

REPORTING, INVESTIGATING AND PROSECUTING
FAMILY AND SEXUAL VIOLENCE OFFENCES
IN PAPUA NEW GUINEA

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June 2020

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In this publication, *Additional Data* refers to an associated online document:
 J. Putt and S. Dinnen 2020. *Reporting, Investigating and Prosecuting Family and Sexual Violence Offences in Papua New Guinea: Additional Data*. Canberra: Department of Pacific Affairs, ANU.

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ABBREVIATIONS

ABG	Autonomous Bougainville Government
AFP	Australian Federal Police
AGD	Attorney-General's Department
ANU	Australian National University
ARB	Autonomous Region of Bougainville
BCPP	Bougainville Community Policing Programme
BLJCM	Bougainville Law and Justice Coordinating Mechanism
BPA	Bougainville Peace Agreement
BPS	Bougainville Police Service
CAP	Community Auxiliary Police
CC	Criminal Code
CID	Criminal Investigation Division
CS	Correctional Service
DFV	domestic and family violence
DV	domestic violence
FASO	Family and Sexual Offences office
FPA	Family Protection Act
FSC	Family Support Centre
FSV	family and sexual violence
FSVAC	Family and Sexual Violence Action Committee
FSVU	Family and Sexual Violence Unit
FV	family violence
GBH	grievous bodily harm
GBV	gender-based violence
GoPNG	Government of Papua New Guinea
HRW	Human Rights Watch
IPO	interim protection order
IPP	Institutional Partnerships Program
JSS4D	Justice Services and Stability for Development Program
NA	not available
NCD	National Capital District
NCM	National Coordinating Mechanism

NGO	non-government organisation
NLJP	National Law and Justice Policy
NR	not recorded
ODE	Office of Development Effectiveness
ODI	Overseas Development Institute
OIC	Officer in Charge
OPP	Office of Public Prosecutions
OPS	Office of the Public Solicitor
PAGP	Papua New Guinea–Australia Governance Program
PALJP	Papua New Guinea–Australia Law & Justice Partnership
PO	protection order
PNG	Papua New Guinea
PNGLRC	Papua New Guinea Law Reform Commission
QTAG	Quality and Technical Assurance Group
RPNGC	Royal Papua New Guinea Constabulary
SOA	Summary Offences Act
SOS	Sexual Offences Squad
SV	sexual violence
VCR	Village Courts Regulation
VCA	Village Courts Act
WB	World Bank

ACKNOWLEDGEMENTS

Many people assisted with this project. We thank the law and justice stakeholders in Port Moresby, Lae and Bougainville who took the time to talk to us, and shared their knowledge (and where possible, their records and data). It is not always easy to deal with outsiders who ask probing questions and seek information and answers that you may not be in a position to give. We were also fortunate to have the help of Ms Iuletta Fiu, a research assistant from the University of Papua New Guinea, Ms Barbara Tanne, an independent researcher in Bougainville, and Mr Bryan Matamoros Macias, a research assistant at the Australian National University. Our hope is that the report and feedback to various stakeholders will be useful and assist in future efforts to monitor and address family and sexual violence in Papua New Guinea.

This research was funded in 2019 by the Government of Australia through the Justice Services and Stability for Development Program. Publication of the research was supported by the Government of Australia through the Pacific Research Program.

DOMESTIC VIOLENCE
IS A CRIME
PROTECT OUR FAMILIES



THE FAMILY PROTECTION ACT
 Provides that any of the following conduct against a family member amounts to the offence of domestic violence:

- THREATENING
- ASSAULT
- DAMAGING PROPERTY
- STALKING
- INDECENT/ OFFENSIVE BEHAVIOUR
- INTIMIDATION/ HARASSMENT
- SEXUAL ABUSE
- PSYCHOLOGICAL ABUSE

A family member who has/ is suffering from domestic violence can make an application at the District or Village Court for an Interim Protection Order.

FOR MORE INFORMATION AND REFERRAL CONTACT:
7150 8000
 CALL THE FREE HELPLINE FOR MORE

AUTHORISED BY:
 **CJC**
 FAMILY & SEXUAL VIOLENCE
 ACTIONING COMMUNITY RISK

Source: Judy Putt

EXECUTIVE SUMMARY

Funded by the Australian Government through the Justice Services and Stability for Development Program (JSS4D), the research project was conducted between June and October 2019 by a small team from the Australian National University (ANU), with the assistance of researchers based in Papua New Guinea (PNG). The aim was to identify and analyse quantitative data that would indicate what has happened with the reporting, investigation and prosecution of family and sexual violence (FSV) offences in the past five years in three locations — Port Moresby, Lae and Arawa.

Although it is recognised that sexual violence and domestic violence can and often do overlap, due to the project's reliance on criminal justice and agency records a distinction is usually drawn between the two forms of violence, which reflects the separation in the Criminal Code between violent and sexual offences. In addition, we draw a distinction between domestic violence, which involves current or former intimate partners, and family violence, which involves violence perpetrated by a family member. As a result, throughout the report we usually refer to domestic and family violence (DFV) that can result in a range of violent offence charges, and sexual violence offences.

In the three locations more than 50 stakeholders were consulted or interviewed, and data sourced from the PNG Magisterial Services and National Judicial Staff Services, the Office of Public Prosecutions, eleven different sections of the Royal Papua New Guinea Constabulary (RPNGC), and five non-government organisation (NGO) services.

In recent years in PNG there have been significant legislative reforms and policy developments to address FSV. Aid programs have sought to improve capacity and skills to address FSV, with JSS4D focusing on training, awareness raising, as well as targeted infrastructure in the law and justice sector under its four outcome areas.¹

The impact of these cumulative efforts appeared in the statistical crime and justice data. At every stage in the criminal justice system there were indications that there was an increase in the volume of FSV offences, and as a proportion of the matters dealt with. This held true even where there was a decline in the total number of offences being dealt with by the police and courts. It appears that much of the increase is in DFV offences, both summary and indictable offences, although the levels of reported serious sexual offences also appear to be slowly and steadily rising.

Obtaining statistical data was extremely challenging, and there are major gaps in the picture that emerges. It is impossible to say, based on the available evidence, whether rates of successful prosecution, the length of time cases take, and court outcomes have changed in the past five years. However, the data does give some insights into:

Trends in the past five years and current volume of FSV cases

- » An increase in reporting to police of FSV offences, including an increase in indictable FSV offences, notably in DFV offences.
- » A slight increase in reported sexual offences with a slight decline in the average age of victims.
- » A significant proportion of matters reported to frontline police (via the counter, by phone or otherwise) involves domestic or family violence.
- » An increasing number of sexual offences that occurred over an extended period of time, and not recently, are being reported to the Sexual Offences Squad (SOS).
- » Summary offences involving DFV are very common in the District Court, estimated to be at least half of new listings. Sexual offences are a more dominant category in the National Court,

and the Family and Sexual Offences (FASO) office statistics suggest domestic, rather than family, relationships are more common with serious violent offences such as homicide.

Characteristics of incidents, victims and defendants

- » Based on police, public prosecutors' and NGO services' data, more than three-quarters of FSV victims are females. With sexual offences, girls rather than women are more likely to be victims, with almost three-quarters of victims who report to the SOS being aged under 18, and for all victims, with an average age of 15 to 16 years. With DFV, adult women victims are most likely to be in the 25 to under 35 age category.
- » The majority of alleged offenders are adult males for both DFV and sexual offences.
- » In terms of more serious (indictable) offences, most sexual offences were committed by those close to the children, including what are referred to by the FASO office as 'blood relatives'.
- » With serious DFV offences, an estimated 90% are believed by the FASO office to involve alcohol.

Outcomes in the past year

- » Between 22% and 47% of cases recorded by five selected Family and Sexual Violence Units (FSVUs) are civil matters, with about one-third being the average, and therefore do not have a criminal justice outcome.
- » Between 10% and 30% of cases recorded by five selected FSVUs are referred to what is categorised as 'welfare'.
- » Fewer than 10% of FSVU cases result in an arrest by a FSVU officer.
- » The Criminal Investigation Division (CID) has a higher arrest rate, with the SOS making an arrest in at least one-third of cases.
- » With all agencies involved in the criminal justice system, the outcome of cases is often unknown, as the outcomes are recorded as pending or active, with FSVUs varying between 6% and 17% of cases, the FASO office at 33% and with National Court violence-related offences in selected locations at 42%.

Variability in focus and practices

- » Available data showed considerable variability in the volume of cases, and to some extent trends, dealt with by FSVUs and National Courts in the selected locations, and by District Courts across PNG.

Key stakeholders were positive about a range of changes that they had witnessed during the past five years in the three locations. These included:

- » Greater sensitisation to FSV and improved treatment of survivors by justice personnel
- » Better referral networks, improved provision of medical statements for court cases
- » Enhanced knowledge and skills among key justice professionals such as senior police investigators and public prosecutors.

