



Still Making Their Own Rules

Ongoing Impunity for Police Beatings, Rape, and Torture in Papua New Guinea

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I. Summary

They are the ones looking after the law! Why do they do these things like criminals?

—Woman raped at gunpoint by police in Port Moresby,
September 3, 2005

I don't think police understand what the word "police" means. They should be helping people, protecting people. They should face the fact that their uniform and vehicle means that they should protect people's lives, not abuse them.

—Man, Port Moresby, September 3, 2005

Police in Papua New Guinea are continuing to meet the country's serious crime problem with routine wanton violence and abuse. Such tactics have proven ineffective as crime control, and have deeply eroded the public trust and cooperation crucial to policing.

In 2005, Human Rights Watch issued "Making Their Own Rules': Police Beatings, Rape, and Torture of Children in Papua New Guinea," a 124-page report documenting widespread police violence, including torture and rape, against persons in their custody. Children, we found, are frequent targets, as are sex workers and men and boys suspected of homosexual conduct. Children are detained as a matter of course in police lockup with adults (even when separate space is available), where they are at risk of rape and other forms of violence.

In August 2006, Human Rights Watch returned to Papua New Guinea to assess developments since our original research, particularly in juvenile justice, where recently there have been signs of advances. Our investigations revealed that police continue to routinely use excessive force, sexual violence, and torture against individuals in custody, including children. Most police who commit abuses face little or no penalty, either administratively or in a court of law. The government of Papua New Guinea must take immediate steps to address police abuse and the impunity

that supports it. Our findings should be taken as a call to action by the current administration, and by the government to be elected in 2007.

We found a few notable and encouraging exceptions to what is otherwise an essentially unreformed system. An intergovernmental juvenile justice working group continues to make progress in establishing a juvenile justice system. A few individual police officers have stepped forward to try to put this system in place. Several juvenile magistrates have promised to implement checks on abuses. Outside of the government, some nongovernmental organizations (NGOs) are attempting to address aspects of police violence, for example through educating police about the concerns of men and boys who engage in homosexual conduct. While these efforts have yet to produce demonstrable change in police treatment of children, they hold promise.

These limited gains are extremely fragile and hinge on a few committed individuals. But they also demonstrate that change in this system is possible. Human Rights Watch calls on the government of Papua New Guinea, with the help of its international supporters, to do all it can to entrench these developments.

Serious problems persist. First, officers and commanders continue to enjoy near-total impunity for violence. In 2005, Human Rights Watch identified this factor as key to enabling police violence. This remains the case. While it is not completely unknown for officers to be sanctioned, dismissed, or prosecuted, the frequency of these punishments is so low compared with the scale of violations as to render non-existent any deterrent effect.

Second, the abuses perpetuated by the police contribute to a quickly escalating HIV epidemic. Sexual violence, fear of police that impedes the reporting of sexual violence and other crimes, prison conditions which may facilitate risk behaviors rather than provide information and the means for HIV prevention, harassment and abuse of sex workers and of boys and men who are perceived to be homosexual, as well as the harassment of HIV outreach workers and others carrying condoms, represent serious obstacles to Papua New Guinea's goal of decreasing HIV incidence and stemming the worst AIDS epidemic in the South Pacific.

Extremely poor resourcing is often used to blunt criticisms of police ineffectiveness and violence. Yet this is no excuse for torture and rape. In 2006, police enjoyed much-needed new human and financial resources. Several hundred police officers were recruited, the first in some five years. New monies were allocated for police pensions, salary increases, housing, and other benefits. While far from sufficient to solve the needs of the force, the provision of new resources is all the more reason that police should be held accountable for human rights abuses.

Moreover, other excuses, for example that police need more training, are belied by the facts. Many of the police who have received training in good policing still abuse: as one man put it, “Police know about human rights but they still beat us up.”¹ To be effective, training must be accompanied by consequences for failing to follow it.

International donors and others have repeatedly told Human Rights Watch that police violence cannot be addressed because violence is culturally acceptable in Papua New Guinea’s and there is no public demand for change in the police force. Our research (and that of others) indicates that this is not true.

Many citizens do face high levels of violence, with some commentators noting that Papua New Guinea’s rapid modernization and urbanization has caused increased crime, child sexual abuse, and other forms of violence. This violence is possible in part because so few people of any sort are prosecuted for it, not because ordinary citizens believe this to be an unchallengeable reality. As we noted in our 2005 report, social factors also contribute to police violence, such as the practice of “paybacks” that makes police fear retaliation for reporting on a colleague, an emphasis on “bigmen” that encourages strongarm tactics, and the *wantok* system that demands loyalty to one’s clan or family group over all other obligations. Numerous Papua New Guineans describe police violence as so widespread and entrenched as to be “normal”—that is, what they expect from police.

However, the description of police violence as “normal” should not be understood to mean that Papua New Guineans find it acceptable, desirable, or inevitable, judging from what Papua New Guineans (including individuals in the government trying to

¹ Human Rights Watch interview, Lae, August 5, 2006.

change police practices) told Human Rights Watch. As one woman said, referring to the July 2006 rape of a six-year-old girl in a police station: “I hate the police on duty—that we go to them for help and they are turning around and doing that!”² Women marched publicly following the beating and gang rape of women during a police raid on a guesthouse in 2004. In 2005, the Catholic Bishops Conference issued strong statements on police violence against children, and the Youth Against Corruption Association held a members forum on police and children. Numerous letters to newspaper editors highlight the issue.

But people become discouraged when complaint mechanisms fail to work and when complaining brings them further trouble. A teacher with fresh bruises around her eyes from a recent mugging described the dilemma for ordinary people: She was scared of the boys on the street, she said, but the police beating them up was clearly not working. And she was too afraid of and disillusioned with the police to report the crime to them. Another solution, she told us, is needed.³

We recommend that the government of Papua New Guinea take the following immediate steps. First, the government should strengthen the internal affairs directorate of the police, penalize officers who do not cooperate with it, and investigate alleged abuses and delays in implementing dismissal orders. It should also improve the speed and efficiency with which cases of criminal action by police are sent to the public prosecutor. This problem will not diminish unless perpetrators are prosecuted.

Second, the government should make greater and more creative efforts to improve the capacity of the Ombudsman Commission to address police violence. The Police Commissioner should conclude the memorandum of understanding currently being negotiated with the commission giving the latter oversight over the most serious internal police disciplinary cases. The government should allocate additional resources for the commission to take on human rights cases. In the medium term, the government should consider the creation of a police ombudsman as recommended by the 2004 administrative review of police. A long-term measure

² Human Rights Watch interview with service provider for sexual violence victims, Lae, August 7, 2006.

³ Human Rights Watch interview, Port Moresby, August 15, 2006.

could be the establishment of a national human rights commission, which is currently stalled. Papua New Guinea should, in the meantime, make every effort to strengthen existing accountability mechanisms.

Third, the government should strengthen and expand the juvenile justice system throughout the country. The police should better cooperate with the juvenile policy monitoring unit, which in turn should rigorously monitor police treatment of children. The police should also establish and fully support additional juvenile reception centers throughout the country. They should give the final approval necessary to enable the already-trained juvenile court officers to start working, and these officers should become independent advocates for children who are in conflict with the law. The police should also hold shift officers-in-charge to their responsibility for ensuring that children are not physically abused, are separated from adults, and are provided medical care when needed. All magistrates and judges should monitor for police violence, and visit places where children are detained.

Fourth, the government should improve access for victims of police violence to medical, legal, counseling, and other support services.

Finally, international donors should identify ways to support the above recommendations. In particular, donors, some of whom already provide some support for civil society organizations, could better assist groups that are working to address police violence, to educate the public about police responsibilities, and to help victims obtain services and navigate the public complaint process. As is demonstrated by the work of Transparency International-PNG and other groups working on corruption in Papua New Guinea, nongovernmental entities play an important role in supporting and facilitating public outcry.

Police beatings, rape, and torture are not only human rights violations, they betray the public's trust and nullify the protection from violence in the community that citizens should expect from police. Two years after Human Rights Watch first documented these problems, ordinary Papua New Guineans are afraid to walk city

streets at night, and, as one woman church member put it, “The police are the last people we would go to if we have a problem!”⁴

Methods

Since 2004, Human Rights Watch has conducted investigations into police violence in six locations in Papua New Guinea, interviewed more than 275 people about police violence, and visited 14 places where children are detained (police stations, correctional institutions, and remand centers), as well as police stations that do not have lockup.

In our most recent visit, in August 2006, Human Rights Watch visited Port Moresby, the capital, and Lae, the country’s second largest city. (Previously we conducted investigations in Alotau, Goroka, Kokopo, Port Moresby, and Wewak.) We interviewed more than 90 persons, including children, 18- and 19-year-olds who described recent contact with the police when they were children, sex workers, street vendors, and boys and men who have male sexual partners (some of these boys and men identify themselves as gay, others do not). We also interviewed medical personnel and NGO staff working with children in conflict with the law, providing services to victims of police violence, and offering HIV/AIDS prevention and services. We spoke with officials at places where children are detained; juvenile magistrates; members of the government’s law and justice sector committee and Lae’s juvenile justice working group; staff of the Department of Justice and Attorney General, Correctional Services, and the Ombudsman Commission; the Minister of Justice; the public prosecutor; and representatives of international donors, including the Australian government. Within the police, we spoke with an assistant commissioner, several police station commanders, cell guards, officers responsible for the two newly operational juvenile reception centers, a police prosecutor, officers working in internal investigations units in Lae and Port Moresby,⁵ and other officers, as well as the Minister of Police. We visited Lae’s Town police station; Port Moresby’s Boroko, Nine-Mile, Town, and Waigani police stations; the juvenile wing of Buimo prison; and Erap Boys Town (a post-conviction juvenile detention facility). Where relevant, the

⁴ Human Rights Watch interview, Port Moresby, August 15, 2006.

⁵ Internal investigation units receive and investigate public complaints against the police. These units report to the internal affairs directorate at the headquarters level.

report also draws on interviews we conducted in September 2005, right after the release of “Making Their Own Rules,” with government officials including with the then-Commissioner of police and with victims of police violence.

Except where indicated in the notes, interviews with victims were conducted alone or with a translator. All children, survivors of police violence, and others who did not wish to be named were given an assurance of anonymity and confidentiality, and this report uses pseudonyms to protect them. Interviewees were provided no remuneration.

II. Background

The Situation as Reported in 2005

In 2005, Human Rights Watch found that brutal beatings, rape, and torture were widespread police practices in Papua New Guinea. Children reported being kicked and beaten with gun butts, crowbars, wooden batons, fists, rubber hoses, and chairs. Boys described being shot and knifed while in custody. Girls were subjected by police to sexual abuse, including rape—frequently pack rape (gang rape)—in police stations, vehicles, barracks, and other locations. 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, and sexual humiliation. Girls and women told us that they had been forced to chew and swallow condoms.

