fine. It wasn’t very serious. I slapped someone in the face. I had a two hundred kina [U.S.\$64] fine. . . . It was a silly mistake. It was a lesson for me.” When we asked about the other cases, he replied, “I cannot give you the actual more serious ones because they’ve not been reported. The more serious ones don’t get reported.” When asked why, he replied, “They tell us. We set up a time for an interview, but then they don’t seem to be interested in pursuing the case. They disappear and hide away. Maybe they are threatened by policemen.” When asked what kind of evidence he would amass to compile a case, he told us he would advise victims to get a medical certificate from the hospital and take statements from victims and witnesses. “If the matter is fresh,” he explained, “we need photographs of bruises, etc.” but the station had no camera. The officer told us that he had handled only one complaint from a child, on August 22, 2003. He explained how he responded:

I interviewed this young fellow, but I didn’t know his witnesses so I told him to identify his witnesses to me but he never did. I suppose if he’s really concerned about his case, he should come back and assist me with my investigation. He gave all the work to me and went away and expects me to do the work. Then I see they’re not concerned about the case, so I just sit down.

He was fourteen years old. He was assaulted by the police. He alleges the police took money from him. I cannot take this as fact. When I asked him for witnesses, he went away and didn’t come back.

He also described another case from 2003 in which a woman complained that police officers were asking her for sex. “It wasn’t very serious like rape,” he explained. He told us that he “found insufficient evidence to pursue it criminally. . . . I couldn’t go

³³⁷ Human Rights Watch interview with Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

³³⁸ Human Rights Watch interview with Funmat, Sexual Offenses Squad, Kokopo police station, East New Britain province, September 27, 2004.

³³⁹ Human Rights Watch interview with Lemek, head of internal investigations, Alatau, Milne Bay, September 24, 2004.

anywhere because the policemen here were not cooperative. I got stuck.” Instead, he “recommended that she get a lawyer.”³⁴⁰

In Port Moresby, Human Rights Watch interviewed a man who tried to complain when police and university security officers severely beat a group of boys, including his fourteen-year-old son, with sticks and crowbars (“pins bars”) in August 2004.³⁴¹ Many of the boys were wounded, including the man’s son, who suffered a head injury. The next day, said the man, he went to the community police officer at Waigani police station seeking recourse. Rather than opening an investigation, the officer advised him to hire a lawyer or form a community group to seek funding, neither of which he had been able to do.³⁴²

In addition to criminal charges, police officers should face administrative charges for breaches of discipline. The 2004 administrative review of the police found that the police disciplinary manual is good and clear but is not being enforced; the working group for the review found that that the Code of Ethics is of “high standard” but “is almost universally ignored, as are the requirements of the Police Force Act.”³⁴³ Charges for disciplinary offenses are handled by the police force’s internal affairs division, with a final decision made by the police commissioner.³⁴⁴ Penalties for disciplinary offenses include a caution, fine, demotion in rank, and dismissal from the force. Police force policy requires dismissal when a member “has been found guilty of using unlawful violence that results in injury to the victim.”³⁴⁵ According to the internal affairs directorate, from January 1, 2004, to September 15, 2004, the directorate issued forty-two caution notices, forty-one reprimand notices, and sixty-five good work notices. Thirty eight members were dismissed from the force, eighteen demoted, 163 suspended, 127 unsuspended, and 157 otherwise penalized for serious disciplinary offenses.³⁴⁶

³⁴⁰ Ibid.

³⁴¹ Human Rights Watch individual interviews with the father of a fourteen-year-old boy injured by police and university security guards, and with three fourteen-year-old boys, urban settlement, Port Moresby, September 17, 2004.

³⁴² Human Rights Watch interview with the father of a fourteen-year-old boy injured by police and university security guards, urban settlement, Port Moresby, September 17, 2004.

³⁴³ Institute of National Affairs, *Kimisopa Report*, pp. 78, 124.

³⁴⁴ The directorate’s duties include recording complaints, monitoring investigations, adjudicating disciplinary offenses, and maintaining records of completed files. At the provincial level and in the capital, provincial internal investigation units answer to the directorate in Port Moresby as well as to their divisional and provincial police commanders. Maru, “Discipline: The role of the Internal Affairs Directorate & Discipline Management Issues for Supervisors,” secs. 2-3.

³⁴⁵ Ibid., sec. 7.4.

³⁴⁶ Maru, Director Internal Affairs, “Internal Affairs Directorate Period Summary Report,” *Discipline Presentation: Working together for effective Discipline*. It should be noted that this number exceeds the total number of serious and minor disciplinary offenses reported received and adjudicated.

However, many of the directorate's decisions had not been implemented: of these cases, seventy-three notices of penalties had not been served as of September 2004, and there was a backlog of 1,410 cases.³⁴⁷

The head of internal affairs explained:

During early 2003 the Internal Affairs Directorate conducted a review of all Serious Disciplinary Offence Reports (SDOR's) dating back to 1998 and discovered that many police were still committing the same criminal offense and serious breaches of discipline as they were 5-10 years ago. It was also found that the two most common denominators were the consumption of intoxicating liquor by police on duty and failure by supervisors to effectively supervise their subordinates.³⁴⁸

The 2004 administrative review of the police places responsibility for the lack of accountability squarely on police management:

Failure of supervisors to prevent criminal behavior or serious breaches of discipline, or at least deal with it appropriately at the time, has reached a crisis. . . . Supervisors do not accept or exercise appropriate responsibility and are not held accountable for the performance of their command, or not adequately censured for failing to ensure discipline in their staff. . . .

It was reported to the Committee from a variety of sources that, within some parts of Police management, there exists an influential and negative culture which appears to condone and/or protect corrupt behaviour and criminal conduct (including serious assaults) committed by police. The Committee was told that many officers are compromised and believe they are unable to act against this situation without genuine fear of retribution.³⁴⁹

³⁴⁷ Maru, Director Internal Affairs, "Outstanding Charges Summary: 17/09/2004," *Discipline Presentation: Working together for effective Discipline*.

³⁴⁸ Maru, "Discipline: The role of the Internal Affairs Directorate & Discipline Management Issues for Supervisors," sec. 4.

³⁴⁹ Institute of National Affairs, *Kimisopa Report*, pp. 38-39 (emphasis in original).

While not every police officer is guilty of the acts described in this report, the problem is so widespread that various government-sponsored reviews have concluded that before anything else, including increasing the size of the force, discipline is needed.³⁵⁰ These studies also conclude that without discipline being restored, additional resources will have little effect.³⁵¹ Indeed, the 2004 administrative review of the police found that the systems and process are in place to make substantial improvement in discipline without additional costs.³⁵² The failure, the review concluded, has been in political will.³⁵³

The Failure of Police Training

Although not a solution by itself, police training is an important tool for addressing human rights violations by police. From 2000-2005, AusAID's police project funded more than 2,000 workshops, and trainees included around 75 percent of all reserve and auxiliary police.³⁵⁴ According to AusAID, "the project did not provide training that specifically targeted human rights," but "human rights issues were addressed in the context of other training," on topics such as "Use of force and weapons, International Law, Accountability, Discipline and Ethics, and Cell and Custody Procedures."³⁵⁵ The ICRC also trained police in human rights and humanitarian law.³⁵⁶ AusAID contractors told Human Rights Watch that they had trained police in Papua New Guinea on, among other things, children's rights under the Convention on the Rights of the Child,³⁵⁷ although the materials they showed us contained only abstract principles of law. The assistant police commissioner told us that they had "educated all our policemen on the requirements of the amended Juvenile Courts Act" but that through 2004, there was "no special training at the police college for dealing with juveniles."³⁵⁸ The new police

³⁵⁰ Ibid., p. 41; Public Sector Review Management Unit, "A Review of the Law and Justice Sector Agencies in Papua New Guinea," secs. 1.4.3, 7.1. See also Clifford, Morauta, and Stuart, *Law and Order in Papua New Guinea, Vol. I: Report and Recommendations*, p. 55.

³⁵¹ Institute of National Affairs, *Kimisopa Report*, p. 113.

³⁵² Ibid., p. 7.

³⁵³ Ibid.

³⁵⁴ E-mails from Kirsten Bishop, First Secretary, Law and Justice, AusAID, to Human Rights Watch, June 30 and July 7, 2005.

³⁵⁵ Ibid.

³⁵⁶ Ibid.

³⁵⁷ Human Rights Watch interview with Peter Pascoe, Team Leader, RPNG Development Project Project Phase III, ACIL, Port Moresby, October 1, 2004.

³⁵⁸ Human Rights Watch interview with Wan, Assistant Commissioner of Police, Port Moresby, September 30, 2004. According to Kepas Paeon, Department of Justice and Attorney General, many police were not aware that they should not be detaining sixteen-year-olds with adults. Human Rights Watch interview, September 30, 2004.

juvenile justice policy states that specialized courses will be developed to train all police officers on working with children.³⁵⁹

However, it is widely agreed that training up to this point has produced little reduction in police violence against children.³⁶⁰ “Police are very aware—police who beat really know they are doing the wrong thing, so they don’t need more basic human rights education,” explained Abby McLeod.³⁶¹ The head of criminal investigations in Wewak told Human Rights Watch that AusAID had trained officers there on arrest procedures in August 2004 and “they now know when to use force. . . . In interviews you can’t punch someone.” But earlier in our conversation he told us that task force officers hit people during interrogation.³⁶² Similarly, in Kokopo we saw signs, posted directly in front of the cell where children were detained with adults, stating that juveniles must be separated from adults. A high-level AusAID staff member in Port Moresby elaborated:

The RPNG [Royal Papua New Guinea Constabulary] are the most highly-trained police force in the Pacific. But change on the ground is limited. . . . We’ve contributed a large amount of money and still it’s difficult to see the impact. There has been impact in terms of outputs—training delivered, an increase in organizational capacity—but real change to police on the ground: generally it’s felt that things haven’t changed.³⁶³

When we asked why the training has produced so few results, most responses fell in two categories: that current training has failed to address the overall institutional culture of policing methods, and that there are few penalties for violating the training or incentives to follow it. First, we were told that current training does not address police culture and or the fundamental way police operate. A policeman in Eastern Highlands Province explained to an NGO/UNICEF researcher in 2004 that “new recruits get into these practices [using women and girls kept in custody for sex] having learnt from those

³⁵⁹ Royal Papua New Guinea Constabulary, “Subject: Police Juvenile Justice Policy and Protocols,” sec. 5.8.