Nevertheless, the system as a whole continues to struggle with demand and diminished and intermittent resources. Most challenges raised by stakeholders applied to all kinds of crime and not just FSV offences. Based on our consultations, the data and previous research undertaken at the Boroko District Court in Port Moresby

(Ganai 2017), several key themes most pertinent to FSV offences were identified. Recommendations are made under three themes.

- » **Improving the efficiency and effectiveness of the criminal justice system.** Broadly defined, to improve the effectiveness and efficiency of criminal justice responses to FSV offences it is recommended that future efforts focus on:
 - » Continued training in and awareness raising about FSV offences, but that further thought be given to coordination with agencies that sponsor similar activities and ‘train the trainer’ models.
 - » Improving communication flows about the progress of cases and their outcomes, within police, between criminal justice agencies and with NGO service providers.
 - » Contributing to key areas of police capacity, namely the mainstreaming of FSVUs within the RPNGC, and a criminal histories database.
 - » Exploring ways to fast-track or prioritise FSV offences within court systems, and the introduction of dedicated listings and specialist magistrates.
 - » Fostering and supporting FSV champions and peer mentoring within criminal justice agencies.
- » **Victim support, advocacy and protection** to reduce attrition at each stage of the system. It is recommended that activities and programs be developed that improve the support, advocacy and protection for FSV victims within the criminal justice system to assist in reducing rates of withdrawal and dismissals. Complementary or integral to these programs and activities there should be more education on legal literacy, and on the criminal justice system, provided for FSV victims and their families.
- » **Record keeping and collating statistics to assist with monitoring and review.** Further work should be undertaken on designing and implementing a crime and justice statistical collection that is affordable, sustainable and feasible. Integral to this will be clearly articulating the purpose for and practical approaches to enable consistent and reliable record keeping and the storage of data. This work should align with the aims of the National Strategy to Prevent and Respond to Gender Based Violence 2016–2025, and promote the sharing of uniform and useful information.

Two priorities for further research are recommended:

- » An in-depth study of investigations and prosecutions of FSV offences, through file review and case tracking to help shape future program priorities and development.
- » Developmental action research on sexual offences reported to the police and committed against women and children, with the latter viewed by stakeholders as a burgeoning social problem that requires dedicated attention and effort in the criminal justice system.



Bilurms. Source: Judy Putt

CHAPTER 1. BACKGROUND AND CONTEXT

Introduction

Funded by the Australian Government through the Justice Services and Stability for Development Program (JSS4D), the main aim of the project is to investigate the current situation and trends in reporting, investigating and prosecuting family and sexual violence (FSV) offences in the past five years. The emphasis in the request for tender was on quantitative data, although it was understood that this might be difficult to source.

The research team comprised Dr Judy Putt and Associate Professor Sinclair Dinnen, both in the Department of Pacific Affairs at the ANU, with the assistance of Ms Iuletta Fiu, a research assistant from the University of Papua New Guinea, Ms Barbara Tanne, an independent researcher in Bougainville, and Mr Bryan Matamoros Macias from the ANU.

Research was conducted in Port Moresby, Lae and Arawa, as specified in the request for tender. We also conducted interviews in Buka where several key stakeholders were located. In our tender, the project was originally to be completed by December 2019, but it was subsequently agreed at the inception meeting that a report would be provided by the end of October 2019.

Key research questions include:

- » What is being reported to police that might constitute family or sexual violence, and have these changed over the time period?
- » What are the trends and the current state of investigation of alleged offences, the type of charges that are laid, and in the prosecution of these charges?
- » What are the trends and the current state of National and District court outcomes from these charges, covering both where there are pleas of guilty or not guilty?
- » What could be done to improve the criminal justice response to FSV?

The project commenced in June 2019 after submission of the inception report. Since then, we were party to a joint meeting in early August with JSS4D and two other contractors — Sustineo and the Whitelum Group — which were undertaking research topics on related issues, namely Village Courts and FSV referral pathways respectively. A further meeting was convened in Port Moresby by JSS4D in mid-October with key stakeholders to report on and discuss preliminary findings.

This chapter is divided into two parts. The first provides some essential background and context for the project, while the second outlines how the research was conducted, including the challenges faced and efforts made to overcome them.

Findings from the research are presented in two separate chapters. Chapter 2 summarises stakeholder perceptions and Chapter 3 presents the statistical data. Due to the inherent limitations of the data, we did not manage to answer all the key research questions as fully as we would have liked. In particular, we can only provide a partial answer to the third question. More is said on this in the concluding chapter.

Available data — what we know about FSV in PNG

The scarcity and generally poor quality of statistical data about crime and criminal justice in PNG has been well known for many years. A study by the Australian Institute of Criminology over 30 years ago highlighted a number of critical reforms urgently needed in respect of PNG's crime and justice statistics (Walker 1985). These included:

- » Simplification of legislation containing overly complex distinctions between offences and of different types of documentation pertaining to basically the same information
- » Standardisation of classification systems across justice agencies
- » Improved supervision of the recording and maintenance of statistical data
- » Improved communication of data within and between justice agencies and between them and the public.

Similar findings were arrived at in a review of PNG's criminal justice data by the UN Interregional Crime and Justice Institute almost a decade later in 1994. The review concluded that there was still a lack of any systematic evidence that 'could provide a rational basis for understanding the current context of crime and promoting feasible strategies for crime prevention, development and management of the criminal justice system' (Zvekic and Weatherburn 1994:2).

Many of the continuing shortcomings reflect systemic problems with data across PNG's government systems that have been evident for many years. Others relate to more universal challenges arising from the complexity of criminal justice systems, whose performance entails interactions and a high degree of interdependency between multiple agencies and actors operating in different locations across a national jurisdiction. Recording and maintaining adequate crime and criminal justice data is an especially daunting task in PNG given resource, organisational and other capacity constraints, as well as the prevalence of alternative justice approaches embedded in the nation's socially diverse and pluralistic legal landscape. While there has been stronger central direction in some areas of justice policy reform in recent years, including in relation to family and sexual violence, most data collected centrally originates from agencies such as the police, operating at decentralised levels, where there remain major technical challenges and variations in recording practices. Although improvements have been made in some areas, there still appears to be an under-appreciation of the value of statistical data as a critical aid to policy and planning across the law and justice system.

Against such a background, it remains difficult to quantify the incidence of different kinds of crime and violence in PNG with any precision, including in respect of variations across time and space. Efforts to measure crime and assess the performance of criminal justice activities regularly supplement data from agencies and program-based reports with surveys, including victimisation surveys. While a useful way of discerning broad trends, the latter are often confined to specific locations and sometimes have a particular thematic focus.

Generalisations based on such variable and disaggregated sources have clear limitations. It has also been noted that the two largest sets of data on crime and victimisation in PNG — police figures and victimisation surveys — have some significant differences in the crime categories used, making direct comparisons difficult (Lakhani and Willman 2014:27).

Particular problems arise with the classification of gender-based violence, given the different conceptualisations and terms used by researchers, policymakers and practitioners, and the range of offences and legislation that may be involved. While 'domestic violence' is now a defined crime under the Family Protection Act 2013, 'gender-based violence' and 'family and sexual violence' are not specific offences and the terms are commonly used to encompass a range of possible offences and categories of victim. Difficulties arise when domestic and family violence (DFV) and sexual violence (SV) are conflated. Each term covers violence against males and females, although females are the predominant victims of both in PNG, as elsewhere. The term DFV is used where there is an intimate partner or familial relationship (often referred to as domestic violence or family violence) while SV refers to a type of violence that can occur across a range of relationships including between intimate partners, acquaintances or complete strangers, and can also involve a group of perpetrators as in gang rape. In terms of age, criminal laws and policies typically include specific offences against children, such as child abuse, sexual penetration of a child, and indecent act against a child.

Despite the many challenges with available data and the added complexity of the various terms used for offences, the cumulative weight of evidence, including media, anecdotal and personal experiences, suggests that levels of family, gender-based and sexual violence in PNG are exceptionally high and, in the eyes of many, among the highest in the world. A brief review follows of some of the main survey and other evidence.

The most comprehensive and best-known survey of intimate partner violence in PNG remains the seminal research undertaken by the then Law Reform Commission (LRC) in the 1980s (PNGLRC 1992). Covering data from 1982 to 1986 in 16 provinces and containing interviews with more than 2000 people, the LRC study concluded that more than two-thirds of families in PNG experienced domestic violence, with 66% of husbands interviewed saying they beat their wives and 67% of wives reporting they had been beaten. Subsequent studies have tended to confirm the prevalence of gender-based violence (GBV) in different parts of the country. Although based on a literature review and available police data rather than survey findings, a more recent and regularly cited World Bank study of national crime and violence trends concluded that domestic and other forms of GBV were 'highly prevalent' in PNG, though with considerable variation between different provinces (Lakhani and Willman 2014). The same study noted that the two largest data sets — police statistics and various urban crime victimisation studies — were likely to seriously underestimate victimisation experienced by women, particularly in respect of violence within households.