Although police violence was endemic and adults described similar experiences, we found that children’s particular vulnerability and the assumption that boys and young men are “raskols”—members of criminal gangs—made children especially easy targets. Police additionally targeted sex workers (many of whom begin working in their early teens), men and boys perceived to be homosexual, and street vendors.

At police stations, many children were detained for weeks or months in squalid conditions that violated basic international standards. Most children we spoke with said that police provided them with no medical care, even when seriously injured. In addition, children were routinely mixed with adults in police lockup.

Despite the seriousness of the problem, we found little or no willingness on the part of police to investigate, prosecute, or otherwise punish its members. Government mechanisms external to the police that might have held police accountable and provided victims with redress—the public solicitor’s office, the Ombudsman Commission, and civil claims against the state—were not effective in diminishing police violence.⁶

⁶ Human Rights Watch, *“Making Their Own Rules”: Police Beatings, Rape, and Torture of Children in Papua New Guinea*, vol. 17, no. 8(C), September 2005, <http://hrw.org/reports/2005/png0905/>. In 2006, several prominent local and international organizations published additional evidence of police violence against women and in rural areas. See Amnesty International, “Papua New Guinea: Violence Against Women: Not Inevitable, Never Acceptable!” AI Index: ASA 34/002/2006, September 4, 2006, <http://web.amnesty.org/library/Index/ENGASA340022006> (accessed October 9, 2006); and Australian Conservation

Papua New Guinea's Legal Obligations

Papua New Guinea's international legal obligations prohibit torture; cruel, inhuman, or degrading treatment or punishment; rape; and sexual assault. The Convention on the Rights of the Child, which Papua New Guinea ratified in 1993, states that "No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment."⁷ 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."⁸ The Constitution of Papua New Guinea similarly prohibits "torture (whether physical or mental), or . . . treatment or punishment that is cruel or otherwise inhuman, or is inconsistent with respect for the inherent dignity of the human person."⁹

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.¹⁰ 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.¹¹ The Convention on the

Foundation and Center for Environmental Law and Community Rights (CELCOR), "Bulldozing Progress: Human Rights Abuses and Corruption in Papua New Guinea's Large Scale Logging Industry," 2006 (charging that companies paid police who arbitrarily beat, detained, and intimidated landowners). See also Bob Burton, "Canadian Firm Admits to Killings at PNG Gold Mine," IPS, November 18, 2005.

⁷ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. Res. 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990), art. 37. Although Papua New Guinea is not a party to the Convention against Torture or the International Covenant on Civil and Political Rights, which prohibit torture and cruel, inhuman, or degrading treatment or punishment, the prohibition is widely considered a *jus cogens* norm, that is, a binding and peremptory normal of customary international law from which no derogation is permitted. See Human Rights Watch, *Making Their Own Rules*, pp. 49-54.

⁸ Convention on the Rights of the Child, art. 19.

⁹ Constitution of the Independent State of Papua New Guinea, art. 36.

¹⁰ Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force September 3, 1981. Papua New Guinea ratified the treaty on January 12, 1995.

¹¹ 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."

Rights of the Child also establishes girls' right to protection from discrimination based on sex and their right to equal protection before the law.¹²

International law requires that children be detained only as a measure of last resort, for the shortest appropriate period of time.¹³ The best interests of the child must be a primary consideration.¹⁴ When they are detained, children must be provided adequate medical care and be separated from adults, under both international standards and Papua New Guinea's laws.¹⁵

¹² Convention on the Rights of the Child, art. 2(1).

¹³ *Ibid.*, art. 37; 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; and Human Rights Watch, *Making Their Own Rules*, pp. 72-76.

¹⁴ Convention on the Rights of the Child, art. 3.

¹⁵ UN 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 UN Economic and Social Council by resolution 663 C (XXIV), July 31, 1957, and 2076, May 13, 1977, para. 8(d); Constitution of the Independent State of Papua New Guinea, art. 37; Juvenile Courts Act, secs. 19-21, 47, 51; Magisterial Service of Papua New Guinea, *Juvenile Court Protocol for Magistrates*, 2004.

III. A Continuing Practice of Police Violence

In 2006, Human Rights Watch again found a clear pattern of police violence, including sexual violence. Police also took victims' money or possessions.

Police continue to target female sex workers and men and boys perceived to be homosexual for violence and extortion (although one NGO reported some improvements on the part of individual officers in 2006). Police are able to do so in part because they can threaten arrest using laws criminalizing homosexual conduct and certain forms of sex work, and because social stigma against homosexuality and sex work shields police from public outrage.¹⁶ Men and boys with male sexual partners appear to be especially targeted when they appear effeminate or have reputations for homosexual conduct: while many do not identify as gay, their perceived sexual behavior makes them regular targets of police abuse.

Beatings, Shootings, and Excessive Force

Our research in Lae and Port Moresby in 2006 revealed continued police use of excessive force. In some cases our research revealed instances of torture. These acts take place during encounters in the community, in the course of arrest, during transport to the station, and during interrogation, for the purposes of on-the-spot punishment, to extract confessions, or for sheer abuse of power.

Children in Conflict with the Law

In 2006 Human Rights Watch interviewed 16 children and persons who were children at the time of the incidents recounted who said that police had recently beaten or otherwise physically abused them. Although we also interviewed several children who said they were not mistreated upon arrest, as in 2005, the pattern of testimonies by children and professionals working with them indicate that most children who are arrested face abuse at the hands of police. One of the most well-publicized recent cases in which police opened fire on unarmed schoolboys in Enga

¹⁶ See Summary Offences Act (1977), consolidated to No. 16 of 1993, secs. 55-57; Criminal Code (Sexual Offences and Crimes Against Children Act) (2002), secs. 229(K), (L), (Q), and sec. 110. Several men also described to Human Rights Watch being blackmailed either by or with the cooperation of police.

province in October 2005 is discussed in section VI, below. A person who works closely with detained children told us that, based on personal experience,

About half of the juveniles are abused by the cops. Mostly they are taken in for stealing and . . . they don't go easy on them. . . . I see bruises, black eyes, torn shorts. . . . It's normal—it's just part of what police do to people who are against the law. It's seen as normal now because it's been done over the years. They do it automatically. That's why people really freak out when they see the police pull up because they think: they will bash me up.¹⁷

The story of Lucas P., age 17, was typical (like all children in this report, his real name is not used). He told us that police task force officers caught him in Lae in September 2005 when he was about to steal something from a car.¹⁸ There were 12 officers, he said, and they dragged him to the task force vehicle:

They hit me with a belt and the butt of a gun. I was in the middle and the guys hit me from all sides. They asked me to name the other boys that I was working with, but I was working alone so I didn't name anyone. They kept beating me and demanding that I say their names. They said, "If you don't tell us, we will fuck you up the ass."

Then they took him to the main wharf at around 6 p.m. He said,

They made me jump in the ocean. The salt water was very painful because of the cuts from the beating. They just let me go afterwards and didn't charge me with anything. They even gave me my billum [string bag] back. They warned me that if they catch me again, they will cut off an arm or leg.¹⁹

¹⁷ Human Rights Watch interview, Lae, August 4, 2006.

¹⁸ Human Rights Watch interview, Lae, August 6, 2006. A task force is a special police unit formed by a police station commander.

¹⁹ Human Rights Watch interview, Lae, August 6, 2006.

Wilfred N. told us that six mobile squad members arrested him in mid-2005 in Lae, after a robbery.²⁰ “They beat me on the forehead with a gun butt [indicating his forehead just above his right eyebrow]—it cut through the skin.” The officers took him to Chinatown police station and then to Town police station, where the Criminal Investigations Division (CID) questioned him. He recounted, “During my questioning by the CID, I was hit because they wanted me to confess. But I didn’t do it so I refused to confess. I was hit with a metal bar from a homemade gun inside the Town station. I was hit on the head.”²¹

Albert L., age 15 or 16, said he was arrested in late December 2005 and taken to Lae Town police station and interrogated by the CID: “They were kicking me with their boots. They used the barrel of their gun. They said they would take me up to the river and kill me and throw me into the water. . . . They used an iron on my leg, the sharp edge. . . . They said, ‘Like in the movies we’ll hang you with a rope.’ . . . Because they were threatening me and beating me, I was afraid for my life, so I said I did it, because I was scared.”²²

Johnny I., who said he was 18 but who looked much younger, told us that when police officers caught him trying to steal a tire in March 2006, they beat him on the head with tree branches.²³ Then they forced him to stand with the wheel on his wounded head and tried to make him swallow a bolt from the wheel, which he was unable to do: “When they put the wheel on my head I thought my brain had died. I didn’t feel anything. The bolt on the wheel—they made me put it in my mouth and swallow. It was that big [indicates water bottle cap]. I couldn’t do it. They made fun of me and were laughing at me.”²⁴

Peter O. told us that task force police beat him and his friends with a fan belt and gun barrels on the beach in Lae in 2004 when he was 17 years old.²⁵ One gun went off, he said, and shot him in the leg (he showed us a large scar on his calf). Then the

²⁰ Human Rights Watch interview, Lae, August 8, 2006.

²¹ Ibid.

²² Human Rights Watch interview, Lae, August 8, 2006.

²³ Human Rights Watch interview, Lae, August 6, 2006.

²⁴ Ibid.

²⁵ Human Rights Watch interview, Lae, August 6, 2006.

police ran them off without arresting them: “They ordered us to run in the middle of the road and were chasing us in their vehicle and we were falling down and scratching ourselves. I was dragging my leg. The muscle was cramped and I couldn’t move it. Blood was running down my leg.”²⁶

Other boys in Lae and Port Moresby told us similar stories in 2006.

Sex Workers

Police often use beatings and other forms of violence and humiliation to administer on-the-spot punishment for sex work. This is particularly evident in Lae during police raids on the old airstrip near the center of town, where sex work occurs openly. Homeless individuals live in some parts of the area; in other parts, people go there during the day but sleep elsewhere. Women, girls, and men described being beaten and robbed in police raids. The account of 16-year-old Elizabeth H. of a raid in May 2006 is typical:

We were all fast asleep. They [police] came straight to me and hit me on the leg. I thought it was a client and I swore. They said, “You swore.” I opened my eyes and saw the task force. They started belting the shit out of me. Then they started beating everyone. I had bruises on my lower back and a swollen arm. They used this thing they carry around—a black belt [fan belt]. They next day they did the same thing—came and belted the boys. They fought back. The task force shot one boy in the leg and he went to the hospital. I saw them shoot him—he’s also from [village name omitted]. Now he is not walking properly.²⁷

Other women described police beating them with gun butts, forcing men and boys to do push-ups, and stealing their money.²⁸ “The police, when they go in, don’t have betel nut to chew, don’t have money, so they can belt us up and take money or our

²⁶ Ibid.

²⁷ Human Rights Watch interview, Lae, August 6, 2006.

²⁸ Human Rights Watch individual interviews, Lae, August 6, 2006.

things like a robbery,” a 22-year-old woman said.²⁹ Women and girls in Lae told us they were occasionally arrested, but arrest does not appear to be a main purpose of the raids.