³⁶⁰ See, for example, Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” secs. 1.4.1, 7.1.1.

³⁶¹ Human Rights Watch interview with McLeod, Australian National University, Canberra, October 5, 2004.

³⁶² Human Rights Watch interview with Edes, head of criminal investigation division, Wewak police station, September 20, 2004.

³⁶³ Human Rights Watch interview with Kirsten Bishop, at the time Second Secretary and subsequently First Secretary, AusAID Port Moresby, September 30, 2004. Sinclair Dinnen confirmed that and “the impact has been limited.” Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

before them.” According to the researcher’s report, the officer “says it is now a ‘tradition’ in the police force and is accepted as normal by most policemen.”³⁶⁴

Bruce Grant further explained:

Training that has been developed doesn’t match the needs of operational police. It may be sound theory, but it doesn’t help them do a better job. It doesn’t go to the heart of the issue—that it’s okay to bash or rape someone. Police really believe in the notion that it’s okay to burn down someone’s house.³⁶⁵

Similarly, Sinclair Dinnen noted that “[t]here does appear to be an institutionalized culture deeply embedded in the force and training and workshops held have not come to grips with it.”³⁶⁶ The working group for the 2004 administrative review of the police concluded that “[i]t is difficult to identify whether the problems stem from the wrong kind of training or from a paralysing apathy because they have never been provided with the resources or support necessary to manage or because they have been unable to change corrupt practices.”³⁶⁷

Second, police who do not follow the training are rarely punished; those who do are often unsupported. Abby McLeod, when asked why training has not worked, explained: “You can get away with it—there’s impunity, a backlog of complaints. . . . Punishment is the key.”³⁶⁸ Bruce Grant agreed: “I don’t know if training is the issue if you lack the political will to enforce the idea that this kind of violence is unacceptable.”³⁶⁹ Sinclair Dinnen suggested that external monitoring would be required to make training effective: “External monitoring is needed because it’s very difficult to get police to change despite years of training. [There’s a] need to monitor and punish.”³⁷⁰ An AusAID official in Canberra also pointed out that police who do try to follow their training receive little support:

³⁶⁴ Help Resources, UNICEF-PNG, “A Situational Analysis of Child Sexual Abuse & the Commercial Sexual Exploitation of Children in Papua New Guinea,” p. 48.

³⁶⁵ Human Rights Watch interview with Grant, UNICEF-PNG, Port Moresby, September 14, 2004.

³⁶⁶ Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

³⁶⁷ Institute of National Affairs, *Kimisopa Report*, p. 147.

³⁶⁸ Human Rights Watch interview with McLeod, Australian National University, Canberra, October 5, 2004.

³⁶⁹ Human Rights Watch interview with Grant, UNICEF-PNG, Port Moresby, September 14, 2004. AusAID officials in Papua New Guinea and Canberra gave us similar explanations.

³⁷⁰ Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

There are a lot of police who are actually good but are within a flawed structure. . . . A lot of officers do understand the issues, but it doesn't get applied because they aren't supported to apply it. For example, they work for their M.P. [member of parliament] or a business or their boss. There's no individual accountability. There is all of this capacity but it's not being applied.³⁷¹

Police urgently need training that directly addresses violence and its current use as a fundamental part of policing. Training must also be accompanied by consequences for failing to follow it, which as present are sorely lacking. However, as explained elsewhere in this section, current practices go far beyond a need for training alone, and require a reform of management and discipline throughout the force.

The 2004 Administrative Review of the Police

In 2004, an administrative review committee commissioned by the minister for internal security, Bire Kimisopa, issued a report finding a breakdown of discipline and loss of integrity that has destroyed public confidence in the police and rendered them "largely ineffective." The committee also found "lack of demonstrable government will and commitment to effective law enforcement and wider related issues of broad community safety and an effective, sustainable, law, order and justice framework."

The Committee, which was commissioned in response to a growing breakdown in law and order, and serious discipline and morale problems in the police, held consultations with the police, the private sector, community groups, and individuals. It reported that there was considerable consensus about what the problems were and the actions needed. The committee made a detailed series of recommendations that, if acted upon, would go a long way towards reforming the police. Among other things, the committee recommended the following:

- the creation of the position of a special police ombudsman
- various practical measures to enforce the existing disciplinary code
- the publication of an annual report on police reporting the outcomes of investigations of complaints against them
- the termination of all reserve and auxiliary police with invitations to reapply based on new standards

³⁷¹ Human Rights Watch interview with Bishop, AusAID, Port Moresby, September 30, 2004.

- the reform of mobile squads and task forces
- that police wear proper uniforms and nametags
- the review of police pay and allowances
- the improvement of leadership and training
- more effective use of existing resources, including police vehicles, improved financial management
- immunity for past corrupt behavior and malpractice but not serious corruption or acts of serious criminal violence
- that police be more responsive to domestic violence and sex abuse, including within the force

Minister Kimisopa subsequently announced plans to disband a task force in Port Moresby and reorganize mobile squads in the Highlands, citing as one reason that the cost of successful lawsuits against the state for police actions.³⁷² In June 2005, the police commissioners and other officers accepted the committee's report and agreed to create teams to implement the recommendations.³⁷³ However, full implementation of the report's recommendations will require significant political will and resources that have yet to be demonstrated.

VII. The Roles of Other Government Bodies

Government mechanisms external to the police that might hold accountable officers who beat, torture, and rape, and provide victims with redress are difficult for victims to gain access to and are often ineffective when they do. Judges often ignore abuse even when the wounds are fresh and plainly visible. The public solicitor's office and ombudsman's commission are overwhelmed with other cases and have little capacity to investigate reports of police abuse. Access to civil redress is hampered by burdensome procedural barriers. There are periodic initiatives to create a national human rights commission, but these efforts have stalled in Parliament.

372 "Kimisopa: Abuse Evident in Force," Post-Courier (Papua New Guinea), May 13, 2005, p. 2. The Police Association in May 2005 protested the disbanding of the National Capital District Tactical Response Unit in a petition calling for, among other things, the unit's reinstatement. "Members Want Task Force Back on Street," The National (Papua New Guinea), May 5, 2005, p. 2; "Local Cops Want Australians Out," Post-Courier, May 5, 2005, p. 1.

373 E-mail from Bishop to Human Rights Watch, June 28, 2005.

The Judiciary

Judges bear a share of the responsibility for addressing police violence and monitoring conditions under which children are detained. The Juvenile Court Protocol for Magistrates requires judges to “monitor the use of physical force used against a juvenile.”³⁷⁴ At the very minimum, magistrates should exclude evidence obtained through threats or actual violence: the Evidence Act provides that confessions induced by threats shall not be received into evidence.³⁷⁵

Many of the injuries children described, particularly on the face, should be obvious to the magistrates they appear before. For example, Edmund P., age fifteen, told Human Rights Watch that when he went before a judge five days after his arrest, he had a scraped and blackened eye, a sliced pinky, and cuts on his head from the police, but the judge did not ask him about his injuries.³⁷⁶ (As described above, Human Rights Watch researchers saw obvious bruising, redness, and scabs around Edmund P.’s eye and other injuries roughly two weeks after his arrest.) Elias C., age twelve, said that he had a black eye when we went before a judge.³⁷⁷ Some children said they had even told a judge that they had been beaten and that the judge did not respond. For example, Nelson R., age fourteen, said, “When I saw the magistrate [at Boroko], my eye was swollen and black. I told him that the police hit me.”³⁷⁸

Although not a child, a man described his interaction with a judge in 2002 in terms that show the larger problem:

I saw the judge one week later, after I spent one week in Bomona. There were still marks in my face. The judge asked me why I had marks. I told the judge I was beaten. The judge asked me questions; he asked whether I did the crime. I said no. The judge said that most people are beaten up by the police because they did the crime. “Everyone is beaten because of the crime they commit,” he said. The way I took it, every person arrested has to be beaten by the police because it’s something that’s done. The judge asked the inspector. The inspector read out the crime [I was charged with] and said that’s the reason I got beaten up.

³⁷⁴ Magisterial Service of Papua New Guinea, “Juvenile Court Protocols for Magistrates,” p. 13.

³⁷⁵ Evidence Act, § 28.

³⁷⁶ Human Rights Watch interview with fifteen-year-old boy, Papua New Guinea, October 1, 2004.

³⁷⁷ Human Rights Watch interview with twelve-year-old boy, Port Moresby, September 16, 2004.

³⁷⁸ Human Rights Watch interview with fourteen-year-old boy, Port Moresby, September 16, 2004.