Crime victimisation surveys undertaken on behalf of predecessors of the current JSS4D program highlight the gendered character of victimisation in PNG, with significant differences between the experiences of men and women. For example, a 2009 survey in the National Capital District (NCD) found that women were five times more likely to be victimised at home than on the street. Women tended to be victims of men known to them (for example, a partner, relative or neighbour), whereas men were more likely to be victimised by strangers outside of the home (LJSS 2009). Available evidence also suggests that victimisation is not significantly different for women across different socio-economic statuses (Lewis et al. 2007). The importance of gender differences was further confirmed in the most recent survey of perceptions of crime and safety, undertaken in 2018 in six different provinces (Sustineo 2018). Female respondents reported being more fearful of crime than men, more affected by the risk of crime, having less confidence in the police, and being less aware and engaged with various justice sector services.

Research has also indicated high levels of insecurity among female market and street vendors in Port Moresby as well as among women users of public transport (UN Women 2014). An Overseas Development Institute (ODI) survey looking at the cost of GBV to businesses in PNG found that 68% of employees surveyed had experienced GBV during the past year, with 47% experiencing more severe forms of GBV. On average, women employees had experienced a total of 9.4 incidents of GBV in the past 12 months. Of all employees surveyed, on average each lost 11 days of work per year as a result of the impacts of GBV (Darko, Smith and Walker 2015). On the basis of interviews, including with survivors of DFV, in Central Province and the Highlands region, a 2015 Human Rights Watch report concluded that DFV in PNG had reached 'emergency' levels (HRW 2015).

Using a mix of surveys and interviews, a 2013 UN study in post-conflict Bougainville found that over two-thirds of women had experienced some form of physical or sexual violence in their lifetime. Among men interviewed, 80% reported that they had perpetrated physical and/or sexual intimate partner violence in their lifetime, while an astonishing 62% reported they had perpetrated rape against a female partner or non-partner (Fulu et al. 2013:40). Drawing on summary data from a range of sources, PNG's National Strategy to Prevent and Respond to Gender Based Violence 2016–2025 highlighted a number of features in recent GBV trends, including:

- » The high number of women affected
- » A large proportion of children in sexual abuse cases

- » A high incidence of rape in sexual offences cases
- » A large proportion of children in rape cases
- » A significant number of boys as sexual abuse victims
- » The high prevalence of GBV in conflict affected areas (for example, Bougainville and parts of the Highlands affected by tribal conflict).

FSV offences – the legal settings

Although it is recognised that sexual violence and domestic violence can and often do overlap, due to the project's reliance on criminal justice and agency records, a distinction is usually drawn between the two forms of violence, which reflects the separation in the Criminal Code between violent and sexual offences. In addition, we draw a distinction between domestic violence, which involves current or former intimate partners, and family violence, which involves violence perpetrated by a family member. As a result, throughout the report we usually refer to either domestic and family violence or sexual violence offences.

The focus of our research for this report is on FSV offences recorded in PNG's criminal justice system, specifically those recorded in police or court data. There are a number of relevant categories of violent offences scattered across four different pieces of legislation:

- » Criminal Code Act 1974 (CC)
- » Criminal Code (Sexual Offences and Crimes Against Children) Act 2002
- » Summary Offences Act 1977 (SOA)
- » Family Protection Act 2013 (FPA)
- » Village Courts Regulation 1974 (VCR) and Village Courts Act 1989 (VCA). VCR regulations under s. 41 lists offences affecting village life.

Table I lists the most relevant categories of violent offences under the different criminal legislation relating to DFV and SV. The only legislation that defines a crime specifically as DFV is the Family Protection Act, which provides for the offence of domestic violence. The relationship between the victim and alleged perpetrator, which is crucial to our conceptualisation of DFV, is not captured by the generic crimes of violence found in the Criminal Code or Summary Offences Acts, such as murder, grievous bodily harm or assault. For example, the range of sexual assault offences under the Criminal Code can include intimate partner violence, as well as crimes committed by acquaintances, strangers etc. With the exception of domestic violence offences under the FPA, identifying FSV offences in the criminal justice system thus requires information about the relationship between the victim and alleged offender that is not disclosed by the specific offence charged.

Table 1: Relevant categories of FSV offences* as defined by legislation

Category	Common name	Act and section(s)	Max imprisonment (in years) or penalty	
Indictable offences (i.e. punishable by imprisonment for more than 12 months)	Rape	CC s. 347	15	
	Sexual assault	CC s. 349	5	
	Sexual penetration of child under 16	CC s. 299A	25	
	Sexual penetration of child under 12	CC s. 299A	life	
	Sexual penetration or touching aged 16 to 18 years where relationship of trust, authority or dependency	CC s. 299E	15	
	Sexual touching	CC s. 299B	7	
	Indecent act child under 16	CC s. 299C	5	
	Indecent act child under 12	CC s. 299C	7	
	Persistent sexual abuse of child	CC s. 299D	15	
	Incest	CC s. 223	7	
	Unnatural offences	CC s. 210	14	
	Murder (and attempted murder)	CC ss. 299, 300, 304	Death; life	
	Manslaughter	CC s. 302	life	
	Wounding and similar acts	CC s. 322	3	
	Intent to commit grievous bodily harm	CC s. 315	life	
	Commits grievous bodily harm	CC s. 319	7	
	Assault occasioning bodily harm	CC s. 340	3	
	Serious assault	CC s. 341	3	
Domestic violence offence	FPA s. 6	2		
Breach of a family protection order	FPA s. 20	3		
Indictable offences that may be tried summarily by a Principal Magistrate (see s. 420 CC Schedule 2 and under Pt VII of the District Courts Act 1963)	Defilement of girls under 16 and idiots	CC s. 216		
	Indecent assault on males	CC s. 337	3	
	Wounding and similar acts	CC s. 322	3	
	Common assault	CC s. 335	1	
	Assault occasioning bodily harm	CC s. 340	3	
Summary offences, tried in the District Court	Serious assault	CC s. 341	3	
	Common assault	CC s. 343	6 months	
	Aggravated assault	CC s. 344	12 months	
	Assault	SOA s. 6	2	
	Fighting	SOA s. 10	3	
Offences affecting village life (r. 3 of the VCR under s. 41 of the VCA) may be tried by the VCR	Striking another person without reasonable cause	VCR r. 3(b)		

*Sexual offences are shaded in the table.

Investigating and prosecuting FSV offences – challenges and progress

Challenges for FSV survivors accessing justice

The challenges facing FSV survivors in PNG, including those of accessing justice through criminal proceedings (Putt et al. 2019), have been well documented. These include:

- » Significant under-reporting to police of domestic and family violence and sexual violence.
- » Inadequate support and representation of FSV survivors during the criminal justice process.
- » An under-resourced, biased, poorly skilled and inefficient justice apparatus.
- » Widespread reliance on alternative (non-state) justice bodies and processes, including compensation and mediation.

The limited capacity of the criminal justice system in PNG to respond to reported crime has been a longstanding concern (see next section). A baseline study of the RPNGC in 2013 documents, in considerable detail, low arrest rates; poor investigations, evidence collection and custody; and inadequate brief preparation, which results in low rates of successful prosecutions in the District Courts and adversely affects committals to the higher courts (Coffey 2013). At the same time, available data suggests a significant proportion of police work involves FSV complaints. The 2018 Crime and Safety Perceptions Survey indicated that ‘domestic violence’ was the third most common crime experienced in the previous 12 months by individuals or someone in their family. ‘Sexual violence’ was reported by fewer than 10% of respondents, with women twice as likely as men to be victims, and appeared to be more common in rural areas. Data reported and recorded by the RPNGC in 2012 and 2013 suggests a high volume of violent and sexual offending in Lae and NCD but, consistent with broader trends, low arrest rates (Lakhani and Willman 2014).

The present study was initially seen as an opportunity to update some of the indicators compiled in the earlier police baseline study (Coffey 2013) with a specific focus on FSV. That study highlighted how inadequate and unreliable records are of police actions, especially for minor offences and for referrals to Village Courts or other forms of mediation. There is scant evidence available on the number of cases heard by the District and National courts involving family or sexual violence. Serious offences of violence, including sexual violence such as murder and rape, are heard by the higher courts. A 2015 study of sentencing in FSV cases in the courts across Pacific Island countries included a total of 144 cases in PNG, of which the overwhelming majority related to sexual offences (90%) and almost all of them were heard by the National Court (Christie, Singh and Singh 2015). Again, the current study was viewed as an opportunity to investigate the proportion of court matters that relate to FSV.