Street Vendors

Police continue to use violence against and extort money from street vendors, who typically sell betel nut and cigarettes. Human Rights Watch spoke with several street vendors in Lae in 2006 who described such incidents. If and where street vending should be legal has been the topic of considerable public debate. While the government has a right to regulate street vending, persons violating city ordinances must be treated in accordance with the law. They should not be subjected to cruel, inhuman, or degrading treatment, arbitrary detention, and other human rights violations. As explained in Human Rights Watch’s earlier report, laws restricting street vending disproportionately affect women and girls, who already face discrimination in other areas of employment.³⁰

Sexual Violence

Human Rights Watch continued to collect evidence of police using sexual violence against females and males, including gang (pack) rape, in 2005 and 2006. Not surprisingly, cases often involved opportunistic abuses of power: women and girls are especially vulnerable when they are detained in police cells, or when they are engaged in sex work and can be threatened with arrest. But women and girls also told us that any contact at all with police put them at risk. “When I see any cop car, I walk off. I’m scared,” said a woman who told us she was raped by a policeman in a Port Moresby police station in August 2005. “I don’t trust any cop nowadays. I don’t accept anything from them because they are going to come for my body in the end.”³¹

NGO case workers and others again confirmed that police especially target young girls, including sex workers who may be as young as 12 or 13, for rape.³² An HIV/AIDS

²⁹ Human Rights Watch interview, Lae, August 6, 2006. Betel nut is mixed with lime and mustard stick and chewed to produce a mild stimulant effect.

³⁰ Human Rights Watch, *Making Their Own Rules*, p. 49.

³¹ Human Rights Watch interview, Port Moresby, September 3, 2005.

³² See Human Rights Watch, *Making Their Own Rules*, pp. 34-43.

educator told us that “[i]f the police see a young girl, they don’t want to use condoms with them because they are so young. If they are older, they suspect they have been working a long time, so they wear a condom.”³³

In 2005 and 2006, two allegations of police rape of very young girls drew widespread public outrage. In July 2005, Inspector Gideon Kaugi, a senior police prosecutor, was alleged to have raped the seven-year-old daughter of another officer on police premises in Port Moresby. The girl died of a brain tumor in February 2006, and the district court dismissed the case for lack of evidence in August.³⁴

On July 18, 2006, a reserve policeman sexually assaulted a six-year-old girl in Chinatown police station in Lae when her mother left her there while buying food at a nearby store.³⁵ The girl’s mother told journalists that she had originally gone to the station to make a domestic violence complaint but found the officer who attended her to be unhelpful.³⁶ According to professionals who treated the girl, medical evidence was consistent with penetration; the girl told her mother that the policeman called her into an office, took off her clothes, and molested her.³⁷ Following public protest, police arrested and charged the man.³⁸ When Human Rights Watch visited both Buimo prison and Town police station in Lae on August 8, 2006, officials at each place claimed that the man was not there but was detained in the other location.³⁹

Another incident in 2006 in Lae, involving a 16-year-old girl, is described below (see “Targeting Crime Victims”).

³³ Human Rights Watch interview, Lae, August 6, 2006.

³⁴ Lloyd Jones, “Police Officer Charged for Rape of Six-Year-Old Girl in PNG,” Australian Associated Press, July 21, 2006; “Mental testing for police urged,” *The National* (Papua New Guinea), August 4, 2006.

³⁵ Jones, “Police Officer Charged for Rape of Six-Year-Old Girl in PNG,” Australian Associated Press; “PNG Army Officer Charged with Rape of 5-Yr-Old Niece,” Australian Associated Press, February 21, 2006.

³⁶ “Cop Molests 6-Year-Old,” *Post-Courier* (Papua New Guinea), July 21, 2006.

³⁷ Human Rights Watch interviews, Lae, August 4 and 7, 2006. See also Jones, “Police Officer Charged for Rape of Six-Year-Old Girl in PNG,” Australian Associated Press (citing the girl’s mother and a medical report); “Cop Molests 6-Year-Old,” *Post-Courier*.

³⁸ Jones, “Police Officer Charged for Rape of Six-Year-Old Girl in PNG,” Australian Associated Press; and Human Rights Watch telephone interview with Police Station Commander Leo Lamei, Lae Town police station, August 8, 2006 (confirming arrest).

³⁹ Human Rights Watch interview with Buimo prison officials and guards at Town police station, Lae, August 8, 2006. The following day, the police station commander insisted that the man was not on bail, because of the seriousness of the charges, but did not know where he was held. Human Rights Watch telephone interview with Police Station Commander Leo Lamei, August 9, 2006.

Human Rights Watch also interviewed two women in Port Moresby who said that police raped them in 2005.⁴⁰ One woman described what happened one night around late July 2005:

He [the police officer] asked me for sex and I said, “No, I just want to go home.” He grabbed my collar and put a pistol to my head. He said, “If you don’t have sex with me, I will shoot you.” Then he bashed me up. He got a beer bottle, and he had a pistol in the other hand. He ordered me—we had sex—what could I do? . . . My lips were split. The side of my face and eye was swollen up. He put a pistol there as if I were a criminal! Just to have sex!

Professionals who work with female victims of sexual violence, speaking to us in August 2006, also confirmed having cases of women and girls who had been raped by police.⁴¹

Human Rights Watch interviewed in 2005 and 2006 three men who engage in homosexual activity who said police had forced them to have oral and anal sex with them and had also gang raped them.⁴²

Government services for victims of sexual violence, including health care, counseling, and other forms of support remain difficult or impossible to access or are of poor quality, especially outside of urban areas.⁴³

Sexual Abuse by Guards at Buimo Prison in January 2006

An especially egregious example of abuse of detained children occurred on January 15, 2006, when corrections officers at Buimo prison in Lae beat and sexually abused boys by forcing them to have anal sex with each other in the institution’s reception center. Although this case concerns abuse by correctional officers, not police, it is

⁴⁰ Human Rights Watch interviews, Port Moresby, September 3, 2005.

⁴¹ Human Rights Watch interview with medical professional, Lae, August 7, 2006 (describing the case of a girl raped in a police station in 2004); Human Rights Watch group interview with NGO caseworkers, Port Moresby, August 1, 2006 (stating that their clients continue to face “line-ups—pack rape” by police).

⁴² Human Rights Watch individual interviews, Port Moresby, September 3, 2005, and Lae, August 5, 2006.

⁴³ See Amnesty International, “Papua New Guinea: Violence Against Women: Not Inevitable, Never Acceptable!” sec. 5.7.

highlighted because it illustrates both how widespread the problem of violence against children in custody is and the failure to punish officials responsible. It is reminiscent of cases involving police mentioned in Human Rights Watch's 2005 report.⁴⁴



Reception center at Buimo prison where corrections officers beat boys and sexually abused them by forcing them to have anal sex with each other in January 2006.
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Human Rights Watch spoke with correctional officials working at Buimo prison at the time, an eyewitness, and the Deputy Commissioner of Correctional services about the case.⁴⁵ We heard different explanations for the officers' motives: that younger boys had complained about rape by older boys and officers were allowing the younger boys to "pay back" their rapists, or that the officers caught boys having sex

⁴⁴ Human Rights Watch, *Making Their Own Rules*, p. 45.

⁴⁵ See also Abby Yadi, "Sodomy Shock," *Post-Courier*, January 20, 2006; "Buimo Suspension Report Denied," *Post-Courier*, April 10, 2006.

in the dormitory and were punishing them.⁴⁶ Regardless, all agree that the officers beat and forced the boys to have anal sex.⁴⁷

The day after the incident, detainees at Buimo prison went on hunger strike in protest; they also communicated with the press and the local police. Acting Commander Judy Tara, who had recently undergone juvenile justice training, told journalists a few days later that she “met with the prisoners,” that “things have returned to normal,” and that an internal investigation was ongoing.⁴⁸ Nevertheless, almost eight months later, the officers continued to work at the prison, according to correctional officials, who said that the officers had been disciplined in some (unspecified) fashion, a claim that press reports challenge.⁴⁹

Targeting Crime Victims

Now when I see one of them [a police officer], instead of going for help, I run and hide. I don't want to be caught another time with them.

—Twenty-year-old gay man gang raped by police when he was 12 or 13 years old, Port Moresby, September 3, 2005

Poor police response to gender-based violence, including domestic violence, is well documented.⁵⁰ Compounding the harm, fear of sexual violence by the police themselves deters victims of all types of crime from going to the police for help. While many people we spoke with told us police refused to help them or asked for

⁴⁶ Human Rights Watch interviews with Buimo prison official, Lae, August 7, 2006; Deputy Commissioner Gira Moihau, Correctional Services, Port Moresby, August 14, 2006; and eyewitness, Lae, August 2006.

⁴⁷ Ibid.

⁴⁸ Yadi, “Sodomy Shock,” *Post-Courier*.

⁴⁹ Human Rights Watch interviews with Deputy Commissioner Moihau, August 14, 2006, and September 2006 (via telephone). According to a journalist who investigated the incident, the acting commander told him that four officers were responsible, and one was charged and dismissed. However, others told him the officer was dismissed for reasons unrelated to the incident. Human Rights Watch interview with Abbie Yadi, journalist for the *Post-Courier*, Lae, August 8, 2006; and “Buimo Suspension Report Denied,” *Post-Courier*.

⁵⁰ See Amnesty International, “Papua New Guinea: Violence Against Women: Not Inevitable, Never Acceptable!”; and Human Rights Watch, *Making Their Own Rules*, p. 19. Medical professionals who provide care to survivors of domestic violence again told us they have cases of women who do not receive help from police. Human Rights Watch interviews, Lae, August 4 and 7, 2006. Then-Minister of Police Bire Kimisopa (now minister of justice and attorney general) publicly acknowledged this problem in December 2005 and stated that more women were needed in the police force. See “Kimisopa: Cops Losing Respect,” *Post-Courier*, December 5, 2005.

sex or money,⁵¹ sex workers and men and boys who are perceived to be homosexual in particular reported that they cannot turn to police for protection from other forms of violence.

In 2006, women, girls, and boys described instances in which police asked them for sex when they went to report a crime. For example, Elizabeth H., age 16, said that two police officers had recently demanded sex from her when she went to the station to make a complaint: “I felt scared. . . They used a condom and had sex with me. They took turns.”⁵²

Monica K., age 19, described what happened around June 2006, when she went to complain at Lae’s Town police station about being robbed on the street. “One policeman took me into his office. He asked me for sex. I opened the door and said I didn’t want to. So he shouted at me, ‘If I see you on the street I will really belt you.’ He wanted to have sex in his office.”⁵³

A 16-year-old boy who now describes himself as gay told us,

When I was about 12, I went to the police when my dad was bashing me. They said, “Suck our dicks and we’ll help you.” They said, “Your mom and your dad are your first teachers. You have to go back and let them bash you and learn from it. If you want us to come, we’ll fuck you first.”⁵⁴

Many people are afraid to approach the police for any reason at all. A police officer at the juvenile reception center in Lae told us, “Some parents are afraid to come to the police station and find out why their child is locked up.”⁵⁵ The wife of a police officer told us that her husband, who was fed up with how police treated women, “says to

⁵¹ The experience of one 22-year-old woman was typical: On May 17, 2006, she said, she tried to report having her bag snatched to Lae Town police station. But, she told us, “the police didn’t do anything to help me. They said, ‘Do you have any money? If you pay us, we’ll help you. If not, we won’t.’ This is what police do all the time. I said, ‘I don’t have any money.’” Human Rights Watch interview, Lae, August 4, 2006.