After a year, the man was found not guilty and set free.³⁷⁹

Judges are also required to visit prisons to inspect general conditions and to determine whether children are being detained illegally or mistreated.³⁸⁰ However, visits have reportedly become increasingly infrequent and have never included police lockups.³⁸¹ In April 2005, a National Court judge reportedly criticized the prolonged detention of remandees in police cells.³⁸²

The Ombudsman's Commission

The ombudsman's commission is highly regarded and widely viewed as one of the more effective government bodies. However, at present it focuses on official corruption and lacks the capacity to investigate and pursue actions against the police.

The Constitution and the Organic Law on the Ombudsman Commission empower the commission to investigate, either on its own initiative or on an individual complaint, conduct by a state service or its members, including the violation of basic rights.³⁸³ During the course of its investigations, the commission can require the production of documents and summon individuals to testify under oath.³⁸⁴ The commission can then report its findings and recommend action to the relevant government minister and require the minister to report back on implementation of the commission's recommendations, or it can refer the matter to the public prosecutor.³⁸⁵ In practice, the commission refers almost all allegations of crimes by police back to police at the local level: "Beatings by police, rape by police, abduction—these are matters that are dealt with by the police at the local level," explained Peter Peraki, an official in the commission's office.³⁸⁶

³⁷⁹ Human Rights Watch interview with twenty-three-year-old man, Central Province, September 17, 2004.

³⁸⁰ Papua New Guinea, "Initial Reports of States Parties Due in 2000," para. 377.

³⁸¹ Human Rights Watch interview with Dinnen, Australian National University, Canberra, October 5, 2004.

³⁸² Alex Rheeney, "Detentions Blasted," *Post-Courier* (Papua New Guinea), April 13, 2005, p. 5 (quoting Justice Nicholas Kirriwom speaking to police and Correctional Service officers in Kerema, Gulf Province).

³⁸³ The Ombudsman Commission's power to enforce basic rights is considered an implied power under section 57 of the Constitution.

³⁸⁴ Organic Law on the Ombudsman Commission, § 18.

³⁸⁵ *Ibid.*, § 22.

³⁸⁶ Human Rights Watch interview with Peter Paraki, Ombudsman Commission, Port Moresby, September 30, 2004; Human Rights Watch interview with Lemek, head of internal investigations, Alatau, Milne Bay, September 24, 2004 (explaining that the Ombudsman Commission sends complaints about the police to him but that often he cannot meet expectations).

In 2004, the commission dedicated two staff persons to form a human rights unit, which pulled four police violence cases from the files on which to focus.³⁸⁷ In May 2005, the Anti-Discrimination and Human Rights Unit was established in the Ombudsman Commission, funded by the U.N. Development Program (UNDP). The unit focuses on providing advice regarding the proposed human rights commission, building capacity within the Ombudsman Commission, human rights campaigning, and strengthening the Commission's partnership with civil society.³⁸⁸ The unit does not handle individual cases and transferred the four cases mentioned above, and three others, to a different unit within the Commission. According to a staff member of the unit, investigations in these cases had not been concluded as of July 2005.³⁸⁹

The Office of the Public Solicitor

The public solicitor's office is intended to provide legal advice and representation in court for those with financial need. In practice, the office lacks the resources to provide representation to many who need it. Many of the children whom we interviewed were unrepresented in court, even when charged with serious crimes.

Most lawyers in the public solicitor's office "don't really have time for other cases," such as bringing claims against the state for police abuses, Isar Watta, an attorney for the office told us. Since September 2002, she explained, the office has had two lawyers "dealing with human rights matters," including constitutional breaches, most of which are perpetrated by the police.³⁹⁰ While the office helps those who approach it to litigate, they "aren't able to do a lot of awareness-raising because of time limitations." The office settled a case on behalf of about thirty street vendors whose property police confiscated in 2001 on instructions by the National Capital District Constabulary, and has had a number of cases involving "youths in the streets" between the ages of sixteen and twenty-five "who are suspected of being *raskols*, criminals. The police take them in and beat them, then they don't take them to the hospital." Although, Watta said, she was aware of complaints of ill-treatment of men who have sex with men, no one had come to the office to complain.³⁹¹

³⁸⁷ Human Rights Watch interview with human rights unit staff, Ombudsman Commission, Port Moresby, September 30, 2004.

³⁸⁸ E-mail from Theresa James, U.N. Volunteer, Anti-Discrimination and Human Rights Unit, Ombudsman Commission, to Human Rights Watch, July 26, 2005.

³⁸⁹ Ibid.

³⁹⁰ Human Rights Watch interview with Isar Watta, Public Solicitor's Office, Port Moresby, September 30, 2004.

³⁹¹ Ibid.

Watta said the most significant barriers to successfully litigating claims against the state were a backlog of human rights cases in the courts and the requirement that notice of a claim be served on the state within six months of the event that triggered the claim.³⁹² Procedural barriers are further discussed in the following section.

Civil Claims Against the State

By law, individuals who have suffered violations of their constitutional rights may bring claims against the state for damages and compensation. Of all claims, around half stem from police action, such as destruction of house and property and physical violence.³⁹³ More than two hundred police claims have been settled since the Solicitor General's office was established in 1992, Mrs. Hithelai, an attorney in the solicitor general's office told us.³⁹⁴ Although Hithelai would not tell us what these cases have cost the state, according to news reports they have totaled around K 300 million (U.S.\$96.3 million)—more than twice the annual budget for the police department.³⁹⁵ Moreover, Hithelai explained, 2,613 outstanding claims against the state for acts by the police were still pending in October 2004.³⁹⁶

Despite the significant burdens civil claims place on the state, civil claims fail to provide an adequate remedy for many victims because procedural barriers prevent many from pursuing claims. Where victims are able to bring claims, these fail to deter future police violence because the police force and individual officers are not penalized.

³⁹² Ibid.

³⁹³ Human Rights Watch interview with Joanne Choe, Policy Officer, Law and Justice, PNG Branch, AusAID, October 5, 2004.

According to a 2002 report:

Litigation pending and the rate of new litigation against police are at extraordinary levels. The nature of claims includes: illegal police raids, false imprisonment, wrongful arrest, assault by police, police shootings, police killings, unlawful detention of vehicles, wrongful termination of officers, damages arising from successful judicial review of administrative matters, bodily injury from use of state vehicles, disputes involving landowners and resource developers.

Public Sector Review Management Unit, "A Review of the Law and Justice Sector Agencies in Papua New Guinea," sec. 7.1.6.

³⁹⁴ Human Rights Watch interview with Mrs. Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

³⁹⁵ *The National* (Papua New Guinea), August 17, 2004, cited in Institute of National Affairs, *Kimisopa Report*, p. 5. An ACIL employee working on the issue also confirmed that annual awards are great than the police force's annual budget. Human Rights Watch interview with Terry Gardner, Law and Justice Sector Program, ACIL, Port Moresby, October 1, 2004.

³⁹⁶ Human Rights Watch interview with Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

Procedural Barriers to Victim's Claims

Victims of police violence face a number of procedural barriers to pursuing claims against the state. These include requirements that plaintiffs personally serve officials in the capital and name individual officers, and delays in adjudication and payment of successful or settled claims.

First, notice of claims against the state must be given within six months.³⁹⁷ “If a person has been assaulted by the police or had their rights violated, section 5 governs the notice of claim. Notice has to be given within six months after the occurrence,” said Hithelai.³⁹⁸

The next hurdle is that claims must be *personally* served on one of several government officials in Port Moresby; service by mail is not accepted.³⁹⁹ “There is no standard form. They can just write a letter and have it personally served on the Attorney General or solicitor general, or their personal secretaries,” Hithelai said. “If personal service is made, our lawyers will acknowledge [the notice] and get instructions. We seek instructions from police officers.”⁴⁰⁰ Our researcher asked whether there were any alternative forms of service for the many potential claimants who do not live in Port Moresby. “It’s not possible to serve in any other manner,” Hithelai replied. “Some send a letter by post. Then it is not personally served.”⁴⁰¹ Nevertheless, she conceded, “There are occasions where the notice was given by post, and we’ve let it go,”⁴⁰² meaning that the government has not raised the issue of service in defending the case. However, Eastern Highlands National Court acting register Philip Kaumba told reported in March 2005 that courts have struck out many claims against the state for failure to personally serve notice on the Solicitor General in Port Moresby.⁴⁰³ From most parts of the country, Port Moresby is not accessible by road.

Even if a claimant files notice within six months and personally serves an appropriate official, the government does not consider the notice to be sufficient unless it names individual police officers. When the Individual and Community Rights Advocacy Forum (ICRAF) brought a case on behalf of women arrested in the March 2004 Three-Mile

³⁹⁷ See Claims By and Against the State Act (1996), no. 52 of 1996, § 5(2)(a).

³⁹⁸ Human Rights Watch interview with Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

³⁹⁹ See Claims By and Against the State Act, § 5(3); *Kabil Worm and 101 others v. Sergeant Koken and the Indep. State of PNG*, [1996] PNGLR 58 (Injia, J.) (Mt. Hagen N.C. May 24, 1996) (under § 4 of old act, service by mail ineffective; same view carried forward with new act).

⁴⁰⁰ Human Rights Watch interview with Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

⁴⁰¹ Ibid.

⁴⁰² Ibid.