Another key consideration is how the volume of work and the seriousness and complexity of FSV cases varies across and within the different agencies in the criminal justice system, depending on the nature of the offences. For instance, an indictable offence is dealt with by criminal investigators and the Sexual Offences Squad (SOS) within the police, and if it proceeds to trial it will be heard in the National Court with the Office of Public Prosecutions (OPP) and Office of the Public Solicitor (OPS) more likely to be involved. The capacity of different agencies, including the presence of those with specialist skills, to deal with cases also varies by location, with a concentration of expertise in the national and, with much variation between them, provincial capitals. For example, 2014 statistics from the OPP indicate there while there were 10 state prosecutors and 18 legal officers in Port Moresby, there were only two state prosecutors and two legal officers in Lae, and no resident professional legal staff at all in Arawa (a circuit location rather than a branch office). Lae and Port Moresby have additional resources, such as a victim liaison officer and access to the electronic case management system, which are often unavailable in smaller centres.

While the challenges in the criminal justice system and wider society remain daunting and, in many respects, unchanged, it is important to acknowledge positive developments that have taken place in legislative, policy and agency responses to FSV in recent years and their potential for facilitating real progress in this area. The most significant legislative reform has been the enactment of the Family Protection Act in 2013 with the broad aim of promoting safe, stable and strong families, and preventing and deterring domestic violence. Domestic violence, broadly defined, was made a specific offence punishable by a fine or imprisonment under this Act. The FPA also strengthened provisions for the issuing of interim and longer-term protection orders for the survivors of domestic and family violence. Breach of these family protection orders was also made a discrete offence under the Act. The Lukautim Pikinini Act was also passed in 2015, providing specific protections for children, while the colonial-era Sorcery Act 1971 was finally repealed in 2013 as part of concerted efforts to provide greater protection to the actual and potential victims of sorcery accusation-related violence.

Progress investigating and prosecuting FSV offences

Based on meetings and focus group discussions with a range of stakeholders, a recent Australian Office of Development Effectiveness (ODE) evaluation found signs of improved access to justice for women in PNG in the 10 years since the last strategic evaluation in 2008 (ODE 2018). These included the following:

- » More laws and policies in place (such as the endorsement of PNG's first National Strategy to Prevent and Respond to Gender Based Violence 2016–2025)
- » More awareness and advocacy work about rights (although it remains unclear whether this translated into improved access to justice)
- » Some positive developments in police practices.

The latter include the roll-out of (currently 24) Family and Sexual Violence Units (FSVUs) and the establishment of Sexual Offences Squads (SOSs) in key police stations. While much work needs to be done to consolidate these developments, the ODE evaluation found promising signs of growing awareness among police in this area. Progress was also evident in the increase in services available to survivors. These included new referral pathways, and more safe houses and community-based services. Significant new health sector responses include the establishment of 17 Family Support Centres (FSCs) attached to hospitals in 13 provinces.

Among the challenges highlighted in the ODE evaluation was the continuing inconsistency in the collection and management of data across the various service providers, which made it difficult to consolidate data at the national level.

In addition, the JSS4D mid-term review in 2018 found a broad-based network emerging in PNG to address FSV, including stakeholders in civil society and church organisations, among donors and international partners (for example, the Australian Federal Police — AFP), and in key government justice agencies such as the RPNGC, OPP, OPS, Department of Justice and Attorney General and the Constitutional and Law Reform Commission (QTAG 2018). Yet, the degree to which new legislation, increased community awareness, better services for survivors and improvements in police initiatives have translated into changes in police and justice attitudes and practice remains largely unknown, as does the question of whether support for victims and their experience of the criminal justice system has improved.

A review of FSVUs in 2015 noted that while the new units had served as a catalyst for change in the RPNGC response to FSV, changes in practice and attitude have tended to be at the individual rather than the organisational level and, moreover, are highly inconsistent within and between police stations and provinces (GHD 2015:viii). The review found that relatively few FSVU cases were properly investigated owing to overloaded staff, withdrawal of cases by survivors, lack of police interest and/or inadequate resources to see cases through to prosecution. In carrying out the research for the present project, we noticed that FSVUs

are also dealing with a high number of civil matters, including adultery. Although not a criminal offence, adultery can give rise to a civil action for compensation under the Adultery and Enticement Act 1988 and it appears that many survivors are pursuing this as a preferred course of action. The JSS4D mid-term review also highlighted the overstretched and under-resourced nature of police and other services and relative rarity of successful prosecutions. In addition, it noted the lack of systematic data, targeted research and policy evidence around FSV as a potential area for further exploration in the next phase of the JSS4D program, with a suggested focus on identifying which factors determine reporting patterns in different locations and tracking reported cases through the criminal justice process.

The recent Perceptions of Crime and Safety Survey reported that most focus group respondents acknowledged FSV as an important issue in the community and recognised that it was a crime. Within the broader FSV network, the survey found that the police are the most commonly identified group to which clients are referred and from which clients are received by other service providers. At the same time, the survey found that the police are still widely viewed as 'untrustworthy, corrupt and slow to respond' (Sustineo 2018:39). Domestic violence was often perceived by respondents as being viewed by most police as not an issue for the police to deal with. The survey also indicated that awareness of the existence and role of FSVUs was still relatively low and varied between provinces. That said, a majority (56.7%) of those who had sought assistance from the police, including FSVUs, or other law and justice agencies felt very satisfied with the way their matter had been handled (Sustineo 2018:41).

A recent pilot study of family protection orders in Lae involving one of the authors found some encouraging signs in relation to awareness and use of such orders under the FPA (Putt et al. 2019). Based on Femili PNG client data, the study found that over almost four years there had been an increase in the number of interim protection orders (IPOs) issued, as well as a reduction in the time taken to obtain an IPO and to convert the IPO into a longer-term protection order (PO). Factors contributing to the increase in uptake and more efficient processing included greater understanding of the purpose and administration of the orders arising from training and awareness activities; increased capacity in the District Court associated with the appointment of more magistrates and a supportive senior provincial magistrate; and increased support for applicants during the process through improved coordination and referrals among key stakeholders, with a key role played by Femili PNG. An extended study has now commenced that will examine the working of family protection orders in four other locations: Port Moresby, Popondetta, Mount Hagen and Arawa in the Autonomous Region of Bougainville (ARB).

While reform and capacity-building efforts in the area of FSV have understandably had a strong focus on improving the working and effectiveness of different criminal justice agencies and the law and justice system as a whole, it is important to bear in mind the distinctly plural character of PNG's social and regulatory environment. With the notable exception of the Village Courts, most of the resources and personnel of the justice system are concentrated in urban settings, presenting varying challenges of access to many of the country's still predominantly rural-based population. The enduring challenges presented by the uneven reach of state justice in PNG's complex social and geographical landscape, as well as the often poor quality of services provided, help explain the prevalence of diverse local approaches to dispute management in many areas. Continuing resort to these informal methods even in urban settings, where, in theory, law and justice facilities are more accessible, also suggests that they remain the preferred approach among many litigants for managing certain kinds of disputes and contestation.

Recent World Bank (WB) research in Lae and Port Moresby has documented the prevalence of mediation as a key institution of informal regulation in the rapidly growing urban settlements and markets (Craig and Porter 2018). While varying enormously, mediation managed through local committees (*komitis*) and community leadership (*lidaman/meri*) typically cover a broad range of matters, including family matters (marriage,

adultery and relationship disputes); public order; business activity; and land and property. Despite the positive outcomes associated with these forms of informal regulation, they clearly pose particular challenges and risks in respect of FSV. As highlighted in the WB and other related research, local regulation tends to be highly patriarchal and exclusive with women often having little voice in komiti deliberations and decision-making. Consequently, many women tend to be sceptical about their ability to access justice through these local mechanisms. At the same time, FSV cases reported to the police continue to be regularly referred back to komitis, while in other cases families opt for quick local resolution, including the prospect of compensation, thereby depriving individual survivors of legal justice and rendering them vulnerable to further abuse.

Significantly, when people were asked about crime and safety, the large-scale surveys conducted in 2015 and 2018 indicated that if a person or household had already been a victim of crime, they were now more likely to report it to police than to elders and community leaders. The 2018 results, however, are not broken down by crime types, and the 2015 survey report stressed that FSV is likely to be seriously under-reported. Both surveys also indicate that there are varying degrees of awareness and experience of criminal justice agencies among the adult general population, with the Village Courts and the District Courts having the highest proportions of awareness and engagement. Only about a quarter of the respondents were aware of and/or engaged with the OPS and the OPP (slightly more were aware of the OPP). Despite continuing high levels of distrust of the police, these survey results suggest that for many victims of crime (including FSV victims), reporting to police and pursuing justice through the criminal justice system are steadily (though unevenly) becoming the normal avenues through which justice is sought. This gradual and ongoing shift has undoubtedly been facilitated by the FPA and attendant organisational changes, which have created a more targeted focus on domestic and family violence (DFV) in the criminal justice system by creating the DV offence and enhancing the opportunity to seek protection through the civil law.

PNG criminal justice system – challenges, themes and donor assistance

The challenges facing PNG's criminal justice system in the context of serious law and order problems have been a persistent concern for successive governments, international partners and citizens throughout most of the country's post-independence history. The sheer number of agencies and departments involved makes law and justice one of the most complicated sectors of government in any national setting, while systemic issues in PNG — including those pertaining to institutional and individual capacity, resource constraints, and the country's social and geographic complexity — add to these challenges. Over the years, there have been numerous reports and policy reviews addressing aspects of criminal justice. However, during most of the 1980s and 1990s, the standard government response to escalating crime was the announcement of reactive crime control measures, including special policing operations and temporary restrictions on movement in the worst-affected areas.