⁵² Human Rights Watch interview, Lae, August 6, 2006.

⁵³ Human Rights Watch interview with 19-year-old woman, Lae, August 6, 2006.

⁵⁴ Human Rights Watch interview, Lae, August 5, 2006.

⁵⁵ Human Rights Watch interview, Lae, August 4, 2006.

keep away from police.”⁵⁶ A woman who was asked for sex by police told us: “We are scared to talk to the police because when we go to them to ask for help, they ask for sex. Especially [of] the young girls. So we don’t feel safe going to the police station for help.”⁵⁷

⁵⁶ Human Rights Watch group interview, Port Moresby, August 15, 2006.

⁵⁷ Human Rights Watch interview, Port Moresby, September 3, 2005.

IV. Illegal Conditions of Detention

Children continue to be detained with adults in poor conditions and denied medical care in police lockup. Conditions in Lae's Town police station and Port Moresby's Boroko station were similar to those we have seen elsewhere in the country, and, although each had enough cells to keep children separate, this was not being done when we visited.⁵⁸

Johnny I.'s description of Lae's Town police station, where he was detained in March 2006, was typical:

I was there for five days breathing the fumes from the toilet. During that time I was very sick. . . . In the cell there was tap water but no blanket or mosquito net. There were other people—some big men, some old men, some young men, some [ages] 10, 12.⁵⁹

In prison and other juvenile institutions, children awaiting trial are mixed with those already convicted. Poor conditions are especially harsh in light of the fact that children are not exempt from the phenomenon that detainees may face months and even years awaiting trial.

Detention of Children with Adults

Detaining children with adults in police lockup places them at risk of rape, other forms of violence, and criminal socialization. Although Human Rights Watch did find a few instances in which children were separated from adults in both Lae and Port Moresby, that remains the exception, not the rule.

⁵⁸ The juvenile reception centers in these stations (discussed below) are not being used to actually house children. In Port Moresby we also visited three other stations: Town police station, which has no lockup and transfers detainees elsewhere; Nine-Mile police station, where we did not visit the lockup; and Waigani police station, which had no children detained at all at the time we visited. For information about conditions in police lockup elsewhere in the country, see Human Rights Watch, *Making Their Own Rules*, pp. 60-64.

⁵⁹ Human Rights Watch interview, Lae, August 6, 2006. The interviewee said he was 18 years old but he looked much younger.

In August 2006, when Human Rights Watch visited Lae’s Town police station and Port Moresby’s Boroko police station, we found boys in the same cells as adult men in both; even the advance notice we gave of our visit had not motivated station officers to remedy this. (Boroko police station houses the Port Moresby juvenile reception centre, with two cells intended to remove children entirely from the adult lockup area, but these were not in use when we visited—see also below, section VI.) In Lae’s Town police station, children and adults appeared to be completely mixed in five unlocked cells that were open to a secure corridor and shower area.⁶⁰ After we arrived, we were asked to wait while water was swept out of the area and detainees were ordered into the cells, which remained unlocked. In the cell designated for juveniles, we found 12 detainees, ranging from boys as young as 13 years old to adult men in their twenties.

In Boroko police station, we found one boy in a cell full of adult men who said he was 14 or 15 years old.⁶¹ We also found one 16-year-old boy alone in a separate cell and another 16-year-old boy in the locked corridor with women detainees. When we asked the guard in charge of the cells why the latter two boys were not with the others, he told us that the boy in the cell by himself was there because he was under arrest for “a very serious criminal case The others are for minor offenses.” The boy in the corridor was there because he was sick, the guard said, but also because he was very small. However, when asked whether children were usually separated from adults, he told us they were not. “We put everybody inside,” he explained. “This is what we normally do.”⁶²

The testimony of children was consistent with the practice we saw in the stations. For example, Nathan B., age 16, said he was detained in Boroko police station with 17 others, “some adults and some juveniles, even some middle-aged men,” on August

⁶⁰ One cell in Lae was vacant: police told us that it was the women’s cell but had not been used at least since the beginning of 2006 because the toilet was broken. When we visited, women were detained in a small locked corridor directly in front of the men’s detention area, separated from the men by a locked door.

⁶¹ The boy’s physical appearance was consistent with his claimed age. When we raised this issue with staff of the juvenile reception center (Juvenile Policy Monitoring Unit), they intervened with the cell guard and had the boy moved to another cell.

⁶² Human Rights Watch interview with guard, Boroko police station, Port Moresby, August 10, 2006.

13, 2006.⁶³ Three boys in their mid-teens told us they were detained in the same cell as adults in Lae’s Town police station in early 2006.⁶⁴

The mixing of boys with adult men in detention places them at risk of sexual assault and other forms of violence by older detainees. This is shown by cases documented in our 2005 report,⁶⁵ and by cases such as that of Gari M., age 16, who described being detained for one month in Boroko police station with adults when he was 13 years old:

Some of the boys were bashed up, especially the little ones who were there for pickpocketing. They would get belted up and raped anally. There were two little boys who came into my cell—they were sexually abused.⁶⁶

Because his arm was severely injured by police who beat him with an iron rod, he said, he was unable to intervene:

I was in pain—I couldn’t do anything. But I was watching. It was the bigger boys—I didn’t go against them because they would have bashed me up. They were maybe 24, maybe 30 years old. The little boys were 12 or 13. I knew other big boys there and they protected me.

Human Rights Watch also heard reports of boys raping other boys in Bomana prison,⁶⁷ indicating a larger failure to protect children from sexual violence in detention.

It is often claimed that children are not separated from adults because of a lack of infrastructure. However, in only one of the six places that Human Rights Watch has investigated since 2004—Wewak—was there only one cell (even in Wewak other

⁶³ Human Rights Watch interview, Port Moresby, August 15, 2006.

⁶⁴ Human Rights Watch interviews, Lae, August 8, 2006.

⁶⁵ See Human Rights Watch, *Making Their Own Rules*, pp. 64-65.

⁶⁶ Human Rights Watch interview, Lae, August 5, 2006.

⁶⁷ Human Rights Watch interview with 16-year-old boy, Lae, August 5, 2006.

cells existed, but had broken toilets so the cells were out of use).⁶⁸ In addition, in Morobe province at least three stations outside of the provincial capital, including Wau and Bulolo, have separate areas that could be used for children, the provincial police commander told us.⁶⁹ Indeed, then-Police Commissioner Sam Inguba, in response to Human Rights Watch's 2005 report, told journalists that police have "categorized cell blocks for juveniles, female adult offenders and hardcore criminals in major police stations around the country."⁷⁰ In areas that truly lack separate areas for children, diversion, rather than detention, may be the appropriate alternative (see also below, section VI).⁷¹

Nor can it be claimed that police do not know that children and adults must be separated. With the exception of the guard at Boroko police station, police station commanders and individual officers we spoke with consistently told us they knew the rule.⁷² According to the officer who was in charge of the juvenile reception center in Lae Town police station, "We have strict instructions about the processing of juveniles. We are not supposed to put juveniles into [adult] cells."⁷³ Where guards truly do not know the rule, the shift officer-in-charge, who is responsible for all juvenile matters, should inform them and ensure that separation occurs.⁷⁴

Although confusion about the proper handling of youths close to age 18 might be expected because many boys do not know their exact ages, we found men who were and looked much older than 18 mixed with boys much younger, indicating that confusion about age is not the primary problem.

⁶⁸ See Human Rights Watch, *Making Their Own Rules*, p. 64.

⁶⁹ Human Rights Watch interview with Provincial Police Commander Noah, Lae, August 7, 2006. Commander Noah told us that he had seen facilities that could be used to separate children at three stations; he had not seen other stations and did not know whether they had sufficient facilities.

⁷⁰ "Juvenile Abuse Refuted," *Post-Courier*, September 14, 2005.

⁷¹ A new police booklet outlines for police policies on diverting children from formal criminal charges. Royal Papua New Guinea Constabulary, "Police Juvenile Justice Policy and Protocols," February 2006, pp. 33-40.

⁷² See, for example, Human Rights Watch interviews with Police Station Commander Leo Lamei, police prosecutor, and police officer, Town police station, Lae, August 8, 2006; and with the police station commander and police officers, Waigani police station, Port Moresby, August 2, 2006.

⁷³ Human Rights Watch interview with head of juvenile reception center, Lae, August 4, 2006.

⁷⁴ Royal Papua New Guinea Constabulary, "Police Juvenile Justice Policy and Protocols," pp. 10, 17.

Failure to Provide Children with Medical Care

In 2004, we found that police provided most detainees with no medical care, even when they were seriously injured, and irrespective of whether illness or injury derived from abuse police had themselves inflicted.⁷⁵ In some instances police intentionally withheld or delayed medical care as additional punishment. In other cases police delayed bringing children to court to let swelling go down to cover up what police had done to them. In 2006, we spoke with several boys who said they had not been provided with needed medical care in police lockup in Lae.⁷⁶ As mentioned above, at Boroko police station we found one boy lying on a bench with women detainees, covered with a shirt, almost unable to speak. The women told us that he had been there for three days—they were concerned that he had malaria. The guard there said that there had not been transport to take the boy to the hospital.⁷⁷ This was simply not true: several vehicles were available when we visited, including the juvenile policy monitoring unit's truck, which is only supposed to be used for the unit's work with children.

In some cases, boys said they first got basic medical care when transferred to prison. The Deputy Commissioner of Correctional Services told us that they now look for and record injuries that detainees arrive with from police custody, to avoid being blamed for them.⁷⁸

⁷⁵ See Human Rights Watch, *Making Their Own Rules*, pp. 67-72.

⁷⁶ Human Rights Watch interviews, Lae, August 5 and 6, 2006.

⁷⁷ Human Rights Watch interview with guard, Boroko police station, Port Moresby, August 10, 2006.

⁷⁸ Human Rights Watch interview with Deputy Commissioner Gira Moihau, August 14, 2006.

V. Consequences of Police Abuse for the HIV/AIDS Epidemic

It's a normal thing to us, police beating us up, telling us to chew condoms. It's day to day. They come again, belt us.