⁴⁰³ Sheila Lasibori, “Amend Unconstitutional Law Call,” *Post-Courier* (Papua New Guinea), March 1, 2005), p. 4.

guesthouse raid, for example, “We received a letter saying that we needed to find out ‘who and which policemen were supposedly involved,’” Lady Hilan Los told Human Rights Watch.⁴⁰⁴

Hithelai confirmed that her office viewed the naming of individual officers as “very necessary” she replied. At least some courts have agreed with the solicitor general’s office on this point. A National Court judge in Waigani found, for instance, that section 5 notice requires “sufficient details”:

such details should include dates, times, names of people and places, copies of any correspondence or such other information that could enable the state to carry out its own investigation. Only when notice is given with such details or information can one surely say that notice of his or her intended claim has been given.⁴⁰⁵

When a Human Rights Watch researcher pointed out that many people said that police officers do not wear name tags, Hithelai said, “They should wear name tags.”⁴⁰⁶ (The 2004 administrative review of police also recommended that police be required to wear their names and regimental number on their uniforms and carry an identification card.)

In practice, these procedural requirements preclude many well-founded suits. In response, the public solicitor’s office has contended that section 5 of the Claims By and Against the State Act should not apply to suits that are brought to enforce fundamental rights and freedoms guaranteed by the Constitution. Isar Watta of the public solicitor’s office told us, “We have had several run-ins with the state lawyers where the client is enforcing constitutional rights. Section 5 is not applicable in such cases. It should not limit a person’s right to enforce his or her constitutional rights. The state lawyers have rejected that [argument].”⁴⁰⁷ On its face, the Claims By and Against the State Act appears to apply even to constitutional claims alleging violations of fundamental rights and freedoms. Section 2(2) of the act provides:

⁴⁰⁴ Human Rights Watch interview with Lady Hilan Los, ICRAF, Port Moresby, September 15, 2004; letter from Francis G. Kuvi, acting solicitor general, Department of Justice and Attorney General, Office of the Solicitor General, to the Individual and Community Rights Advocacy Forum, September 1, 2004 (stating that he accepted notice as sufficient under section 5 but requesting “particulars as to who and which policemen were supposedly involved” on the grounds that this is the intention of section 5).

⁴⁰⁵ *Hewali v. PNG Police Force and the State*, slip op. at 31 (Waigani N.C. Mar. 2, 2002).

⁴⁰⁶ Human Rights Watch interview with Hithelai, Solicitor General’s office, Port Moresby, October 1, 2004.

⁴⁰⁷ Human Rights Watch interview with Watta, Public Solicitor’s office, Port Moresby, September 30, 2004.

The provisions of this Act apply to applications for the enforcement against the State of a right or freedom under section 57 (Enforcement of guaranteed rights and freedoms) of the Constitution and for damages for the infringement of a right or freedom under section 58 (Compensation) of the Constitution.

Even so, Hithelai suggested that her office would be prepared to accept the public solicitor's position. "With section 58 [of the Constitution], section 5 should not apply," she said. "We need to clarify that, but generally the courts have not enforced" the requirements of section 5 in such suits. "We don't enforce section 5 in a section 57 application," she concluded.⁴⁰⁸

An additional hurdle is that cases against police are subject to considerable delay in the courts. "The problem is that for about the last five years, the courts have not had time to hear these human rights cases," said Isar Watta. "A while back I wrote to the registrar asking for the cases to be listed [put on the court's schedule to be heard]. . . . We've been asking since last year," she told Human Rights Watch.⁴⁰⁹

Finally, if a claimant wins or reaches a settlement, he or she may face a considerable wait before the state pays the claim.⁴¹⁰ "It takes a while," Hithelai conceded. "I don't control that. Some people wait quite a bit of time. Sometimes it may take years. Others wait weeks or months."⁴¹¹

As in most countries, successful claimants cannot ask the court to seize state property to satisfy the judgment.⁴¹² "You can't garnish the state," Hithelai explained. In the case of a judgment or a settlement, she said, "We put in a request to finance the amount. If the state doesn't pay, you still can't garnish it."⁴¹³ Ms. Watta described the problems her office encountered in enforcing a claim in a 2001 case in which police harassed some thirty street vendors. "The case was settled and orders made, but fair payment was not made," she said. "The problem is that you cannot enforce court orders against the state. Section 13 provides that there is no execution against the state."⁴¹⁴

⁴⁰⁸ Human Rights Watch interview with Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

⁴⁰⁹ Human Rights Watch interview with Watta, Public Solicitor's office, Port Moresby, September 30, 2004.

⁴¹⁰ Human Rights Watch interview with Terry Gardner, Law and Justice Sector Program, ACIL, Port Moresby, October 1, 2004.

⁴¹¹ Human Rights Watch interview with Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

⁴¹² See *Claims By and Against the State* Act, § 13.

⁴¹³ Human Rights Watch interview with Hithelai, Solicitor General's office, Port Moresby, October 1, 2004.

⁴¹⁴ Human Rights Watch interview with Watta, Public Solicitor's office, Port Moresby, September 30, 2004.

We asked Hithelai whether any other means of enforcement was available to claimants—for example, whether claimants could seek contempt orders against government officials for their failure to satisfy a judgment or pay a settlement. “We have had contempt proceedings,” she said. “If the state doesn’t have the money legally available, people have gone to court.” She characterized the decisions as “mixed. Some said yes; others no. The state may have to pay by installment.”⁴¹⁵

The Failure to Deter Police Violence

The Solicitor General defends the state against civil claims, and successful claims are paid by the Treasury. Neither the police force nor individual officers bear any cost.⁴¹⁶ “The court awards damages. If damages are awarded against the state, it’s the state that carries the bulk of the liability, not the individuals, not the police commander. It’s the state and the people that suffer,” Hithelai told Human Rights Watch.⁴¹⁷ With no personal financial incentives to participate and apparently insufficiently strict internal police requirements that they do so, police often do not cooperate with the Solicitor General’s office in defending the case and the state loses.⁴¹⁸

The fact that police do not cooperate also creates an incentive for individuals to file false claims.⁴¹⁹ Kirsten Bishop of AusAID, which is providing technical assistance to the government in this area, explained that the Solicitor General’s office “ends up settling cases because they lack information and evidence. So people in the community know this happens and a lot of claims are fraudulent. This undermines the process and genuine claims.”⁴²⁰ “Claims are being settled out of court in the millions. Everybody is looking at some alleged abuse now,” Peter Peraki of the office of the Ombudsman’s Commission told Human Rights Watch.⁴²¹

⁴¹⁵ Human Rights Watch interview with Hithelai, Solicitor General’s office, Port Moresby, October 1, 2004. For an example of a successful contempt action, see *Pansat Communications Pty Ltd v. Morea Vele and Independent State of Papua New Guinea*, SCM No. 3 of 1998 (S.C.J. October 1, 1998; May 5, 1999).

⁴¹⁶ See, for example, Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.1.6.

⁴¹⁷ Human Rights Watch interview with Hithelai, Solicitor General’s office, Port Moresby, October 1, 2004.

⁴¹⁸ Public Sector Review Management Unit, “A Review of the Law and Justice Sector Agencies in Papua New Guinea,” sec. 7.3.5; Human Rights Watch interview with Terry Gardner, Law and Justice Sector Program, ACIL, Port Moresby, October 1, 2004.

⁴¹⁹ Human Rights Watch interview with Terry Gardner, Law and Justice Sector Program, ACIL, Port Moresby, October 1, 2004.

⁴²⁰ Human Rights Watch interview with Bishop, AusAID, Port Moresby, September 30, 2004.

⁴²¹ Human Rights Watch interview with Peraki, Ombudsman Commission, Port Moresby, September 30, 2004.

The government and international donors should ensure that any measures to reduce the amount paid in civil claims do not create additional impediments to legitimate claims; seek ways to make civil claims serve as a deterrent to police violence; and otherwise prioritize reducing police abuses that produce these claims.⁴²²

VIII. The Response of Australia and Others in the International Community

Over half of Papua New Guinea's development budget, including a significant portion of the police force's budget, is made up of donor funds. Australia is, by far, the largest and most influential international donor, reflecting its proximity, colonial history, and continuing special relationship with Papua New Guinea, among other things. Other bilateral donors include China, the European Union, Japan, Germany, and New Zealand. Of these, only Australia (and, in Bougainville, New Zealand) has focused on policing; UNICEF has taken the lead on juvenile justice, with the Australian Agency for International Development (AusAID) funding several recent reforms.⁴²³ Other bilateral donors, as well as the World Bank and the Asian Development Bank, have focused on areas such as health (including HIV/AIDS), education, infrastructure, agriculture, and financial reform.

Papua New Guinea is the largest per capita recipient of Australian aid, receiving a total of \$A 492.3 million (U.S.\$367.4 million) in development aid in 2005-2006.⁴²⁴ AusAID has been directly aiding the Royal Papua New Guinea Constabulary for more than fifteen years: from 1998 through 2005, AusAID's total contribution to the police was around \$A 120 million (U.S.\$89.6 million), which went to "almost every part of the

⁴²² AusAID is providing a full-time advisor to the government on claims against the state who is focusing on claims based on police action, support to the Solicitor General's office to improve its capacity to manage claims against the state, and technical assistance to the Department of Finance regarding expenditure control, including settlements and other liabilities resulting from successful claims. E-mail from Bishop, AusAID, to Human Rights Watch, July 22, 2005.