The Clifford Report in 1984 provided what is arguably still the most insightful review of PNG's law and order challenges. It catalogued the institutional frailties of criminal justice agencies, including the paucity of data collection, and was highly critical of the weakness of planning, budgeting and coordination across the sector (Clifford, Morauta and Stuart 1984). Among other things, it proposed the creation of a separate policy development unit to advise government leaders and line agencies on law and order policy, evaluate programs, and monitor implementation. The Clifford Report also highlighted the distinct features of PNG's broader operating environment and, in particular, the continuing reliance by PNG's overwhelmingly rural population on informal justice mechanisms and practices for everyday security and dispute resolution. In this regard, it made a compelling case for greater acknowledgement and engagement with these community-based approaches to maintain order and to resolve disputes.

Despite the Clifford Report's attempt to broaden the lens on PNG's available justice and regulatory resources, successive governments continued to engage in crisis management entailing reactive policing and temporary

crime control measures. Increasing problems of crime and disorder in many parts of the country, including the rapidly growing urban centres, threatened to overwhelm a relatively small and fragile criminal justice system that was ill-equipped to manage the range and scale of challenges it faced in PNG's diverse and fast-changing social environment (Dinnen 2017). Reflecting this difficult environment is the style of policing that emerged in the RPNGC (although also seen in the criminal justice system more broadly) and manifested in, for example, inadequate workforce numbers, centralisation of budget and personnel, uneven distribution of resources, militaristic and often violent policing practices, and the tiny proportion of cases that ended up in the formal court process.

One indisputable fact about the RPNGC is that its size has demonstrably failed to keep pace with the country's rapidly growing population and escalating law and order challenges. As a result, the reach of the organisation has, if anything, diminished since independence. Although the overall population has more than quadrupled during this period, it has been estimated that the RPNGC has only grown by around 30% (Dorney 2016). In 1975 the police to population ratio was 1:476, with approximately 4100 uniformed police for a population of around 2 million. Figures from 2013 indicated that the police to population ratio had decreased to 1:1275, with 5724 uniformed police for a population of around 7.3 million (Connery and Claxton 2014). More recent estimates put the size of the force at between 7000 and 8000 officers, while the population now exceeds 8 million. Limited recruitment has also contributed to an ageing workforce with many serving officers having passed the mandatory retirement age.

By the mid-1990s, the most critical problems facing PNG's struggling criminal justice system were well known (Dinnen 2009). These included:

- » '[a] paucity of reliable criminal justice data [on which to base planning, forecasting, and the evaluation of particular initiatives
- » a growing backlog of cases in the court system
- » a low success rate for arrest, investigation and prosecution of crimes
- » limited access to legal aid
- » over-reliance on ... custodial sentences ...
- » a very high prison remandee population
- » mass prison breakouts
- » police brutality
- » large numbers of outstanding civil actions against the state arising from unlawful police actions ...
- » systemic problems of financial and personnel management.'

A consequence of inadequate funding, the bulk of agency budgets have been directed to salaries, allowances and utilities, leaving little available for goods, maintenance and other services.

Given the constraints on government support, donor assistance to PNG's criminal justice system has been critical to sustaining it for many years. Most of this has been from Australia, PNG's largest single donor. Initially this support took the form of institutional strengthening projects with individual agencies including the police, courts, prisons, legal services and the ombudsman commission. The largest of these was RPNGC Development Project (comprising three phases) from 1989 to 2005. Facilitated by civilian advisers, this project provided capacity-building in a range of areas including fraud and anti-corruption, prosecutions, community policing, corporate planning, information management, human resources, logistics and infrastructure, leadership and management, training, finance, discipline, general duties and gender (McLeod and Dinnen 2007).

The Australian approach to assisting the RPNGC, and law and justice more broadly, has evolved significantly over the years. In the case of police assistance, the last 15 years has seen police-to-police assistance delivered by AFP becoming the dominant approach in PNG and the wider region. This involves PNG-based AFP officers working directly with their RPNGC counterparts in an advisory (capacity-building) role. Examples include the short-lived Enhance Cooperation Program (2004–5), which included Australian police serving in an executive policing roles alongside their RPNGC counterparts for a short time, prior to this arrangement being ruled unconstitutional by PNG's Supreme Court. Since 2008, the AFP has been providing capacity-building as advisors to the RPNGC, primarily in Port Moresby and Lae, under different phases of the PNG–Australia Policing Partnership. In recent years this has included a significant focus on FSV. An AFP evaluation of the 2013–17 phase concluded that the Policing Partnership had contributed to increased access to FSVU support services in the NCD (AFP 2018), while the next phase is likely to place more emphasis in strengthening the RPNGC's Sexual Offences Squads. Some advisory work with the RPNGC has also continued to be provided under Australia's broader law and justice programs in PNG.

The Australian Attorney-General's Department (AGD) has also been involved in capacity-building assistance in PNG, initially through the Strongim Gavman Program, a four-year program that commenced in 2009 as successor to the Enhanced Cooperation Program and involved senior Australian Government officials working as advisers in PNG government agencies, including as lawyers with PNG's OPP and OPS. More recently, Australia's AGD has continued its engagement with PNG's Department of Justice and Attorney General and OPP under the Institutional Partnerships Program. The 2018–19 Annual Report of Australia's AGD notes two prosecution advisers embedded in PNG's OPP who are providing on-the-job coaching and mentoring to prosecutors. These advisers focus on FSV, financial crime and supporting provincial prosecutions (AGD 2019:47).

Law and justice capacity-building

In the first decade of the 2000s, the bulk of Australia's law and justice assistance moved away from discrete agency-based institutional strengthening projects to the adoption of a sector-wide approach to law and justice assistance, recognising the interdependence between the different institutional parts and the need to improve the workings of the system as a whole. This switch commenced with the Law and Justice Program (2003–09), which later became the Papua New Guinea–Australia Law and Justice Partnership (PALJP) (2009–14), and is now the JSS4D program. These changes in the delivery of Australia's law and justice assistance also reflected the endorsement by the Government of Papua New Guinea (GoPNG) of the country's first National Law and Justice Policy (NLJP) in August 2000, which also adopted a sector-wide approach. That policy, as subsequently refined and developed, remains in place today, representing PNG's broad vision for law and justice, and, in particular, criminal justice reform. It is also a testament to the more engaged approach to law and justice adopted by PNG governments over the past two decades.

The policy is organised around three pillars, with the first recognising the need to improve the effectiveness of the criminal justice system through capacity-building with individual agencies and initiatives aimed at strengthening multi-agency approaches. The second addresses the critical issue of sector-wide coordination and the need for suitable coordinating structures, systems and processes. The third addresses the need to develop effective crime prevention and restorative justice strategies in partnership with community-based organisations. In that respect, it sought to respond to the much earlier Clifford Report's concern with improving, where appropriate, the linkages between formal and informal justice provision in PNG's plural settings.

The broad vision identified in the NLJP and subsequent sector strategic planning was to enhance the capacity of the sector to achieve 'a just, safe and secure society for all'. The formulation of GoPNG's own strategic vision for the sector provided an important framework for development assistance that had been noticeably absent in previous decades. For example, PALJP identified specific areas of focus for bilateral cooperation, targeting priority initiatives under GoPNG's Sector Strategic Framework Goals:

- » Improved policing, security, safety and crime prevention
- » Increased access to justice and just results
- » Improved reconciliation, reintegration and deterrence
- » Improved accountability and reduced corruption
- » Improved ability to deliver law and justice services.

JSS4D is currently the main source of capacity-building support to the PNG law and justice sector. Its four-year program is funded by the Australian Government in partnership with the PNG government, and builds on over 25 years of Australian support to this sector. As noted above, the support provided through JSS4D is complemented by that through other Australian Government departments and agencies, notably the AFP and the AGD. Other relevant Australian-funded programs include Pacific Women Shaping Pacific Development, the Institutional Partnerships Program (IPP) and the Papua New Guinea–Australia Governance Program (PAGP).

JSS4D is sector-led with leadership and direction provided by the National Coordinating Mechanism, comprising all the sector constitutional office holders and departmental heads, and the Strategic Program Governance Meeting that was established by GoPNG as a critical instrument for facilitating its National Law and Justice Policy. There are six priority provinces identified by the sector: Gulf, Western, Morobe, Northern (Oro), Hela, Southern Highlands and the ARB. JSS4D activities focus on four broad outcome areas:

- » Enhancing community safety and security
- » Increasing access to FSV legal support and referral services
- » Strengthening core law and justice agencies to deliver ethical, accountable and effective law and justice services
- » Enhancing efforts to combat corruption.