—Female sex worker, Lae, August 6, 2006

Despite its being a young epidemic, Papua New Guinea has 90 percent of all HIV infections reported in the Oceania region to date outside of Australia and New Zealand.⁷⁹ As many as 140,000 people—including 4.4 percent of adults ages 15-49—were living with HIV/AIDS in Papua New Guinea in 2005.⁸⁰ The epidemic is considered generalized in the population, and prevalence rates are as high as 30 percent in some areas, according to the government.⁸¹ Access to antiretroviral therapy is limited,⁸² and few have the information or tools to protect themselves from infection. Violence and discrimination against women and girls likely fuels the growing epidemic; for example domestic violence makes it difficult for women and girls to negotiate safe sexual practices or to seek treatment.⁸³ People living with HIV/AIDS may face violence and discrimination in their communities.

The types of abuses we report above—sexual violence, fear of police that impedes the reporting of sexual violence and other crime, and prison conditions that may facilitate risk behaviors rather than provide information and the means for HIV prevention—are not only problems in themselves; they also undermine HIV/AIDS prevention work and contribute to the spread of HIV in Papua New Guinea.⁸⁴ Sexual abuse increases the risk of HIV transmission. Violence and stigmatization of sex workers and men and boys who engage in homosexual conduct drives these persons

⁷⁹ UNAIDS, “2006 Report on the Global AIDS Epidemic,” May 2006, p. 10.

⁸⁰ *Ibid.*, p. 427.

⁸¹ See Ray Lilley, “Health Minister: Up to 30 Percent Have HIV Infection in Remote Papua New Guinea,” Associated Press, September 18, 2006 (quoting Minister of Health Sir Peter Barter).

⁸² Minister of Health Sir Peter Barter told journalists in August 2006 that only 800 persons were receiving antiretroviral therapy although additional drugs were being stored in government warehouses and not dispensed to hospitals—see “AIDS Patients Denied Vital Drugs,” Pacnews, August 15, 2006; and “‘Nearly 99.9 percent’ of Papua New Guinea HIV Patients Denied Therapy,” *The National*, August 15, 2006.

⁸³ See, for example, Human Rights Watch, *Policy Paralysis: A Call for Action on HIV/AIDS-Related Human Rights Abuses Against Women and Girls in Africa*, December 2004, December 2003, <http://www.hrw.org/reports/2003/africa1203/africa1203.pdf>; and Human Rights Watch, *A Dose of Reality: Women's Rights in the Fight against HIV/AIDS*, http://hrw.org/english/docs/2005/03/21/africa10357_txt.htm.

⁸⁴ See Human Rights Watch, *Making Their Own Rules*, pp. 76-81.

underground and away from information on HIV prevention and health services. Police harassment for carrying condoms, described below, may also deter their use.

Harassment for Possessing Condoms

Police in several areas have received training on HIV/AIDS, and some police stations in Lae and Port Moresby have condoms available in conjunction with an NGO HIV/AIDS awareness project.

However, women and men still described being harassed by police in 2005 and 2006 for carrying condoms. Several persons reported being forced to chew, swallow, or inflate condoms. These actions by police and their reported accompanying comments suggest that they see condoms as implicated in the transmission of HIV, rather than as tools for its prevention, and an indication of promiscuity.

A man who distributes condoms as part of an NGO HIV/AIDS outreach program described an encounter with police in Horsecamp settlement in Port Moresby in April 2005. The police stopped him at around 9:30 in the morning, he said, searched his bag, and found condoms inside.⁸⁵ He explained that he was working with the NGO, but they slapped him in the face and forced him to eat three of the condoms and the plastic wrappers. “I did it because I was so scared,” he told us.

One of them told me, “I’ll take my dick out and you put that condom on it.” I had tears running down my face. They said, “We caught you red-handed so that’s why you are crying.” . . .

They told me to run off and they shot overhead. I almost fell in a drain.

I had an upset stomach for three days. I didn’t shit for three days. My mother said to swallow soap and that worked. . . .

They should understand that condoms are there for our protection!⁸⁶

⁸⁵ Human Rights Watch interview, Port Moresby, September 3, 2005.

⁸⁶ Ibid.

Another man described a raid on the old Lae airstrip in May 2006, carried out by mobile squad officers in dark blue uniforms:

They checked our billums [string bags] and bags and saw condoms and said, “What do you do with this?” They came out and started to belt us up. I tried to explain but they said, “You are encouraging people to have sex. This condom is unsafe.”⁸⁷

Four other men and women in Lae also described police harassing them for carrying condoms, including forcing them to chew, swallow, or inflate condoms.⁸⁸ “I’ve seen it with my own eyes— police guys making women blow [up] condoms,” one woman said. “I had to [do it]. This was around Christmas last year [2005].”⁸⁹

Staff of one NGO report that in Lae some police officers have improved their behavior, following condom distribution and education.⁹⁰ One peer educator described the following encounter in February 2006 to illustrate this:

I was heading home after collecting condoms from the office. I was searched by police because they were doing a general search for guns. One officer checked my bag. He found the condoms and the wooden penis for demonstrations, and accused me of spreading HIV. He slapped me on the side of the face, but the other officer who was there argued with him and said to stop, that she is doing good work. The first officer apologized and so in the end it was OK.⁹¹

In contrast, another HIV/AIDS educator described trying to help a sex worker file a complaint with police in November 2005. The woman had been beaten up by a client when she refused to have sex without a condom. The HIV/AIDS educator went with her to Lae’s Town police station. “The police made a joke, laughing, saying, ‘You should have let him have sex with you because he is paying you a lot of money,’”

⁸⁷ Human Rights Watch group interview, Lae, August 5, 2006.

⁸⁸ Human Rights Watch individual interviews, Lae, August 5 and 6, 2006.

⁸⁹ Human Rights Watch interview, Lae, August 6, 2006.

⁹⁰ Human Rights Watch interview, Lae, August 5, 2006.

⁹¹ Human Rights Watch interview, August 6, 2006.

she said. “I scolded them and told them to stop, but they didn’t do any follow up on the beating. They said, ‘You are promoting condoms and it brings HIV.’”⁹²

The testimony of another Lae woman who said she was forced to chew condoms in 2003 illustrates the long-term effects of harassment, even if individual officers change their behavior. “When we see the police, we throw the condoms away because we know that they will make us chew them because it happened before,” she said. In July 2006, she told us, police arrested her in a raid on the old airstrip, but an officer at the station intervened and had her and the other women arrested with her released. The officer also advised them not to throw their condoms away “because it’s your right. When the police do that, you tell me.”⁹³

Prison staff members in Papua New Guinea do not distribute condoms, even though sex and sexual violence are common in prisons.

⁹² Human Rights Watch interview, Lae, August 6, 2006.

⁹³ Human Rights Watch interview, Lae, August 6, 2006.

VI. Ongoing Impunity for Police Violence

Accountability for police violence is critical to providing victims with justice and to preventing future abuse, by removing offending officers from the force and by deterring others.⁹⁴ The occasional dismissal and prosecution does occur in Papua New Guinea. However, when compared with the scope of the problem, it is very rare for police who use excessive force, torture, and rape to face punishment either through internal police disciplinary procedures or in a court of law. As Human Rights Watch found in 2005, the extensive human rights training that police have received is rendered in large part ineffective by the failure to require them to follow it.⁹⁵ In this climate, good police officers are left demoralized, marginalized, and at risk of retaliation for trying to hold other officers accountable.

A useful guide for reform remains the as yet-unimplemented recommendations of the 2004 administrative review of police regarding accountability, discussed in our 2005 report.⁹⁶ These include enforcement of existing disciplinary codes; reform of mobile squads, task forces, reserve and auxiliary police; and improving police response to domestic violence and sex abuse cases.

While the police force itself should be the first place abusive police officers face sanction, other bodies in the justice system and the wider government have responsibility as well. These include the judiciary and magisterial service, the Ombudsman Commission, Parliament, and the Prime Minister.

Response of High-Level Government Officials to Evidence of Police Abuse

Following the release of Human Rights Watch's 2005 report, some government officials spoke publicly about police violence. Then-Minister of Police Bire Kimisopa

⁹⁴ Lack of accountability is not the sole cause of police violence but it is an important one. For further discussion of other contributing factors, see Human Rights Watch, *Making Their Own Rules*, pp. 82-97.

⁹⁵ For a detailed discussion of why training has not improved how police response to gender-based violence, and for recommendations for making training more effective, see Amnesty International, "Papua New Guinea: Violence Against Women: Not Inevitable, Never Acceptable!" sec. 5.3.5.

⁹⁶ *Ibid.*, pp. 96-97.

(now Minister of Justice), who had already commissioned the 2004 administrative review of police highlighting problems with the force, said, “I’m aware of instances of female offenders in custody being raped. That’s something, you know, we’re not proud of. That’s something we need to eradicate within the PNG force now.”⁹⁷ The Minister continued to speak out following police shootings of unarmed schoolboys in late 2005 (see below). He also ordered an investigation into the incident that resulted in the arrest of two officers (the arrest was effected only following armed resistance from local police, which highlights the capital’s broader struggle to exercise command and control in the provinces).

But public denial by other senior officials mitigated this progress. In September 2005, then-Commissioner of Police Sam Inguba denied that children were detained with adults in police lockup, and stated that abusive officers were prosecuted.⁹⁸ “Understandably, this is because they are only human. Human beings get frustrated especially when they are constantly exposed to hostilities in their line of duties,” he said.⁹⁹ In 2006, Human Rights Watch heard from the current Minister of Police Alphonse Willie and other police officials this same excuse: that police beat detainees because they were frustrated or angry.¹⁰⁰

Prime Minister Sir Michael Somare, when asked about police violence against children around the same time, said that although there were some instances, he had seen the same things and worse in Australia.¹⁰¹

Compounding the problem, turmoil in police leadership in 2006 cast doubt on government commitment to implement real reform in advance of the parliamentary elections due in 2007. In April, Prime Minister Somare replaced Kimisopa with Alphonse Willie as Police Minister (various other ministers were also removed). In

⁹⁷ Steve Marshall, “Children in PNG Brutalized by Police,” ABC Radio Australia, September 1, 2005, <http://www.abc.net.au/am/content/2005/s1450950.htm> (accessed October 10, 2006).

⁹⁸ “Juvenile Abuse Refuted,” *Post-Courier*, September 14, 2005. Then-Commissioner Inguba also stated, “I do not condone police brutality and must stress that police men and women are not above the law and can be dealt with either administratively or under the laws of the country.” Ibid. Commissioner Inguba told Human Rights Watch that he could guarantee us that offending officers were being dealt with through criminal actions and internal affairs. Human Rights Watch interview with Police Commissioner Sam Inguba, Port Moresby, September 5, 2005.

⁹⁹ “100 Cops Dismissed for Brutality,” *Post-Courier*, September 14, 2005.

¹⁰⁰ Human Rights Watch interviews with Minister of Police Alphonse Willie, Port Moresby, August 9, 2006; and Sergeant Baka, Town police station, Port Moresby, August 2, 2006.

¹⁰¹ Cynthia Banham, “Somare Attacks the System That Spends PNG Aid,” *Sydney Morning Herald* (Australia), October 19, 2005.