⁴²³ For 2002-2004, UNICEF's juvenile justice work in Papua New Guinea received \$317,589 from the Netherlands. UNICEF, *Papua New Guinea Juvenile Justice: Achievements and Future Plans, 2002-2004*, n.d., sec. 1.0. AusAID staff told Human Rights Watch that it "has assisted in the development of [juvenile justice] legislation and policy, provided facilities upgrades (eg juvenile courts, designated police station rooms/offices for dealing with juveniles), and improved process and information management in relation to juveniles in the justice system." E-mail from Bishop, AusAID, to Human Rights Watch, July 1, 2005.

⁴²⁴ AusAID, "Country Programs: Papua New Guinea," n.d., <http://www.ausaid.gov.au/country/papua.cfm> (retrieved June 22, 2005). By comparison, in 2004-2005, Australia provided Afghanistan with \$A 18 million (U.S.\$13.4 million) in humanitarian and reconstruction aid, Indonesia with \$A 161 million (U.S.\$120.2 million) in development aid, and Iraq with \$A 121 million (U.S.\$90.3 million) for reconstruction. Alexander Downer, Minister for Foreign Affairs, *Australia's International Development Cooperation 2004-2005*, May 11, 2004, pp. xiii, 42.

Constabulary: operational policing, many aspects of management and selected Infrastructure (both capital and maintenance).⁴²⁵ Australian assistance constituted more than 20 percent of the police force's operational budget (around \$A 10 million (U.S.\$7.5 million)) in 2004,⁴²⁶ and nearly all of the police force's development budget from 2000-2005.⁴²⁷ Training has been a significant element of Australia's assistance to the police, costing approximately \$A 4 million (U.S.\$3 million) from 2000 to 2005.⁴²⁸ However, as explained above and as AusAID officials admit, training appears to have had virtually no effect on police violence.⁴²⁹

AusAID rejects a rights-based approach to development, but maintains that their activities contribute to the promotion and protection of human rights.⁴³⁰ Human rights principles are not listed among the guiding principles of Australia's aid program to Papua New Guinea, the focus of which is: "fostering sustainable economic growth, particularly in rural areas; building stronger governance, including supporting state-building; developing institutional capacity at all levels of government; and addressing HIV/AIDS."⁴³¹

In 2004, the governments of Australia and Papua New Guinea launched an aid package that dramatically expanded Australia's assistance to the Royal Papua New Guinea Constabulary. A significant component of the program—the deployment of Australian Federal Police in Papua New Guinea—stalled in May 2005.

The package, known as the Enhanced Cooperation Programme (ECP), originated in part in response to growing instability in Papua New Guinea and out of concerns that the

⁴²⁵ Public Sector Review Management Unit, "A Review of the Law and Justice Sector Agencies in Papua New Guinea," sec. 7.1.1.

⁴²⁶ Human Rights Watch interview with Bishop, AusAID, Port Moresby, September 30, 2004. The total police budget in 2004 was K 121 million (U.S.\$38.8 million). Institute of National Affairs, *Kimisopa Report*, p. 34.

⁴²⁷ AusAID, "The Australia-Papua New Guinea Aid Program," n.d. [brochure obtained from AusAID September 2004]; powerpoint presentation on the Enhanced Cooperation program sent by e-mail to Human Rights Watch from Gabrielle Stewart, Department of Foreign Affairs, Australia, October 6, 2004. The RPNG Development Project Phase III, running from March 2000-2005, was worth \$A 57 million (U.S.\$42.5 million). *Ibid.*

⁴²⁸ E-mail from Bishop, AusAID, to Human Rights Watch, July 1, 2005.

⁴²⁹ Human Rights Watch interview with Bishop, AusAID, Port Moresby, September 30, 2004; Human Rights Watch interview with Choe, AusAID, October 5, 2004; Human Rights Watch interview with Pascoe, RPNG Development Project Phase III, ACIL, Port Moresby, October 1, 2004.

⁴³⁰ Department of Foreign Affairs and Trade, Government of Australian, "Good Governance, Human Rights, and Development," *Human Rights Manual 2004*, 3rd ed., 2004, http://www.dfat.gov.au/hr/hr_manual_2004/chp7.html (retrieved June 24, 2005).

⁴³¹ AusAID, "Framework: Australia's Aid Program to Papua New Guinea," pp. 3-4; Alexander Downer, MP, Minister for Foreign Affairs, "Australia's Overseas Aid Program 2005-2006," May 10, 2005, http://www.ausaid.gov.au/budget05/budget_2005_2006.html#3.png (retrieved June 23, 2005).

country was a weak link in Australia's anti-terrorism strategy. The ECP has the stated aims of addressing rampant law and order problems, improving border and transport security, and reforming aspects of the weak public sector.⁴³²

The ECP was originally scheduled to run for five years (from 2004 to 2009), but some expected it would be extended. Over the five year period, the program was to cost \$A 906 million (U.S.\$676.1 million), of which an estimated \$A 805 million (U.S.\$600.8 million) was to be new funding to cover the program's policing elements.⁴³³ This included direct assistance to police infrastructure, training, equipment, and recruitment.⁴³⁴ The remaining money was to come from the existing \$A 300 million (U.S.\$223.9 million) bilateral aid program under AusAID.

The program envisioned more than 200 Australian Federal Police being deployed to work alongside the Royal Papua New Guinea Constabulary, initially in Port Moresby and the island of Bougainville, with deployment from the capital to Lae, Mt. Hagen, and the Highlands Highway planned for early 2006. The first joint patrols began December 2, 2004, and as of May 2005, there were around 150 Australian officers in Port Moresby and Bougainville.⁴³⁵ The officers were withdrawn in May, however, following a Papua New Guinea Supreme Court ruling holding the provision of the agreement providing immunity for Australian officers unconstitutional. Although the countries were engaged in bilateral negotiations at the time of writing, Australian police had not been

⁴³² The agreement was reached in December 2003, and the Joint Agreement on Enhanced Cooperation was signed on June 30, 2004. The Papua New Guinea parliament passed enabling legislation on July 27, 2004, and diplomatic notes were exchanged on August 13, 2004.

Information in this section is drawn from the following sources: Department of Foreign Affairs and Trade, Government of Australia, "Papua New Guinea – Enhanced Cooperation Program (ECP) July 2004," <http://www.dfat.gov.au/geo/png/ecp2004.html> (retrieved January 13, 2005); AusAID, "The Australia-Papua New Guinea Aid Program"; Human Rights Watch interview with Turner, Australian Federal Police, Port Moresby, September 30, 2004; powerpoint presentation on the Enhanced Cooperation program sent by e-mail from Stewart to Human Rights Watch, October 6, 2004.

⁴³³ "The Australia-Papua New Guinea Enhanced Cooperation Program," March 2004 [brochure obtained from AusAID September 2004]. The program has also influenced the direction of aid from other agencies, including the World Bank. See International Bank for Reconstruction and Development, International Development Association, "Interim Strategy Note for Papua New Guinea."

⁴³⁴ According to the head of the Australian Federal Police in Papua New Guinea, the program would not provide money directly to the mobile squads but would provide them with trainers. If they saw an improvement in how the mobile squads operate, such as not burning homes or beating people with rifles, they might consider direct funding later, he said. Human Rights Watch interview with Turner, Australian Federal Police, Port Moresby, September 30, 2004.

⁴³⁵ See, for example, Lloyd Jones, "PNG PM Says Police Changes Needed," Australian Associated Press Bulletins, May 8, 2005.

redeployed. The decision followed protests by the police union shortly before the ruling.⁴³⁶

In addition to joint patrols, Australian police officials were to take up positions in the Papua New Guinea government in police headquarters, criminal investigations, general duties, prosecutions, communications, forensic services, transnational crime, and fraud and criminal records. Around sixty-four other specialists were to be placed in other branches of the justice system, in government economic agencies, and in border protection and transport agencies.⁴³⁷ Following the May withdrawal, around forty specialists remained as advisors.

There are no human rights conditions built into the Enhanced Cooperation Agreement⁴³⁸ (although Australia has recognized the utility of attaching conditions generally to aid under certain circumstances).⁴³⁹ Nor is there “anything specific for juveniles,” the head of the Australian Federal Police in Papua New Guinea, Barry Turner, told us in September 2004 (before the impasse on the immunity issue), “just the broad aspects of seeing juveniles as part of the community.”⁴⁴⁰ The ECP’s first aim is establishing law and order, he explained. After that, it is intended to build the police force’s “skills and professional standards.” Turner noted that this second component includes changing police behavior, first by “bolstering internal investigations” by providing advisors, moving the department to a building separate from the police station to give them autonomy and neutrality and make it easier for people to report to them, and trying to give the department the capacity to investigate at least the most serious offenses by police officers, such as assault and rape.⁴⁴¹ Second, he said, would be setting standards and values, “like not beating people up.” According to Turner, “We’re not

⁴³⁶ See “Local Cops Want Australians Out,” *The National* (Papua New Guinea), May 5, 2005, p. 1. See also “Police Union Demands Meeting with Hierarchy,” *The National*, May 11, 2005, p. 5.

⁴³⁷ These government departments include the Solicitor General’s office, the Public Prosecutor’s office, the Department of Justice and the Attorney General, the judiciary, prisons, the Departments of Treasury and Finance, National Planning, Personnel Management, Customs, the Immigration Division of the Department of Foreign Affairs and Immigration, the Department of Transportation, and the Civil Aviation Authority. Department of Foreign Affairs and Trade, Government of Australia, “Papua New Guinea—Enhanced Cooperation Program (ECP) July 2004.”

⁴³⁸ Human Rights Watch interview with Gabrielle Stewart, Department of Foreign Affairs, Canberra, October 6, 2004.