The program is delivered through a range of modalities including technical assistance, training awareness and targeted infrastructure. The JSS4D end-of-program outcome for FSV states: 'women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services'. The four JSS4D intermediate outcomes are concerned with:

- » Empowering women
- » Increasing access to referral and support services
- » Increasing access to effective legal protection and assistance, and
- » Increasing timely investigations and prosecutions of FSV cases in the courts.

Work in the FSV area is supported by three advisers led by a deputy team leader. The team works closely with other technical advisers from the Papua New Guinea–Australia Policing Partnership and Institutional Partnerships Program and provides ongoing advisory and mentoring support to their respective counterparts from the sector.

Autonomous Region of Bougainville

Context

Formerly a province of PNG with a current population of around 250,000 people, Bougainville experienced a protracted civil conflict between 1989 and 1997. The conflict, which resulted in the loss of between 5000

and 20,000 lives, led to the effective collapse of government authority and services throughout the main island, including police and the law and justice system. A peace process was initiated in 1997 with international support from the United Nations and neighbouring countries including New Zealand, Australia, Vanuatu and Fiji. Alongside the formal negotiations between Bougainville and PNG authorities, indigenous approaches to reconciliation and peacebuilding, involving chiefs, churches and women's groups, played (and continue to play) an important role at local levels (Braithwaite et al. 2010).

The 2001 Bougainville Peace Agreement (BPA) produced a unique political dispensation in the shape of the ARB and provided for a referendum to be held on the ARB's future political status within 10–15 years from the signing of the peace agreement. The ARB adopted its own constitution and established an Autonomous Bougainville Government (ABG) in 2005. A strong commitment to reconfiguring institutions of government and administration to better fit Bougainville's plural forms of authority and leadership was highlighted in the ARB's foundational documents, including in respect of police and justice services (Dinnen and Peake 2013). Various powers were to be transferred from the national government to the ABG, including those in relation to the police. However, this process of transfer of powers remains incomplete, in part reflecting the extremely limited administrative and fiscal capacity of the ABG to manage and support its own police organisation.

Policing

Emerging from the decade-long conflict, most government agencies and services on the main island had to be rebuilt from scratch. Police infrastructure had been effectively destroyed. In early 1998, Bougainville authorities requested training for a new, community-based form of policing appropriate for a predominantly rural and village-based population. This was the beginning of the Community Auxiliary Police (CAP) under the auspices of the longstanding Bougainville Community Policing Programme (BCPP) that continues to this day. The BCPP is funded by New Zealand's Ministry of Foreign Affairs and Trade and managed by the New Zealand Police. The BPA and the Bougainville constitution provided for the creation of the Bougainville Police Service (BPS).

While intended to be parts of the same police organisation, the most recent evaluation of the BCPP found that cohesion between the CAP and BPS remains incomplete (Tennant and Cowley 2018). According to the evaluation, there are currently 225 BPS regular police in the ARB, with 182 male and 43 female officers. There are 349 CAP, comprising 283 men and 66 women. Police (regular and auxiliaries) are located in each of the three regions, though most are based in the northern region. Training, mentoring and other forms of support are provided to the BPS and CAP under the BCPP by around 12 NZ police advisers (including a seconded officer from Vanuatu) who are located with the BPS in the three regional centres of Buka, Arawa and Buin.

Successive evaluations have noted the important contribution of the CAP to reconciliation peacebuilding and everyday community policing in Bougainville's still fragile post-conflict environment, while also highlighting the limited capacity of the BPS. The latter condition is accentuated by a shortage of experienced officers, particularly at middle and senior management levels, and manifests itself in, among other things, the limited capacity of the BPS to effectively manage the CAP. The BPS Strategic Development Plan also notes the lack of administrative and operational capacity and technical skills as well as significant shortages in police accommodation, infrastructure and equipment. Efficient and visible policing are viewed as essential by Bougainvillean authorities and there is an emphasis in the strategic planning documentation on improving security, safety and crime prevention through community policing and an effective BPS. The Bougainville Law and Justice Coordinating Mechanism is designed to enable the police to work more effectively with other law and justice agencies and consists of representatives of the ABG, BPS and donor programs, including BCPP and JSS4D. In addition to support provided through the BCPP and JSS4D, some additional advisory assistance is provided by the AFP through the PNG–Australia Policing Partnership.

In many respects, the capacity and resource challenges facing the BPS mirror those facing the RPNGC in other parts of PNG, but they also include those facing a relatively new (and young) policing organisation with a shortage of experienced officers, chronic lack of funding, as well as specific legacies from the conflict period in the broader operating environment. While noting that there has been progress in terms of training and strategy development to support better policing, the 2018 JSS4D mid-term review noted the severe capacity constraints under which the BPS operates in terms of staffing, transport and running costs.

Law and justice capacity-building

JSS4D runs a separate ARB component delivered through a project team (comprising a deputy team leader, two community justice advisers and a law and justice adviser) based in Buka. This component has its own results framework based around the same four outcome areas as the national program (see above). While broadly consistent with the overall JSS4D program structure, and with a similarly strong focus on training, the ARB component also emphasises the need for peace and stability and the establishment and strengthening of key law and justice services, particularly the BPS.

All the national law and justice functions have a presence in the ARB, even if only in Buka in some cases. The National Court has a resident judge in Buka who periodically goes on circuit to Arawa and Buin with support from the OPP, OPS and police. There are resident magistrates in Buka and Arawa who also go on circuit to Buin. The Bougainville Strategic Development Plan 2018–2022 emphasises the need to extend law and justice services across the ARB, particularly in the central and southern regions. However, accomplishing this is hindered by lack of national funding for housing, offices and staff relocation costs.

The Bougainville Law and Justice Coordinating Mechanism is responsible for coordinating the work of the sector and its stakeholders at the local level. It is chaired by the ABG's Department of Police, Corrective Services and Justice and includes representatives from national law and justice agencies and key stakeholders. Local level dispute mechanisms, including Village Courts and Land Mediation services, remain critical to maintaining peace and stability at the local level in Bougainville, although their remoteness presents considerable challenges in terms of monitoring and reporting.

The continuing lack of an appropriate correctional facility in the ARB is a pressing issue, both in terms of the human rights of detainees, who are currently held in overcrowded police cells, and in terms of its serious impact on the overall functioning of the criminal justice system. While securing land for this purpose remains a challenge, establishing a Correctional Service (CS) facility is a priority for both the ABG and GoPNG.

In relation to FSV, the Bougainville Family and Sexual Violence Action Committee (FSVAC) Strategic Plan 2017–2019, endorsed by the ABG in 2017, aims for the FSVAC to be the peak body for FSV initiatives in the ARB. The plan emphasises the need for coordination and productive referral pathways. As well as seeking to improve the efficiency and effectiveness of FSV initiatives, the strategy focuses on responses and justice services for FSV survivors, including police front-counter responses, enforcement of family protection orders and overall implementation of the FPA. It also includes a focus on increased prevention and awareness activities. The Department of Community Development has the mandate for FSV coordination in the ARB and is the chair of the Bougainville FSVAC. Membership of FSVAC includes all agencies that have a referral pathway, including the BPS. Based in Buka, the FSVAC also includes a representative from central and southern regions. The JSS4D Annual Performance Report 2018 highlighted work initiated with perpetrators of domestic violence to support the implementation of the FPA in Bougainville and provide magistrates with an alternative to prison for offenders. This work is supported by the senior provincial magistrate and coordinated through counsellors from the Nazareth Centre for Rehabilitation.

The JSS4D mid-term review found that progress had been made in terms of awareness raising among law and justice personnel and in the wider community. The development of Bougainville's FSVAC Strategic

Plan, along with the strategic plan of the ABG's Department of Community Development, have also been welcomed as a sound basis for improved responses to FSV. On the other hand, greater community awareness has generated higher demand, particularly in respect of IPOs and Seif Haus (safe house) provision. Severe capacity constraints in the BPS have impeded the investigation and prosecution of FSV offences, as have the limited presence of law and justice agencies in the central and southern regions, and the limited funds available for recurrent costs such as transport. These and other limitations have contributed to lengthy delays in police responses to complaints and considerable frustration among those seeking justice. In short, while IPOs and Seif Haus provision have contributed to improved protection, justice for survivors and deterrence of perpetrators remains lacking.

Research project: approach and methods

An exploratory and adaptive approach underpins the project due to the substantial and wide-ranging constraints that affect the conduct and outcomes of the research, which included but are not limited to:

- » The difficult, unpredictable and potentially unsafe context in which to undertake research.
- » The lack of reliable data and limited access to data. This has been a recurring issue in evaluation and review reports that lament the poor record keeping and quality of information held by key agencies. For instance, the recent mid-term review of the program referred to the lack of systematic data and policy evidence (QTAG 2018).
- » The limitations placed on the project in the request for tender, in terms of resources and time.