September, the Commissioner of Police was arrested and charged with abuse of office and perverting the course of justice over a fraud investigation; the charges were later dropped. Other high-level police officials were charged soon after, and a senior officer was serving as acting commissioner at the time of writing.

The new Police Minister, Alphonse Willie, seemed unfamiliar with even the well-publicized cases of police abuse as of August, and told Human Rights Watch that human rights problems were “not too big in scope.”¹⁰² When asked about implementation of the 2004 administrative review, the Minister told us that the priorities were police salaries, housing, maintenance, barracks, and new uniforms (without the recommended name tags). Money was, in fact, allocated for these purposes in a supplementary budget in mid-August 2006. After pay and housing, the Minister said, the next priority was police vehicles. Nowhere on his agenda were the administrative review’s recommendations regarding police discipline and efficiency.¹⁰³ Assistant Police Commissioner Jim Andrews told Human Rights Watch, however, that they did plan to disband reserve and auxiliary police and rehire them on two-year contracts.¹⁰⁴

Thus, at present, implementation of the administrative review appears stalled at the point of improving police resources—an important step but one that means little if not accompanied by measures to improve performance and discipline.

Police Failure to Discipline and Prosecute

In 2005, Human Rights Watch found that police are almost never punished for excessive force, rape, and torture. Even when public outcry spurs an arrest or charges, cases may never be referred to the public prosecutor; if they are, they may face dismissal in court as the result of poor police investigation. In 2006, little appears to have changed.

¹⁰² Human Rights Watch interview with Minister of Police Alphonse Willie, Port Moresby, August 9, 2006.

¹⁰³ Ibid.

¹⁰⁴ Human Rights Watch interview with Assistant Commissioner Jim Andrews, Royal Papua New Guinea Constabulary, Port Moresby, August 15, 2006.

Several high-profile cases illustrate how unlikely it is that police who commit even flagrant abuses will face justice either through internal police disciplinary procedures or in a court of law.

Police Shootings of Schoolboys in Enga Province

On October 31, 2005, in Porgera valley in Enga province, police opened fire on school premises into a group of students, some reportedly as young as age 12, who threw rocks when police tried to arrest their schoolmaster.¹⁰⁵ At least one person, Luke Tarakali, died and at least 21 were injured, three seriously.¹⁰⁶

Students studying inside the school were among those injured. A 15-year-old boy told an interviewer several months afterwards:

I was doing my mock exam when we heard the first shot fired, and all of a sudden I just saw my friend sitting next to me fall on the floor, and then I saw his leg was bleeding, and then I realized that something went wrong. Then I ran outside, and I saw that all the kids were running around, and then to my surprise I saw the police.¹⁰⁷

Then-Minister of Police Bire Kimisopa spoke strongly about the incident and sent in an investigatory team that arrested two officers.¹⁰⁸ An officer and a commander were

¹⁰⁵ See Lloyd Jones, "PNG's Police Minister Condemns Police Shooting at Children," Australian Associated Press, November 4, 2005; Lloyd Jones, "School Shooting Highlights Thuggish Culture in PNG Police," Australian Associated Press, November 4, 2005. Although all accounts agree that the boys were throwing rocks but were otherwise unarmed, police and the local school board gave conflicting accounts as to why police were attempting to arrest the headmaster and whether they were beating him when the boys began throwing rocks.

¹⁰⁶ Report from Dr. Moises Granada, sole doctor for Porgera Hospital, June 26, 2006. The report described injuries and treatment of 30 males and one female that were stated to result from the incident. According to the report, 15 people under age 18 were injured, and Luke Tarakali, age 20, "died before arrival at hospital." Elsewhere the report stated that 21 students were wounded. The doctor previously told journalists that one student died on arrival but two others were reported dead at the scene of the shooting; however, police said that only one died at the scene. Jones, "PNG's Police Minister Condemns Police Shooting at Children," Australian Associated Press.

¹⁰⁷ Transcript of interview on file with Human Rights Watch.

¹⁰⁸ For details including the armed confrontation with members of local police that preceded the arrests, see Christina Kewa, "Cops hurt in ambush," *Post-Courier*, December 15, 2005.

charged with willful and attempted murder in January 2006 and released on bail.¹⁰⁹ As of August 2006, these cases had not been sent to the public prosecutor.¹¹⁰

Police Beatings and Gang Rape of Women and Girls in Raid on the Three-Mile Guesthouse, Port Moresby

On March 12, 2004, mobile squad officers beat and gang raped women and girls during a raid on the Three-Mile Guesthouse in Port Moresby and during their detention at Boroko police station. Human Rights Watch published extensive details about the case in 2005 based on police charging documents naming some of the officers involved, 21 statements from the women and girls made shortly after the incident and kept on file by the National AIDS Council, our individual interviews with eyewitnesses, and other evidence.¹¹¹

Despite the unusual amount of information available, then-Police Commissioner Sam Inguba responded to Human Rights Watch's 2005 report saying that, "investigators could not probe the allegation because they needed to deal with them on a case-by-case basis. These people complained as a group and were asked to come in one by one to substantiate their allegations but no one turned up."¹¹² According to the police, no officers involved had been disciplined or prosecuted at the time of writing.

Internal Disciplinary Sanctions and Criminal Prosecutions

Dismissals and criminal prosecutions of offending officers occasionally occur, although it is not clear how often these are actually for violence. In 2006, the Commissioner of Police refused to allow the police internal affairs directorate to

¹⁰⁹ James Apa Gumuno, "Cops Released," *The National*, January 11, 2006 (naming the officers as Inspector Felix Nebabat and First Constable Paul Pani); "PNG Cops Charged over School Shooting," Australian Associated Press, January 10, 2006 (quoting Deputy Police Commissioner Gari Baki that the men were charged).

¹¹⁰ Human Rights Watch interview with Public Prosecutor Chronox Manek, Port Moresby, August 15, 2006. In late 2005, the UN special rapporteur on extrajudicial, summary, or arbitrary executions wrote to the government expressing concern about police violence against children and urging the government to establish responsibility and sanction perpetrators for the police shooting of schoolboys in Enga province. The government had not responded at the time of writing. Economic and Social Council, "Civil and Political Rights, Including the Question of Disappearances and Summary Executions, Report of the Special Rapporteur, Philip Alston, Addendum, Summary of cases transmitted to Governments and replies received," 62nd sess., E/CN.4/2006/53/Add.1, March 27, 2006.

¹¹¹ See Human Rights Watch, *Making Their Own Rules*, pp. 113-116.

¹¹² "Juvenile Abuse Refuted," *Post-Courier*.

speak with Human Rights Watch. However, in September 2005, in response to Human Rights Watch’s findings that police rarely face administrative or criminal sanctions for violence, then-Police Commissioner Inguba told journalists that since 2002, 571 cases of police brutality had been reported and more than 148 officers dismissed as a result.¹¹³ Fifty-two cases were still pending, he said. (The numbers given to Human Rights Watch by the police internal affairs department in 2004 covering a shorter period of time suggest that the statistics given by the police commissioner may represent all dismissals from 2002 to 2005, and not just those for brutality.¹¹⁴)

In light of how widespread police violence is and given the lack of accountability for particularly egregious cases investigated by Human Rights Watch—both unknown and well-publicized—the statistics on internal police discipline support our finding that most abuses go unpunished.

Problems occur at each step in the process, beginning with reporting abuses. As illustrated by Inguba’s comments on the Three-Mile Guesthouse case, above, high-level officials characterized the problem to Human Rights Watch as the fault of victims who fail to report or aggressively pursue disciplinary complaints: Police Minister Willie told Human Rights Watch that the problem lay in victims failing to report abuses to “higher powers,” and when abuse is reported, he said, “disciplinary action has taken place.”¹¹⁵ But individuals who have attempted to make complaints, the service providers who have accompanied them, and even individual officers who have referred victims to internal affairs units, told Human Rights Watch that it was very difficult to make complaints and, if one was made, it almost never got results. Worse, as noted above, some women and girls are laughed at, ignored, and asked for sex.

The story of the woman raped by a police officer in July 2005 (described above in section III) is illustrative. With the help of an NGO, she reported the rape to a commander at a Port Moresby police station, whom she believed was the boss of the

¹¹³ “100 Cops Dismissed for Brutality,” *Post-Courier*, September 14, 2005. Of the reported brutality cases, 224 were from the National Capital District and Central province and 347 were from other parts of the country.

¹¹⁴ See Human Rights Watch, *Making Their Own Rules*, p. 91.

¹¹⁵ Human Rights Watch interview with Minister of Police Alphonse Willie, August 9, 2006.

officer who raped her (she was afraid for us to name the station). The commander, she said, took her into a dark office and “asked for sexual favors.” He said, “If I help you, you have to do me a favor.” After that, she said,

I didn’t go back. I didn’t want to go back by myself because I know something will happen. The feeling is still in me. There’s nobody in there to help us. . . . If the commander is doing that, then we have to go to his commander, and I think he will do the same thing so I think there is no one to see. . . . We have the right to report police brutality, but if we go there, there is no one to help us.¹¹⁶

Like this woman, many have simply given up seeking redress or accountability, calculating that it is not worth the time or risk. The administrative review of police similarly found in 2004 that “public confidence in the effectiveness of current disciplinary review machinery is at such a low level that complaints against the police are no longer reported.”¹¹⁷ A young woman vendor whose cigarettes were taken by police explained why she did not report the incident: “I really wanted to go, but after a couple of times [in the past] when the police didn’t help me, I said, what’s the point? They won’t help. When we go and ask for help they ask for sex—this is why I don’t go because I don’t want to have sex with them.”¹¹⁸

To improve public reporting, police must first provide victims with a timely and fair response, as well as provide protection from retaliation. In Lae, Human Rights Watch heard of some efforts to make the internal investigations unit more accessible to victims: the office conducted some public outreach to inform people about the process, and has a back entrance to the office so that complainants do not have to go to the police station front counter.¹¹⁹ Internal investigation units should do more to reach children, who usually have more difficulty than adults making complaints,

¹¹⁶ Human Rights Watch interview, Port Moresby, September 3, 2005.

¹¹⁷ 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* (“Kimisopa Report”), p. 8.

¹¹⁸ Human Rights Watch interview with 19-year-old woman, Lae, August 5, 2006.

¹¹⁹ Human Rights Watch interview with sergeant, Lae, August 4, 2006, and with Inspector Waki, internal investigations unit, Town police station, Lae, August 7, 2006.

and women and girls who face additional barriers to making complaints of rape and sexual assault.

Some persons do succeed in registering complaints. Human Rights Watch reviewed the log book for complaints made against police in the National Capital District and saw serious allegations: “police shooting,” rape, assault, robbery. Staff of the internal investigations unit for the National Capital District told us that 45 cases had been registered from January through July 2006 and that 121 cases were registered in 2005 (these represent all cases registered, not only for violence).¹²⁰ The head of internal affairs in Lae told us that most complaints against police were for “stealing, unlawful assault, drinking, and misappropriation of vehicles.”¹²¹ His office had more than 50 complaints in 2005, he told us.¹²²

However, as we documented in 2005, registering a case is no guarantee that an internal investigations unit will actively pursue it.¹²³ A few NGOs report more success in getting police to respond if they accompany victims and persistently follow up on the case; even then, cases have been lost or extensively delayed.¹²⁴ Internal investigations unit staff also told us they needed more resources—such as transportation and cameras—to do their jobs properly.