⁴³⁹ AusAID, “Papua New Guinea and the Pacific—A Development Perspective,” September 2003, p. 17 (“There is also a need to strengthen incentives within the aid program to support governance reform and, in certain circumstances, attach conditions in concert with other donors. While experience shows that conditions without country ownership will fail, it is equally clear that without reform, scarce resources, including aid dollars, will not be used to their greatest potential.”)

⁴⁴⁰ Human Rights Watch interview with Turner, Australian Federal Police, Port Moresby, September 30, 2004.

⁴⁴¹ Ibid.

here to change policies. Those are sound. We're just here to give effect to them. We're using their general standing orders.” The Australian government has strongly emphasized that its officers would have no command and control over the Royal Papua New Guinea Constabulary, that they were working alongside them.⁴⁴² “All we can do will be by influence,” Turner said.⁴⁴³

When asked how the ECP would influence the rest of the country, as most police and trainers were to be concentrated in Port Moresby and, later, in a few other urban areas, Turner replied: “It will be difficult in the short term. There will be indirect benefits from better governance. I’m hopeful that they will get new recruits and feed them out. It will be at least a year.”⁴⁴⁴

In addition to direct assistance to the police, AusAID gives project-based assistance to other parts of the law and justice sector, for example to support the operation of village courts and the Department of Justice. The Australian government also provided \$A 60 million (U.S.\$44.8 million) from 2000-2005 for activities through the National HIV/AIDS Support Project.⁴⁴⁵

IX. Recommendations

Some authorities in Papua New Guinea are aware of problems in how the state treats children and have begun to introduce appropriate policy changes to reduce the rates of detention of children. Police violence, however, has not been addressed. Obstacles include an institutional culture within the police that encourages or tolerates violence; impunity for police who beat, rape, and torture children and for their commanders; a lack of political will to reform among police management and other government bodies; and insufficient capacity among existing external bodies to monitor police and hold them accountable. The problem of police violence is so endemic, so institutionally engrained, that efforts to reduce it will not succeed unless made part of widespread reforms and demanded from the highest levels of government to the public.

Any serious effort to stop police violence, including severe beatings, rape, and torture, of children, must include three key components: public repudiation of police violence by

⁴⁴² See Joint Agreement on Enhanced Cooperation Between Australia and Papua New Guinea, 2004 A.T.S. 24 (signed June 20, 2004, entered into force August 13, 2004).

⁴⁴³ Human Rights Watch interview with Turner, Australian Federal Police, Port Moresby, September 30, 2004.

⁴⁴⁴ Ibid.

⁴⁴⁵ AusAID, “HIV/AIDS in PNG: Fact Sheet,” n.d., www.ausaid.gov.au (retrieved May 10, 2005).

officials; criminal prosecution of perpetrators; and ongoing, independent monitoring of police violence.

Human Rights Watch urges the government of Papua New Guinea, with support from Australia, UNICEF, and other donors, to immediately implement the following recommendations:

Recommendations to the Government of Papua New Guinea

Stop beatings, rape, and torture of children

- The minister of police and the police commissioner should publicly repudiate police use of torture, rape, and excessive force against children, and violence against sex workers, street vendors, and men who have sex with men. Other government officials, including the Prime Minister, members of Parliament, the National AIDS Council, and the Ombudsman's Commission, should similarly condemn such violence and call on the police to take action.
- The commissioner, with the support of the government, should make clear the guidelines for the use of force consistent with international legal standards, including the Convention on the Rights of the Child, the U.N. Code of Conduct for Law Enforcement Officials, and the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- The police force should include in training for new police and ongoing police training a component dedicated to stopping the use of torture and other cruel, inhuman, or degrading treatment, including during interrogation.
- The government should implement the recommendations of the September 2004 administrative review of the police to the minister for internal security regarding enforcement of existing disciplinary codes; reform of mobile squads, task forces, reserve and auxiliary police; proving basic resources; and improving police response to domestic violence and sex abuse cases. (These recommendations are detailed in the section on the failure of police response, above.)

Hold police accountable for abuses

- The Royal Papua New Guinea Constabulary should take swift and meaningful action against police officers who torture, rape, or use excessive force against children. This should include administrative measures, including dismissal, and criminal prosecution. Commanding officers who know or should know of such

acts, and who fail to take action to prevent and punish them, should face similar sanctions.

- The police commissioner should issue a directive to each deputy commissioner, assistant commissioner, and civilian equivalent advising that he or she will be held personally responsible for ensuring the officers under his or her command comply with the existing Disciplinary Code, as recommended by the September 2004 administrative review of the police.
- The minister of police and the police commissioner should strengthen the police force's Internal Affairs Directorate by providing strong support for the unit's authority to enforce its decisions and by penalizing officers who do not comply with its directives.
- The police commissioner should require that police wear their names and regimental number on their uniforms and carry an identification card, as recommended by the September 2004 administrative review of the police.
- The Ombudsman's Commission should continue and strengthen the work of its human rights desk, which should prioritize cases of police violence against children. The government should provide sufficient resources for the human rights desk to take up police violence.
- The Office of the Public Solicitor should continue to pursue cases of police misconduct and strengthen the unit responsible for constitutional claims (human rights cases). The government should provide sufficient resources for the office to represent victims of police violence.
- The government should deduct successful claims against the state from the budget of the department involved and penalize officers who fail to cooperate with investigations. It should also ensure that any measures to reduce the amount paid in civil claims do not create additional impediments to legitimate claims and seek ways to make civil claims serve as a deterrent to police violence.

Accountability for the raid on the Three-Mile Guesthouse

- Police and public prosecutors, with the Department of Justice and the Attorney General, should prosecute police officers and their commanders found responsible for beatings and rape during the March 2004 raid on the Three-Mile Guesthouse.
- The police force's Internal Affairs Directorate, with the support of the minister of police and the police commissioner, should thoroughly investigate the officers responsible and, where appropriate, apply administrative sanctions.

- The National AIDS Council and the Ombudsman's Commission should make available evidence collected by the Council about the raid, while maintaining protections for victims.
- The Ombudsman's Commission should make public the results of their inquiry into the raid.

Monitor police treatment of children

- The government should immediately designate an independent body outside the police force to monitor police violence against children. This body should have the mandate and resources to regularly enter police lockup and detention centers without notice; interview all children alone, regardless of whether the child makes a complaint; question detainees about their ages and any allegations of violence; collect other evidence of abuse from children; compel police to provide evidence; and refer cases for prosecution. If the Ombudsman's Commission is given this responsibility, it should also be provided with adequate resources to do so. If a Human Rights Commission or Police Ombudsman (recommended by the September 2004 administrative review of the police) is created, the government should consider giving one of these bodies this responsibility. However, responsibility should be assigned to an already-existing body until a new body is operational.
- The Juvenile Court Service Director should expand the numbers of juvenile court officers, station them throughout the country, train and support them to be strong advocates for children, and instruct them to aggressively monitor for police violence against children. Police juvenile officers (the station office responsible for supervising all juvenile matters) should immediately record and investigate juvenile court officers' reports of police violence and, where appropriate, refer cases for administrative sanction or criminal prosecution.
- The chief magistrate should instruct judges to, on their own initiative, ask children who appear before them about possible police violence. This should be mandatory when a child is visibly injured. Judges should order medical care when it appears to be needed and exclude evidence obtained on the basis of torture. Magistrates should monitor the use of physical force against children by police, as required by the Juvenile Court Protocol for Magistrates.
- The commissioner should expedite the establishment of the Juvenile Protocol Monitoring Unit. Commanding officers should be held accountable for cooperating with the unit, including collecting nationwide data about children in detention, such as total numbers, age, sex, place of detention, and length of time in police lockup. The Juvenile Protocol Monitoring Unit should regularly publish this data.

- The Juvenile Justice Working Group, with UNICEF's support, should pay particular attention to police violence against children. The group should continue and expand its efforts to support the implementation of the Juvenile Courts Act. In turn, the government should provide better administrative support for the working group, and the police should fully cooperate with the group's efforts.
- The government should invite the U.N. Special Rapporteur on Torture to visit Papua New Guinea to investigate and report on police violence against children.
- The government should prepare and submit to the U.N. Committee on the Elimination of Discrimination against Women Papua New Guinea's initial report (due on February 11, 1996), second periodic report (due on February 11, 2000), and third periodic report (due on February 11, 2004) on its implementation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). The government should include in its submission information about police violence against girls, including those who are members of marginalized groups such as sex workers, and information about the connection between such violence and HIV/AIDS.

Address police actions that promote the spread of HIV/AIDS

- The Royal Papua New Guinea Constabulary should make accurate and comprehensive information about HIV transmission and prevention a mandatory and tested component of training for new recruits and ensure that all police, including reserve and auxiliary officers, receive appropriate HIV/AIDS education annually. The police force should request increased assistance from the National AIDS Council in this respect
- The commissioner of police should issue a directive that possession of condoms in itself should not be construed as evidence of living on the earnings of prostitution, and explicitly prohibit police officers from interfering in HIV/AIDS education and condom distribution.

Reform detention conditions

The police commissioner should:

- Ensure immediate implementation of the 2005 Police Juvenile Justice Policy and Protocols that mandates that children be detained only in "extreme or special circumstances" and never with adults.
- Adopt and implement the Department of Justice and Attorney General's "Minimum Standards for Juvenile Institutions."