A factor affecting the scope and focus of the project was the priority placed on different kinds of family violence and sexual violence. In relation to the former, we assumed that the program should mostly be concerned with what we term 'domestic and family violence' as defined in the Family Protection Act — that is, violence involving current or former intimate partners, and immediate kin. This means various forms of child abuse perpetrated by a family member are included. With sexual violence, the main focus was on the sexual abuse and assault of children, women and other vulnerable groups. With violence, and given the range of summary and indictable offences, the main interest lay with the more serious and physical forms of violence.

The project involved a mix of methods. Given the priority placed on quantitative data, effort was made to gain the support of key stakeholders and criminal justice agencies in order to seek support to interview staff and access data. In terms of quantitative data, the initial phase clarified what information was available and its quality from a range of sources, including police, police prosecutors, magistrates and the judiciary, court staff, and NGO services representatives. A patchy picture emerged. The statistical information or records that were shared with us are listed in Attachment 2. With police records, a significant proportion of the project's resources involved converting information kept in registers and in monthly returns into statistical data.

To complement the statistical data, we had planned to sample records or files from a range of criminal justice agencies, such as from police occurrence books and major incident reports, police prosecution files, public prosecution files, and District and National court cases. However, we did not manage to do this, as is explained below. Limited observations were completed in a range of locations, primarily in police stations and, on a number of occasions, in the District Court.

To access information and to help understand the issues, semi-structured interviews were undertaken with criminal justice stakeholders in each location, including five police stations and the higher courts (District and National courts) operating in Port Moresby, Lae and Arawa. In total, three fieldwork visits were conducted. More than 50 stakeholders were visited in the three locations, often on more than one occasion. The different stakeholders, in terms of their jobs and sectors, are listed in Attachment 1.

Project challenges and limitations

There continues to be substantial obstacles to building data-based measures of the criminal justice system and of system changes. These fall into two main categories:

- » **Records:** Each agency retains records of what they do. But how they are kept and their quality varies considerably by agency, and location. With police, records are primarily still kept using hard copy files and ledgers, and the consistency and storage of records depended on the area and key individuals. With hard copy records, the tropical climate and other conditions under which they are kept contributes to their physical deterioration over time. Only the National and District courts have adequate operating data management systems, but these are not easy to access or to extract data from.
- » **Stakeholders:** Although letters were sent from the Australian High Commission to agency heads explaining the various research projects being undertaken on behalf of JSS4D, we still had to negotiate different layers of management in the relevant agencies before we could approach frontline staff and those knowledgeable about records and databases. Navigating the different layers was made more problematic by political events and by recent changes in agency heads. Other complicating factors were key people being absent because of leave or training, or not answering phone calls, as well as a degree of uncertainty and apprehension about the purpose of this particular research (bearing in mind the number of other studies being conducted simultaneously) and the often-imperfect state of records.

Due to the challenges, it was quite a process to build trust and to gain access to information, in central and other locations. Little information could be obtained to enable the tracking of trends over time; this was either because it was not recorded, not kept or not recorded consistently or because it was difficult or time consuming for the agency to extract or collate the information. As a result, where it was possible, we asked for a year of data from 2014 and 2018, or for a month of data in 2014 and the same month in 2018. Where we felt the investment would pay off, hard copy records were copied and entered into an Excel spreadsheet designed by us. This was done with FSVU records. In some cases (for example, records kept by the SOSs), photos were taken of the hard copy records and we added information to Excel spreadsheets to generate quantitative data.

In only a few examples of recorded data were the relationships between a victim/complainant and the alleged offender clearly recorded. To help identify the kind of offences we were interested in, we compiled a list from the different pieces of legislation (see Table 1 with the list of offences provided to stakeholders). But the way information is recorded means that it is only in FSV specific units or offices that there can be any confidence that the relationship relates to family and domestic relationships.

There was insufficient time to develop a strategy to track individual cases across the various phases or stages of the criminal justice system. Police have a number of identification codes for each matter they deal with, while the courts generate their own. Even if a unique identifier could be created which would follow the victim through the process, there is no guarantee that records would be kept of what happened at each stage. In our original proposal we had proposed to sample files — the example was given of police prosecution files that would have shed light on critical issues like defendants' pleas, outcomes and length of time the process took. However, we did not have sufficient time to build the trust to access files and in some instances no external party is allowed to access files (for example, at the National Court).

Due to these challenges, we have been unable to document in a robust and empirical way the system changes and current situation in relation to:

- » The extent of the attrition from reporting DFV offences to the police and through the system. An estimate was made for SV offences in Port Moresby.
- » Pleas, sentencing outcomes, and length of time cases take in court.

Conclusion

This chapter has outlined the aim of the research and the methods used to undertake the project. Some detail is included on the challenges of finding reliable and accessible data, as the current situation in relation to record keeping and the use of information within the criminal justice system is a key finding.

The rest of this chapter placed these challenges and the project as a whole into the context of recent legislative and policy reforms to address family and sexual violence, and past efforts to document and investigate the extent and nature of FSV. In addition, it was crucial to situate FSV offences within the context of the wider criminal justice system — its different components and the different configurations depending on location, most notably Bougainville. Much has been said and written about the state of law and justice in PNG, of which FSV offences are only one, albeit important, part. Understanding the complexities of how justice is administered, and the longstanding history of external support to boost law and justice capacity assists in tempering expectations of what can change in the future in the criminal justice response to FSV offences.



Bilums. Source: Judy Putt

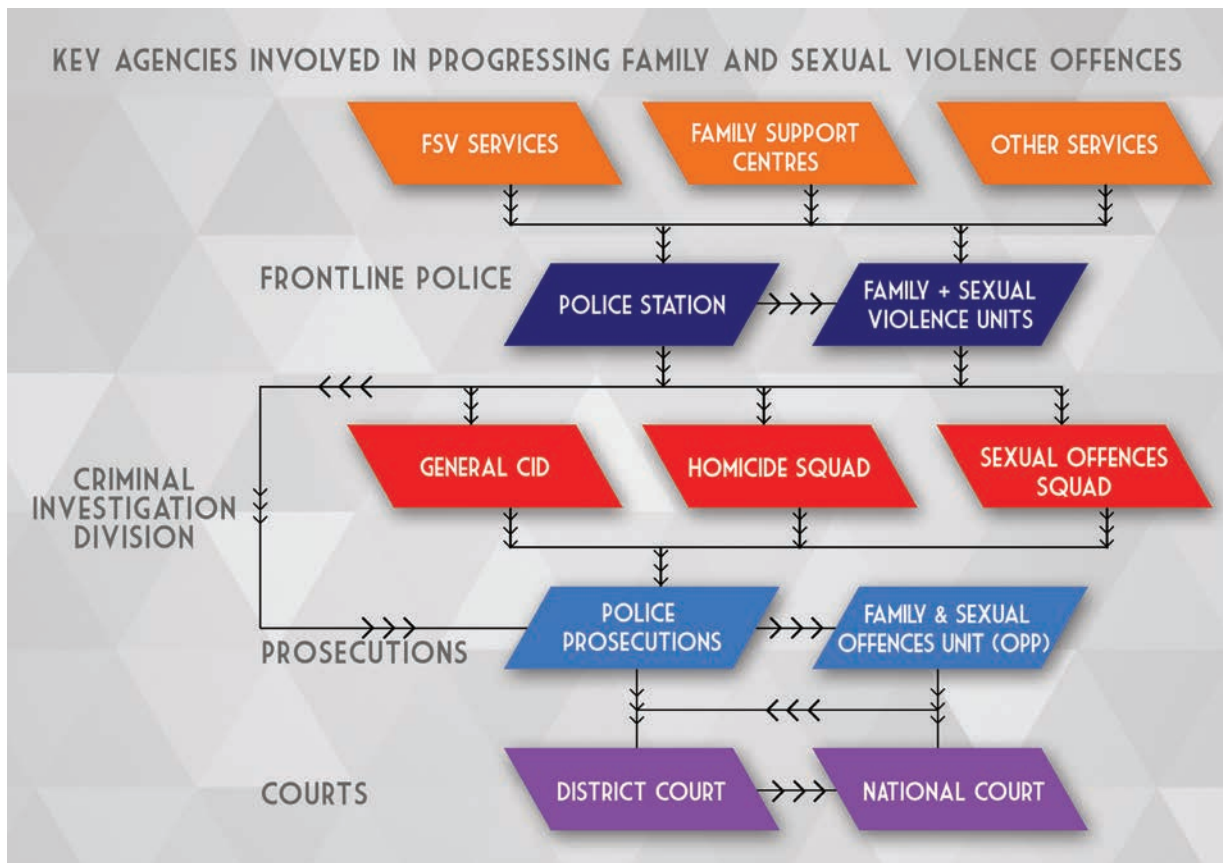
CHAPTER 2. METHODOLOGY

Introduction

The criminal justice system is typically represented by a flow diagram, beginning with the report of a crime and ending with the sentencing of an offender. Figure 1 seeks to capture the key agencies involved in each stage of the process, when the crimes reported relate to DFV or sexual violence, with the focus on agencies that have contact with the complainant. Figure 1 shows that there are different tracks depending on whether the complaint is assessed as a summary or indictable matter, with the more serious matters involving investigations by police detectives, prosecution by the OPP, committal in the District Court to the National Courts. As was noted in the introduction, for the project, a cross-section of stakeholders from agencies responsible for summary and indictable matters were consulted with or interviewed in the three locations of NCD, Lae and Arawa (see Attachment I for more detail).