When the internal investigations unit does conclude an investigation and the internal affairs directorate determines that sanctions are warranted, it must wait for the Police Commissioner’s final decision about whether they should be imposed. Even if the Commissioner approves a penalty such as suspension or dismissal, provincial police officials, who are responsible for imposing it, may simply fail to do so.¹²⁵

¹²⁰ Human Rights Watch interview with internal investigations unit staff, Six-Mile police station, Port Moresby, August 2, 2006.

¹²¹ Human Rights Watch interview with Inspector Waki, August 7, 2006.

¹²² Ibid.

¹²³ See Human Rights Watch, *Making Their Own Rules*, pp. 89-91.

¹²⁴ Human Rights Watch interviews with NGO caseworkers, Port Moresby and Lae, August 1 and 5, 2006.

¹²⁵ See Human Rights Watch, *Making Their Own Rules*, pp. 91-92 (citing information from the internal affairs directorate regarding backlog of cases and unserved notices of penalty).

Human Rights Watch was not able to obtain more data on criminal prosecutions in 2005 or 2006 for police violence, either from the police or the public prosecutor.¹²⁶ A staff member of the internal investigations unit for the National Capital District told us that three cases in 2006 had resulted in criminal charges (not necessarily for violence) but that they were still investigating the cases. However, when asked about the outcome of criminal cases he has worked on, he told us that in the roughly eight years he had worked in the office, he had never known a police officer to be sent to jail.¹²⁷

New Police Procedures for Dealing with Children

Papua New Guinea's juvenile justice system continued to develop in 2005 and 2006 under the direction of an interagency juvenile justice working group.¹²⁸ Reception centers for processing children began operating in police stations in Port Moresby and Lae. Police established a small unit to divert children from the formal justice system and monitor their treatment by police. A handbook on the police juvenile justice policy and protocols was published and launched in October 2006. While these developments have yet to produce widespread change in police behavior, they hold promise.

As of August 2006, juvenile reception centers were operating in both Port Moresby and Lae, with the intention that all children arrested in each city would be brought to these centers for diversion or processing.¹²⁹ The centers are small buildings on the grounds of a police station, Boroko station in Port Moresby and Town station in Lae. According to the United Nations Children's Fund (UNICEF), approximately 60 percent of juvenile arrests take place in these two cities; therefore the centers should cover the majority of children arrested in the country.¹³⁰

¹²⁶ According to the public prosecutor, his office was in the process of acquiring a case management system that would track this information. Human Rights Watch interview with Public Prosecutor Chronox Manek, Port Moresby, August 15, 2006.

¹²⁷ Human Rights Watch interview with internal investigations unit staff, Six-Mile police station, Port Moresby, August 2, 2006.

¹²⁸ A juvenile justice working group is now operating in Lae as well as Port Moresby, with government and civil society representation.

¹²⁹ Port Moresby's center was inaugurated in April 2005, but was not functioning when Human Rights Watch visited in September of that year. Lae's center was officially opened in August 2006 but began operating earlier, around June.

¹³⁰ Email communication from Bruce Grant, UNICEF-PNG, to Human Rights Watch, December 18, 2005.

In Port Moresby, the police also began setting up the juvenile policy monitoring unit in October 2005. As its name suggests, the unit is intended to monitor implementation of the National Police Juvenile Policy for children, including diversion from formal criminal charges, separation from adults in lockup, and police violence. As of October 2006, two police officers (one part-time) operated out of the juvenile reception center in Boroko station with a designated vehicle, donated by UNICEF.

Although the unit does not keep formal records of its interventions, the staff told us that in the first 10 months of operations, they had intervened to divert children from formal charges. However, they also said they had not encountered cases of children physically or sexually abused by police, suggesting—given our quite different findings—that they are not monitoring for police violence. All children arrested in Port Moresby are supposed to be brought to Boroko stations’ juvenile reception center, where the unit would be in a position to directly oversee them, but this does not always happen: one of the officers visits other stations periodically to look for children, although not on a particular schedule, and they otherwise rely on calling police stations to ask if children are there.¹³¹ The officers also log children’s names and charges, a step towards improved data collection on children in conflict with the law. In terms of monitoring separation from adults, we noted that the reception center contains two rooms intended to remove children entirely from the adult lockup area, but they were not being used for this purpose as of August 2006. As described above in section IV, when Human Rights Watch visited Boroko cells immediately after interviewing juvenile policy monitoring unit staff, we found a boy detained with adults.

According to others closely linked with the unit’s work, the unit has struggled to obtain police cooperation and, after getting no results from filing formal complaints about problems, has since resorted to persuasion and “mentoring.”

The police officer who staffs the Lae juvenile reception center has similar responsibilities. Unlike in Port Moresby, Lae has only one station with a lockup—Town police station where the reception center is also located. This fact makes it

¹³¹ Human Rights Watch group interview with Juvenile Policy Monitoring Unit staff, Port Moresby, August 10, 2006.

more likely that the officer will have access to children who are detained, and we were told that this center had worked effectively in the two months it operated prior to our visit. The officer in charge of Lae's reception center told us that she checks the cells on Tuesdays and Thursdays, and gave examples of successful interventions to separate children from adults in police lockup and in Buimo prison, and to release arrested children to their parents.¹³² However, while we were in Lae, this officer was sent to teach at Bomana police college for six months, and an officer of a lower rank was left in charge. It remains to be seen how this will affect the center's operation. When we visited the police lockup several days after she left, we did find children detained with adults.

In addition to these measures, juvenile court officers, provided for under the Juvenile Courts Act, should also be in place to monitor police treatment of children.¹³³ This has not happened. Although some 15 volunteers were trained in 2004 and commissioned in 2005, they were never given final approval (gazetted) by police and have not begun working. Indeed, in Port Moresby, when individual volunteer juvenile court officers have tried to access children at certain police stations, police have denied them access on the grounds that they are not gazetted and lack official identification.¹³⁴ In the place of volunteer juvenile court officers, probation officers attend some juvenile court procedures, but they are not the advocates for children envisioned by the act.

A member of Lae's juvenile justice working group also told us he had checked the cells in Lae for children detained with adults, although it was not clear how often he did this.¹³⁵

¹³² Human Rights Watch interview, Lae, August 4, 2006. She also described how she arrested a security guard who beat a child shoplifter.

¹³³ Juvenile court officers should have the power to enter places where children are detained, including police lockups; interview children; be present during interrogation; advise children of their rights; question arresting officers; attend court; and make submissions regarding a sentence. Juvenile Courts Act, sec. 13.

¹³⁴ Email communication to Human Rights Watch from individual working closely with the juvenile justice system, October 18, 2006.

¹³⁵ Human Rights Watch interview with Patilias Gamato, Juvenile Justice Working Group, Lae, August 3, 2006.

Responsibility of Magistrates, Judges, and the Ombudsman Commission

Juvenile magistrates, judges, and the Ombudsman Commission each have a role in monitoring for police violence and conditions under which children are detained. Several individuals have taken steps to fulfill these obligations, but monitoring, including regular follow up, needs to become far more frequent and comprehensive.

Magistrates and Judges

Formal juvenile courts are now operating in seven sites around the country, with two more planned for 2006. Juvenile magistrates hear all but the most serious cases against children. Since 2004, juvenile magistrates have had a Juvenile Court Protocol that outlines procedures for handling children's cases. National court judges handle particularly serious cases against children, but not all apply the protocol (or even had copies of it until 2006).

Magistrates are required by the Juvenile Court Protocol to “monitor the use of physical force used against a juvenile,” and should exclude evidence obtained by threats or torture under the Evidence Act and international standards.¹³⁶ Judges, when hearing children's cases, should do the same. Human Rights Watch previously found that judges and magistrates were not asking children about police violence, even when they were obviously injured, and typically ignored children's volunteered reports of violence.

In 2006, the juvenile magistrates agreed to review the legality of arrest and detention in each child's case using a checklist of some 20 questions.¹³⁷ Prominently featured on the checklist are questions about police use of force, cruel, inhuman, or degrading treatment, and forced confessions. However, when the checklist was piloted, magistrates found that it took too much time—about 10 minutes per case. All

¹³⁶ Evidence Act, sec. 28 (confessions induced by threats not admissible); Convention Against Torture, art. 15 (statements obtained through torture may not be used as evidence, except against the person accused of torture). Papua New Guinea is not a party to the Convention Against Torture, but the provision is now considered customary international law, and thus binding on all states. Papua New Guinea is a party to the Convention on the Rights of the Child, which, in article 40, protects children from self-incrimination.

¹³⁷ Human Rights Watch group interview with Juvenile Magistrates I.S. Geita and N. Kanasa, and a court clerk, Port Moresby, August 10, 2006.

juvenile magistrates' clerks were then trained to use the checklist in mid-2006 and directed to report any problems to the magistrate. However, it was not clear whether any clerks were using it as of October. In Port Moresby, although the clerk has tried out the checklist, she has not been able to employ it: despite appeals from the juvenile justice working group and the juvenile magistrate, police continue bring children to court late, leaving insufficient enough time for the clerk to complete the checklist.¹³⁸

Outside of the capital, implementation is far more erratic. The juvenile magistrate in Lae told us that he had never had a case of a child injured by police. "Like any other case," he told us, "people tend to have [this complaint]. It's the responsibility of the juvenile to prove that they were assaulted. This is a normal defense. But I haven't come across any [children] with physical injuries."¹³⁹ He does not ask about use of force, he said, and if he did have a case he would ask a probation officer to look into it.

A 16-year-old boy told Human Rights Watch that he appeared before the magistrate in Lae around late April 2006 with his face still swollen (like many boys, he was detained for more than a week before ever seeing magistrate, so many of the marks had faded, he said.) The magistrate did not ask about his injuries, and, like most children in court, he did not have a lawyer.¹⁴⁰ A person who regularly observes juvenile court proceedings in Lae told us, "Juveniles do speak out that they have been abused by police and some go with bruises. Mostly the magistrate sides with the police."¹⁴¹

Juvenile magistrates also have a role in preventing the detention of children in illegal conditions. The Juvenile Court Protocol prohibits magistrates from remanding or

¹³⁸ Ibid., and email communication to Human Rights Watch from individual working closely with the juvenile justice system, October 18, 2006. The courts have also requested that police prosecutors be trained in the police juvenile policy, but the police have not complied. Email communication to Human Rights Watch from individual working closely with the juvenile justice system, October 18, 2006

¹³⁹ Human Rights Watch interview with Juvenile Magistrate Sasa Inkung, Lae, August 8, 2006.

¹⁴⁰ Human Rights Watch interview, Lae August 8, 2006.