- Ensure that police separate males and females in all police lockups.
- Require that all detainees, and especially children, be provided medical care as needed and in a timely manner. Failing to provide medical care should be a separate, punishable offense.
- Ensure that conditions of police lockups comply with international standards, including the provision of adequate food and water, separate and sufficient bedding, and adequate bathing and sanitary facilities.
- Enforce or amend police policy to ensure that police record all detainees' names, ages, and location in the station where they are detained.
- Name staff to monitor places of detention to ensure that standards of detention are met.

The chief magistrate should:

- Revive the visiting justice scheme whereby judges visit prisons to monitor conditions, expand the program to include police lockup, and make special efforts to monitor conditions for children.
- Hold all judges accountable for complying with the Juvenile Courts Act and Juvenile Court Protocol for Magistrates, including not sending children to institutions not approved for juveniles, requiring police to justify the detention of children in police cells, and referring unlawful detentions to the Regional Commander for action.

The government should review the performance and capacity of the Juvenile Courts Service; the director of the Juvenile Courts Service should accelerate implementation of the Juvenile Courts Act, including advising the minister on gazetting institutions where children may be detained and appointing juvenile court officers.

Law reform

The government of Papua New Guinea should:

- Ratify the International Covenant on Civil and Political Rights; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the International Covenant on Economic, Social and Cultural Rights.
- Amend the HIV/AIDS Management and Prevention Act, part 1, section 3(3) to state that condoms may never be used as evidence of living on the earnings of prostitution (Summary Offenses Act, section 55).

- Amend the personal service requirement in the Claims By and Against the State Act so that service by mail is appropriate.
- Amend the Summary Offenses Act, in line with Criminal Code, to make explicit that children may not be prosecuted for prostitution.

Recommendations to Australia and Other International Donors

Given the critical role of international donors, particularly Australia, in funding the police sector in Papua New Guinea, a serious effort to eradicate police violence against children in Papua New Guinea will require a far more active role on the part of the international community. Although not unaware of the problem, donors have not made a concerted effort or devised a comprehensive strategy to assist in curbing police abuses against children. To supplement existing efforts, international donors, including the Australian government, should:

- Raise with the government of Papua New Guinea in all official meetings and at the highest level concerns over police violence, including torture, rape, and excessive force against children. Call on the Papua New Guinea government to ensure that police treatment of children conforms to international human rights standards.
- Substantially increase support for effective human rights monitoring in Papua New Guinea, whether through existing mechanisms such as the Ombudsman's Commission or through the creation of a Human Rights Commission. The government of Australia should continue and expand support for the police force's Internal Affairs Directorate, the human rights section of the Public Solicitor's Office, and the human rights desk of the Ombudsman's Commission. As an integral part of this strategy, provide assistance for the development of local human rights groups with the capacity for independent monitoring of police violence and agencies that can provide services for victims.
- Ensure that aid given:
 - prioritizes accountability for police violence against children;
 - supports juvenile justice reform.
- Assess the appropriateness and the effectiveness of past police human rights training, use this information to inform future training, and monitor whether this training changes performance.
- If redeployed, Australian Federal Police should report efforts to stop members of the Royal Papua New Guinea Constabulary from torturing, raping, and using excessive force against children, and detaining children with adults. Australian Federal Police should report such instances to both their Papua New Guinean and Australian superiors.

- International donors for programs related to HIV/AIDS should raise with the government, as well as with police officials in the provinces in which they work, police violence and its negative effects on combating the spread of HIV. Donors should ensure that monitoring of police harassment of sex workers and of men and boys engaged in homosexual conduct, and related human rights abuses, are an important and regular part of monitoring programs around HIV/AIDS in Papua New Guinea.
- When constructing facilities for police stations, prioritize creating separate areas for children. Officials should visit Australian-funded facilities to ensure that children are separated from adults, and condition any aid for the construction of future facilities on such separation being maintained in these and in existing facilities.

Recommendations to Regional Organizations

The Pacific Islands Forum at its annual Heads of Government meeting, senior government law officers at the annual Pacific Law Officers meeting, and members of the annual South Pacific Chiefs of Police Conference should:

- publicly condemn police violence;
- promise to adhere to basic international protections for children including separation from adult detainees;
- commit to ensuring that officers in their countries will be held accountable for violating these standards; and
- discuss HIV/AIDS and the role of law enforcement.

The Pacific Regional Policing Initiative (PRPI) should include information about HIV/AIDS in its training to improve basic police skills; senior government law officers at the annual Pacific Law Officers meeting and members of the annual South Pacific Chiefs of Police Conference should also request training on HIV/AIDS.

Appendix 1: The Raid on the Three-Mile Guesthouse, March 2004

On March 12, 2004, at around 2:30 or 3:00 in the afternoon, armed mobile squad officers burst into the Three-Mile Guesthouse in Port Moresby, where a live band was playing.⁴⁴⁶ Present were sex workers and their clients, band members, women selling betel nut, food, and drinks, and others listening to the band.

Nearly thirty witnesses testified that the officers rounded up all of the women; hit some of them with sticks, bottles, iron bars, gun butts and rubber hoses; poured cooked food, beer, and soft drinks on them; and spit red betel nut juice on them.⁴⁴⁷ One woman told Human Rights Watch that a policeman hit her with his gun butt on her vagina, “then put it in my bum.”⁴⁴⁸ Another officer, she said, “pissed into a half-full beer and made us drink a sip.” A sixteen-year-old girl told Human Rights Watch that as police officers rounded her up, one shouted: “We want the youngest ones to have sex in front of all of us. . . . Have sex right in front of our eyes. We want to see the real action.”⁴⁴⁹ One woman told a National AIDS Council official shortly after the raid that eight to ten officers forced her into another room at gunpoint, made her to take off her jeans and her underwear, ordered her to open her legs, and pushed a “freshner can” into her vagina.⁴⁵⁰ When she shouted, she later reported, the officers whipped her with a rubber hose. One policeman put an empty beer bottle into her vagina.⁴⁵¹ According to her statement, another policeman then “pointed a pistol on my head and asked me to suck his penis. He pulled his penis out and forced me by holding a pistol on my head.” They then ordered her to put on her trousers and join the others, she reported.⁴⁵²

⁴⁴⁶ An undated, handwritten statement of facts on stationary of the Royal Papua New Guinea Constabulary, a copy of which was obtained by Human Rights Watch, lists inspectors Bore and Florian, of a mobile squad, as witnesses to the raid. See also “Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents,” signed by Hersey, p. 1.

⁴⁴⁷ Human Rights Watch individual interviews with three of the women and girls present during the raid, Port Moresby, September 15, 2004; individual, signed “Statement of Facts” from twenty-six women and girls and one man, made between March 12 and March 20, 2004.

⁴⁴⁸ Human Rights Watch interview with women arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004.

⁴⁴⁹ Human Rights Watch interview with girl arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004.

⁴⁵⁰ “Statement of Facts” from twenty-three-year-old woman, recorded by Bomal Gonapa, Policy and Legal Advisor, National AIDS Council, March 18, 2004 (name withheld, on file with Human Rights Watch).

⁴⁵¹ Another women arrested in the raid told Human Rights Watch: “At the guesthouse, a policeman took an iced beer bottle and pushed it into one lady’s vagina. She told me that during the raid the policeman had sex with her and then put a beer bottle in her. She told me this while we were marching.” Human Rights Watch interview with eighteen-year-old woman, Port Moresby, September 15, 2004.

⁴⁵² “Statement of Facts” from twenty-three-year-old woman, recorded by Gonapa, National AIDS Council, March 18, 2004.

More than twenty girls and women each reported that police ordered them to chew, and in many cases, swallow, up to four condoms.⁴⁵³ “They forced me to open my mouth and checked to see if I had swallowed them,” one girl told Human Rights Watch.⁴⁵⁴ Many were also forced to blow up condoms like balloons and hold them as they were marched through the streets to the Boroko police station, where they were met by local newspaper and television reporters.⁴⁵⁵ Along the way, police and bystanders hit the marchers, threw objects at them, and shouted things such as, “Look! These are the real AIDS carriers.”⁴⁵⁶

At the station, police forced those arrested to sit in front of the station. According to an NGO representative present at the time, Superintendent Emmanuel Hela, the metropolitan commander, spoke to the group about HIV/AIDS, stating that his men performed the raid to prevent sex workers from contracting or spreading HIV.⁴⁵⁷ Police then charged around forty people, including nine girls, with “living on the earnings of prostitution” and locked them in cells.⁴⁵⁸ According to NGO staff present and the women and girls, the police provided no food or medical care, although some were bleeding and “one women’s hipbone had been chipped from being beaten by rifle butts.”⁴⁵⁹ A seventeen-year-old girl explained to Human Rights Watch how she felt at the time: “I was all wet and my clothes were smelly.” Everyone, she said, was covered with food, betel nut spit, beer, and soft drinks. “It smelled really bad and was uncomfortable.”⁴⁶⁰

That night, police officers took at least four girls out of their cell and pack raped them.⁴⁶¹

⁴⁵³ Human Rights Watch individual interviews with three of the women and girls arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004; individual “Statement of Facts” from twenty-one women and girls, made between March 12 and March 20, 2004.

⁴⁵⁴ Human Rights Watch interview with seventeen-year-old girl, Port Moresby, September 15, 2004.

⁴⁵⁵ See individual “Statement of Facts” from women and girls, made between March 12 and March 20, 2004; and “Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents,” signed by Hersey, p. 1.

⁴⁵⁶ Ibid.; and Human Rights Watch interview with eighteen-year-old woman arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004.

⁴⁵⁷ “Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents,” signed by Hersey, p. 2.