¹⁴¹ Human Rights Watch interview, Lae, August 4, 2006.

committing children to institutions without a separate juvenile section, and directs them to review police detention decisions.¹⁴²

In 2006, the chief magistrate gave juvenile magistrates the power and obligation to visit places of juvenile detention (including police cells, rural lockups, prisons, and other remand or post-conviction institutions such as Erap Boys Town) by designating them as visiting magistrates and incorporating this obligation into their duty statement. At a meeting in July, the juvenile magistrates agreed to do one visit per month, and a detailed questionnaire was drafted to record the outcome of the visits.¹⁴³ By October, however, the process was stalled around the question of magistrates' right to conduct visits without further legal approval.

National Court judges also have a visiting program, although only a few judges conduct such visits. For example, following two visits to Buimo prison in May 2006, Justice David Cannings reportedly ordered detainees released, transferred, or provided with medical care. He also issued a report highlighting problems including overcrowding, high numbers of female and juvenile detainees, shortage of uniforms for detainees and prison officials, poor sanitation, and long periods of detention before trial.¹⁴⁴ According to news reports, the National Court had previously ordered the partial closure of Buimo in 2004 following several deaths from disease related to poor sanitation and overcrowding.¹⁴⁵

The Ombudsman Commission

The Ombudsman Commission has the power to investigate violations of basic rights, but has until now focused primarily on official corruption, where it plays a critical monitoring role.

¹⁴² Magisterial Service of Papua New Guinea, *Juvenile Court Protocol for Magistrates*, 2004, pp. 37-38.

¹⁴³ However, as of August, the juvenile magistrate in Lae was not aware of these orders or agreement, and told us that he did not have the power to conduct prison visits and had not done so for 10 to 15 years. Human Rights Watch interview with Juvenile Magistrate Sasa Inkung, August 8, 2006.

¹⁴⁴ See Rosalyn Albaniel, "Judge Hears Human Rights Concerns," *Post-Courier*, May 26, 2006; Mackhenly Kaiok, "Inmates Win Court Reprieve," *Post-Courier*, June 1, 2006; Abby Yadi, "Crowded Women's Cell Irks Judge," *Post-Courier*, June 6, 2006.

¹⁴⁵ Franco Nebas, "Buimo Jail Overcrowded," *Post-Courier*, March 21, 2006.

The commission's human rights desk only has one staff person. Although much of his work has been in conducting trainings, he told us he had 25 active cases as of August 2006, most concerning violence by correctional officers and police.¹⁴⁶ Since the desk's inception in May 2005, it has resolved four cases.¹⁴⁷ The commission has active files on the 2004 raid on the Three-Mile Guesthouse and the 2005 police shootings of students in Enga province, but has not taken action in either case.¹⁴⁸

The commission was in negotiations with the police in August 2006 to allow the commission to oversee and work with the police internal affairs directorate on serious disciplinary offenses. However, the commission did not plan to add additional staff for this work should an agreement be reached, staff members told us.¹⁴⁹

The Ombudsman Commission through its regional offices and its single staff person on the human rights desk has the power to visit police lockup and prison. When they discover problems with conditions, staff members told us, they can raise them with correctional services or the police.¹⁵⁰ However, they do not necessarily have the capacity to follow up after a single visit, and responsible corrections officers may not be held accountable for addressing problems identified.

¹⁴⁶ Human Rights Watch interview with Operations Director John Toguata, and Anti-Discrimination and Human Rights Unit Team Leader Patrick Niebo, Ombudsman Commission, Port Moresby, August 9, 2006.

¹⁴⁷ However, former staff told us in July 2005 that these four cases were transferred to a different unit within the commission. Email communication from Theresa James, UN volunteer, Anti-Discrimination and Human Rights Unit, Ombudsman Commission, to Human Rights Watch, July 26, 2005.

¹⁴⁸ Human Rights Watch interview with John Toguata and Patrick Niebo, August 9, 2006; and email communication from Niebo, October 12, 2006.

¹⁴⁹ Ibid.

¹⁵⁰ Human Rights Watch interview with John Toguata and Patrick Niebo, August 9, 2006.

VII. Australia and Other International Donors

Australia continues to be Papua New Guinea's largest foreign donor: its total overseas development assistance to Papua New Guinea was A\$332 million (US\$249 million) in 2006-2007.¹⁵¹

The Papua New Guinea-Australia relationship was tense in 2005 and 2006. While Australia has historically provided a great deal of financial and technical support to the Papua New Guinea police, the country's engagement with the police force was under negotiation at this writing. In 2005, the policing component of the Enhanced Cooperation Program, which involving a major increase in assistance to the police, collapsed. A significant component of the program was the deployment of several hundred Australian Federal Police to work alongside Papua New Guinea police. Following a successful court challenge in May 2005 to the immunity provisions for Australian police in Papua New Guinea's implementing legislation, Australia withdrew its officers. However, some 40 non-police advisors remained in government agencies. Pending a new agreement, direct aid to the police remained suspended, but Australia supported other aspects of the law and justice sector, including in the area of juvenile justice. It also continued to support other entities such as the Ombudsman Commission and NGOs.

Australian government officials told Human Rights Watch that future police assistance would be much less than previously intended, with a few senior federal police likely to be sent. The focus would be narrowly restricted to corruption, with an emphasis on reducing fraudulent claims against the state. It was not expected to include support for the internal affairs department, a significant component of the previous agreement.

UNICEF continues to play a leading role in the development of the juvenile justice system, providing technical assistance for police, magistrates, and the juvenile justice working group, and some support for NGOs working to address aspects of police violence.

¹⁵¹ AusAID, "Papua New Guinea," <http://www.aisaid.gov.au/country/papua.cfm?CFID=937969&CFTOKEN=94182151> (accessed October 12, 2006).

Other donors include the Asian Development Bank, China, the European Union, Germany, Japan, New Zealand, and the World Bank.

VIII. Recommendations

The Royal Papua New Guinea Constabulary has primary responsibility for how the police force treats children and other citizens. The Papua New Guinea Correctional Service is responsible for the treatment of children in its custody. The Ministry of Justice and Attorney General, the Judicial and Magisterial Services, the Ombudsman Commission, and Parliament, also play important roles in preventing and addressing police violence. Human Rights Watch calls on the constabulary and, as appropriate, these other entities, to implement the recommendations set out in our September 2005 report, as well as those of the September 2004 administrative review of the police commissioned by the then-Minister of Police.¹⁵²

In particular, **the Royal Papua New Guinea Constabulary** should take the following steps to stop police beatings, rape, and torture of children:

- Make strong and repeated public statements, at the highest institutional level (beginning with the new Minister of Police and the Commissioner of Police) against police violence against children, sex workers, and men and boys perceived to be homosexual.
- Punish officers who torture, rape, or use excessive force, using administrative sanctions, including dismissal, and criminal prosecution. Similarly punish commanding officers who know or should know of such acts, and who fail to prevent or punish them. Improve the speed and efficiency with which cases of criminal action by police are sent to the public prosecutor. Address outstanding cases, including the beatings and rape of women and girls in the 2004 raid on the Three-Mile Guesthouse and the 2005 shootings of schoolboys in Enga province.
- Hold all police officers who undergo training accountable for following it.
- Strengthen the police force's Internal Affairs Directorate, penalize officers who do not cooperate with it, investigate alleged abuses and delays in implementing dismissal orders, and allow outside monitoring of cases, for example by the Ombudsman Commission. Take greater steps to improve public access to complaint units, including public education about the

¹⁵² See Human Rights Watch, *Making Their Own Rules*, pp. 110-117; Institute of National Affairs, *Kimisopa Report*.

complaints process. Consider requesting international assistance to the directorate.

- Issue a directive, from the Commissioner of Police, 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.
- Strengthen and expand the juvenile justice system. Gazette the volunteer juvenile court officers. Establish and fully support additional juvenile reception centers throughout the country. Add additional, qualified staff to the juvenile policy monitoring unit and expand it throughout the country. Strengthen the unit by providing hands-on training in cell inspection. The juvenile policy monitoring unit should, in turn, make more regular cell inspections, record the results of each inspection (any children detained with adults, any injured children, and action taken), and measure its success by actions taken, not by lack of cases.
- Immediately implement the 2005 Police Juvenile Justice Policy and Protocols that mandate that children be detained only in “extreme or special circumstances” and never with adults. Provide all detainees, and especially children, medical care as needed and in a timely manner. 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. Hold shift officers-in-charge to their responsibility for ensuring that the policy is followed.

Ongoing, independent monitoring of police violence is essential. The **government** should immediately designate an independent body outside the police force to monitor police violence against children. If the Ombudsman 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, the government should, in the meantime, make every effort to strengthen existing accountability mechanisms.

The **Ombudsman Commission** should continue and strengthen the work of its human rights desk, which should prioritize cases of police violence against children.

The **Minister for Justice** should immediately commission a committee to inquire into police violence and generate findings and recommendations to the government.

Magistrates and National Court judges should ask children who appear before them about possible police violence using the checklist developed for juvenile magistrates, order medical care when needed, and exclude evidence obtained on the basis of torture. All magistrates and judges should be trained in protocols for juveniles and be held accountable for following them. Juvenile magistrates should implement plans to visit all places where children are detained, using the new questionnaire, and follow up on problems identified during visits. More National Court judges should monitor detention under the visiting justices scheme. Magistrates and judges should never send children to institutions not approved for juveniles.

The **Office of the Public Solicitor** should continue to pursue cases of police misconduct and strengthen the unit responsible for constitutional claims. The **government** should, in turn, deduct successful claims against the state from the budget of the department involved, and penalize officers who fail to cooperate with investigations. Measures to reduce the amount paid in civil claims must not create additional impediments to legitimate claims.

The **government** should respond to the request of the **UN special rapporteur on torture** for an invitation to visit Papua New Guinea.

The **government** should improve access for victims of police violence to medical, legal, counseling, and other support services. Health services should include access to post-exposure prophylaxis for HIV and emergency contraception.

International donors, particularly **Australia**, remain critical to the police sector in Papua New Guinea, although the collapse of the Enhanced Cooperation Program in 2005 has resulted in a much-reduced level of support from Australia than previously

anticipated. Papua New Guinea has been resistant to what it perceives as outside interference in the operations of its police force. Nevertheless, international donors could be more proactive, even within the constraints of the current relationship, in efforts to curb police abuses.

In particular, international donors should:

- Do more to assist the long-term development of local groups with the capacity for independent monitoring of police violence, for educating the public about police responsibilities and making vocal public demand for effective and lawful policing, and for helping victims obtain services and navigate the public complaint process.
- Continue and expand support for juvenile justice reforms.
- Prioritize accountability for police violence in any support for the police force's internal affairs directorate.
- Ensure that assistance for reducing fraudulent claims against the state does not impede legitimate claims.
- Continue and expand support for the Ombudsman Commission, seeking creative ways to provide human resources and other forms of support where the capacity to absorb additional financial resources is strained.

IX. Acknowledgments

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