⁴⁵⁸ See *ibid*; and list of forty-one women and girls arrested in the raid on Royal Papua New Guinea Constabulary stationery, labeled “charged for living on the Earnings of Prostitution[sic] Sect – 55(1) SOA” (on file with Human Rights Watch).

⁴⁵⁹ “Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents,” signed by Hersey, p. 1.

⁴⁶⁰ Human Rights Watch interview with seventeen-year-old woman arrested during the Three-Mile Guesthouse raid, Port Moresby, September 15, 2004.

⁴⁶¹ One of the four girls whom the police took out told us:

After two nights in detention, the women and girls were released on their own recognizance, with staff of the National AIDS Council and others signing as guarantors.⁴⁶²

On March 16, the director of the National AIDS Council called a press conference at which speakers condemned the police's actions and stated that they were counterproductive to the fight against AIDS.⁴⁶³ On March 17, the National Capital District Provincial AIDS Committee held a meeting of government representatives and civil society organizations calling for a public inquiry and a protest march.⁴⁶⁴ In April, the charges against the women and girls were dropped. In August, protestors delivered a petition to the Prime Minister calling for, among other things, the police commissioner to take action against the police officers involved in the raid, for policemen to wear identification with their regiment number and names and to not be on duty while

The policemen came into the cell and said, "We're going to have sex with you." Some of the girls were scared and crying. I was one of the four but they dropped me off and took the other three. . . . They took them to the hill in town and raped them there and then brought them back to the cells. The police were in two vehicles with three girls and all of the police had their turn. After raping them, they dropped them back at the cell. After that, the three girls told us what the police did to them. One of the girls told me how the police treated her. There were two cars and the cars were full. It was dark. She said she didn't know how many men were having sex with her.

Human Rights Watch interview with sixteen-year-old girl, Port Moresby, September 15, 2004.

Another woman told us that she was in the cell with the girls when "one policeman came and got four out." When the police brought the girls back, she said, "I asked them what did they do. They said they all had sex with the four of them—'They lined us up to have sex.'" Human Rights Watch interview with woman arrested in the raid on the Three-Mile Guesthouse, Port Moresby, September 15, 2004.

See also "Statement of Facts" from twenty-one-year-old woman, recorded by Gonapa, National AIDS Council, March 18, 2004 (stating that on the night of March 12th, police locked her in a cell at Boroko police station with nine other women and girls, and then took six of them out of the cell) (name withheld, on file with Human Rights Watch); and "Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents," signed by Hersey, p. 2. According to Amnesty International, police raped at least five women and girls in the station's car park. "Papua New Guinea," *Amnesty International Report 2005*, available at <http://web.amnesty.org/report2005/png-summary-eng>.

⁴⁶² Thirty-eight documents entitled "Recognizance to Police for the Appearance of a Defendant," dated March 13, 2004, all alleging charges of "prostitution" or "living on the earnings of prostitution," requiring personal appearance at Boroko District Court on March 15, 2004, at 9:30 a.m., signed by police office N. Huhume (on file with Human Rights Watch). Although the documents were dated March 13, many or all of the women were not released until early morning of the following day. "Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents," signed by Hersey, p. 2; and individual "Statement of Facts" from women and girls, made between March 12 and March 20, 2004.

⁴⁶³ "Statement of Facts on Police Raid at 3-Mile Guesthouse 12 March 2004 and related incidents," signed by Hersey, p. 3.

⁴⁶⁴ Ibid.

intoxicated, for the victims desks at police stations be fully resourced, and for a human rights commission to be established.⁴⁶⁵

The Individual and Community Rights Advocacy Forum (ICRAF) served notice on the Solicitor General's office on August 6, 2004, of the intention to lodge a claim against the state for human rights abuses on behalf of women and girls arrested and detained during the raid.⁴⁶⁶ On September 1, 2004, the solicitor general replied to the organization with a letter stating that he accepted notice as sufficient but requesting "further particulars as to who and which policemen were supposedly involved" on the grounds that this was the intention of section 5 of the Claims By and Against the State Act.⁴⁶⁷

The Ombudsman's Commission also initiated an inquiry into the role of the police in the raid. The inquiry was still pending more than one year later.

⁴⁶⁵ "Petition," delivered by marchers to the Prime Minister, n.d. (on file with Human Rights Watch).

⁴⁶⁶ Letter from Freda Talao, Chairperson, ICRAF Board, and Lady Hilan Los, Executive Director, ICRAF, to the Solicitor General, August 6, 2004.

⁴⁶⁷ Human Rights Watch interview with Lady Hilan Los, ICRAF, Port Moresby, September 15, 2004; and letter from Francis G. Kuvi, acting solicitor general, Department of Justice and Attorney General, Office of the Solicitor General, to the Individual and Community Rights Advocacy Forum, September 1, 2004.

Appendix 2: Selected Findings and Recommendations of the Committee on the Rights of the Child

In 2004, the Committee on the Rights of the Child, which monitors compliance with the Convention on the Rights of the Child, expressed concern “at the use of violence against children by the police and by personnel in institutions” in Papua New Guinea.⁴⁶⁸ The Committee made the following recommendations to the government of Papua New Guinea:

- (a) Establish a mechanism to collect data on the perpetrators and victims of violence, disaggregated by gender and age, in order to properly assess the extent of the problem and design policies and programmes to address it;
- (b) Establish effective procedures and mechanisms to receive, monitor and investigate complaints, including the prosecution of perpetrators, and ensure that victims of abuse have access to assistance in recovery;
- (c) Ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (d) Seek technical assistance from, among others, OHCHR and UNICEF in this regard.⁴⁶⁹

The Committee acknowledged Papua New Guinea’s “efforts to improve the juvenile justice system,” but expressed concern “at the very low minimum age of criminal responsibility (7 years), that children in detention are not always separated from adults and at the lack of probation services, including re-education, vocational training and counseling for children in conflict with the law.”⁴⁷⁰ Accordingly, the Committee recommended that the government:

- (a) Raise the minimum age of criminal responsibility to an internationally acceptable level;
- (b) Ensure that children in detention are separated from adults;
- (c) Introduce training programmes on relevant international standards for all professionals involved with the system of juvenile justice;
- (d) Seek technical cooperation from, among others, OHCHR and UNICEF.⁴⁷¹

Human Rights Watch urges the government of Papua New Guinea to make additional efforts to implement the Committee on the Rights of the Child’s recommendations.

⁴⁶⁸ Committee on the Rights of the Child, *Concluding Observations: Papua New Guinea*, U.N. Doc. CRC/C/Add.229, January 30, 2004, para. 498.

⁴⁶⁹ Ibid., para. 499.

⁴⁷⁰ Ibid., para. 526.

⁴⁷¹ Ibid., para. 527.

Acknowledgements

Zama Coursen-Neff, senior researcher for the Children's Rights Division of Human Rights Watch, authored this report based on her research and that of Michael Bochenek, deputy director of the Children's Rights Division. Michael Bochenek contributed to and edited the report. Lois Whitman, executive director of the Children's Rights Division; Brad Adams, executive director of Human Rights Watch's Asia Division; and Joe Saunders, deputy program director, also edited the report. Joanne Mariner, deputy director of Human Rights Watch's America's Division, provided legal review. Rebecca Schleifer, researcher with Human Rights Watch's HIV/AIDS program; and Nisha Varia, researcher with Human Rights Watch's Women's Rights Division, also reviewed and commented on the report. Ranee Adipat, Mary Race, and Jo-Anne Prud'homme provided research assistance. Ranee Adipat, Fitzroy Hepkins, and Andrea Holley produced the report.

Human Rights Watch sincerely thanks all of the individuals, including the children, who agreed to be interviewed for this report. Their willingness to share information and their experiences with us, sometimes at personal risk, made this report possible.

We wish to express our deep appreciation to the many individuals and organizations who generously assisted us with our research. We are grateful to Anou Borrey; Dr. Sinclair Dinnen and others at the Australian National University; East New Britain Sosel Eksen Komiti (ENBSEK); East Sepik Council of Women; Naomi Yupae and staff of Eastern Highlands Family Voice, Inc.; Toni Fofoe; Sarah Garap; HELP Resources; Lady Hilan Los, Individual and Community Rights Advocacy Forum (ICRAF); the Institute for Medical Research; Milne Bay Counseling Service; Port Moresby City Mission; Powes Parkop; the Salvation Army; Save the Children in Papua New Guinea, including the Poro Sapot Project; Freda Talao; Ume Waitnett; Family and Sexual Violence Action Committee; and World Vision.

Human Rights Watch also thanks the Papua New Guinean government officials who agreed to be interviewed for this report, including officials of the Correctional Service, the Department of Education, the Department of Justice, the Department of Social Welfare, the National AIDS Council, the Ombudsman Commission, the Public Solicitor's office, and the Solicitor General's office; members of the Royal Papua New Guinea Constabulary, including Detective Sergeant Roland T. Funmat, Chief Superintendent John Maru, Assistant Commissioner John Wan, and constabulary members in Alotau, Kokopo, Goroka, and Wewak; members of the Juvenile Justice

Working Group; and officials of other governments, including of the Australian Department of Foreign Affairs and Trade; the Australian Agency for International Development (AusAID); the Australian Federal Police; ACIL; Robert W. Fitts, U.S. Ambassador to Papua New Guinea; and Robert W. Farrand, former U.S. Ambassador to Papua New Guinea.

Finally, we acknowledge with appreciation the support of the Countess Moira Charitable Foundation, the Independence Foundation, the Link Foundation, and the Oak Foundation.