NCD and Lae share much in common as the two largest urban centres in PNG, but NCD has the larger population and as the national capital is the centre for administration and public policy. This results in a concentration of resources with both local and national responsibilities, which is evident in the criminal justice system in terms of, for example, the number of FSVUs, the specialist nature of different District Courts, and the size of the National Court complex. The FASO office, the specialist unit within OPP, is based there along with the head office of JSS4D, which is the Australian law and justice aid program, and the national secretariat for the FSVAC.

Figure 1: Key agencies involved in progressing family/domestic violence and sexual violence offences through the criminal justice system



Source: DPA.

The contrast to Arawa is marked. It does have an FSVU, a small SOS unit, a single District Court magistrate, and the National Court judge who undertakes a circuit visits there regularly. So how the criminal justice system operates does differ by location, in scale and by the type of matters that are dealt with. It is therefore not surprising that stakeholders raised issues that were often specific to where they worked. This chapter, however, underlines common threads across the consultations, with the occasional reference to Bougainville because of its recent history, current political events, and distinctive features of the criminal justice administration.

Trends and current estimates of volume

It was the unanimous view among key stakeholders in the three locations that there has been an increase in the reporting of FSV. Three factors were identified as contributing to the increase. The first was the increase in publicity about FSV since 2015, through the radio, pamphlets, posters and so forth, funded by government and other sources. The second factor was the improved awareness among key stakeholders of legislative reforms, and of how the criminal justice system should respond to FSV. This has no doubt contributed to the visibility of FSV and the recording of such offences, which would certainly contribute to the better documentation of reporting and of FSV cases. The third factor was the improved skills and capacity of key areas of the police and within the criminal justice system that has occurred through training and workshops. More is said on this below.

Many stakeholders also believed there has been an increase in reported sexual offences committed against children. This was seen as quite a long-term trend, starting more than a decade ago but escalating every year, with a corresponding decline in sexual assaults against adults. A lower proportion of stakeholders also believed there was an increase in reported cases involving boys, and an increase in the number of juvenile sex offenders. A widely shared view was that the perceived increase in sexual offences against children and juvenile sex offending was due to access to pornography via phones and social media.

Various estimates were given by different stakeholders as to how much of their work related to FSV and FSV offences. Some specialist areas such as the FSVUs, the SOS and the FASO office (in the OPP) exclusively focus on FSV. Overall, the impression is that a significant proportion of matters reported to the frontline police (via the counter, by phone, on patrol or otherwise) involves **domestic or family violence**. Sexual violence was viewed as less common and typically of a more serious nature.

The data collected for the project certainly supports the view that the reporting of domestic or family violence — especially domestic violence — has increased, and that they are a significant proportion of offences dealt with both by frontline police and the specialist FSVUs, and constitute a large portion of the summary offences dealt with by the District Court. With more serious violent offences, the data presented in this report focuses on sexual violence. It is less common and usually follows a separate pathway through the criminal justice system, with complaints referred to the SOS, then to the FASO office before being dealt with by the National Court. Although homicide remains the most common serious violent offence dealt with by the National Court, it was not possible to quantify the volume of homicides that involve domestic or family relationships. The only indicators were from the proportion recorded by the Boroko homicide squad, which was 10% of the homicides recorded in a year, and the perception of the Lae homicide squad that the majority of the homicides they deal with are related to family violence. The CID Officer in Charge (OIC) and the head of homicide squad agreed the domestic homicides were the least difficult homicides to solve because the perpetrator was usually present at the scene, and typically confesses. They estimated that if the suspect pleaded guilty the case would take about a year to finalise, and three to four years if a plea of not guilty, with suspects usually kept in custody for their safety.²

Box 1: Consultations in Bougainville

While in Bougainville, we were asked to focus on FSV offences in Arawa. However, as the main offices for criminal justice agencies are in Buka we spent some time there. Based on our short visit, the following observations are made:

- » The legacy of the past conflict was very evident, and several stakeholders referred to community fear of ex-combatants, and their hopes for the upcoming referendum and local peace processes.
- » In Arawa, it is an ongoing struggle to fund, build and staff policing and justice services. Examples included the state of the police cells and other government buildings, the absence of a proper prison, and the FSC not being properly staffed.
- » The Nazareth Centre of Rehabilitation plays a crucial role throughout Bougainville in the assistance it provides to survivors via safe houses and networks of male and female advocates, and in its extensive involvement in training and awareness raising on FSV issues. In Arawa, it runs a safe house and a men's hub.
- » The FSVAC is working well in Buka, but not yet in Arawa.
- » The key criminal justice agencies have a separate identity in Bougainville, but are still linked to the overarching PNG organisations that they form part of. The BCPP is quite unique, with, we were informed, 350 officers in rural and urban centres compared with 242 police officers in the BPS, and the community police are an important link to rural areas for BPS officers based in Arawa.
- » There seemed to be a shortage of experienced police officers at the middle management level in BPS to supervise, guide and mentor the younger recent recruits.
- » The relatively small scale of the criminal justice system in Bougainville has its advantages; for example, cases in the District Court and the National Court were dealt with more quickly than appeared to be the case in Port Moresby or Lae.
- » The significance of community governance and the power of chiefs and Village Courts in rural areas was underlined by many stakeholders, with processes for resolving disputes and conflict within villages running parallel to and in tandem with the pursuit of individual crimes and alleged offenders through the criminal justice system.

Perceived improvements

Everyone agreed that referral pathways had improved, in part because of the increased availability of support services for survivors, such as FSCs, safe houses, Human Rights Defenders survivor networks, and specialist DFV services such as Femili PNG in Lae and Port Moresby. It was stressed in the three locations that there was improved knowledge of and referral to these services among criminal justice stakeholders.

Various mechanisms (e.g. FSVU standard operating procedures and the Morobe FSVAC) were highlighted as assisting with an understanding of FSV and an appropriate response and process among criminal justice stakeholders. The various mechanisms to improve coordination, and cross-agency participation in workshops and training, were seen as generating personal relationships and shared personal phone numbers that

improved practices and timeliness (notably in Lae). A range of stakeholders referred to workshops or training activities in the past two years that had helped them, either generic courses on investigations and prosecutions supported by the AFP or more specific to FSV and funded by JSS4D. In particular, the latter type of training with multiple agencies was seen as especially invaluable in strengthening local networks.

During the consultations and interviews, there was evidence in all three locations of the importance of effective and strong leaders in particular units and agencies. Concerns clearly exist that such leadership depends on the individual, and that the circumstances can easily change should that individual leave or be transferred elsewhere.

Ongoing challenges

Most challenges raised by stakeholders relate to the criminal justice system and are not unique to FSV offences. They are long-term problems found in previous reports on criminal justice agencies and practices (see introductory chapter), and in some respects, conditions appear to have deteriorated further. The shortage or lack of basic equipment, and the deterioration and limited maintenance of equipment, buildings and vehicles were a frequent refrain. It was most notable among police, in different roles and sections, and even in better-resourced units such as the FSVUs and the SOS. Frequently police officers showed broken computers, landline phones and printers and lamented the lack of petrol, paper and ink. The allocation of police resources such as vehicles can contribute to jealousy and rivalry among officers and between different areas, with a perception among some that a few sections such as juvenile justice and the SOS are unfairly favoured by overseas aid. Even within sections there can be resentment about who is selected to attend training, especially if it involves an opportunity to go overseas.

Young, inexperienced police officers are often having to 'learn on the job' with inadequate mentoring and supervision, which fosters inconsistencies and can lead to bad practices. It was most noticeable in Bougainville but also found in the urban centres. The decline in training and supervisory standards in other justice professions was also raised by non-police stakeholders such as the judiciary and public prosecutors.

Understaffing was a major issue for every criminal justice agency. Every group (police, prosecutors, court staff) gave figures for how many people were actually 'on the job' versus a much higher number of positions, and/or referred to the decline in actual numbers of staff. Contributing factors appear to be the long time-frames before appointments are made, and freezes on recruitment. In addition, in a few occupations, there seems to be a struggle to attract suitable candidates to positions, especially if they are based outside of the capital.

Reporting to police and subsequent police action

A common perception among service providers outside of the justice system was that there continues to be a significant under-reporting to police. Most stakeholders referred to ongoing issues affecting victims' willingness to report, including family and community pressure not to report, fear for their safety and/or wellbeing, and the impact of having 'the breadwinner' of the family incarcerated. Even though it was acknowledged that the policing response to reports of FSV had improved, there were still examples given of inconsistent and unhelpful behaviour by frontline police.

Police, notably those in the FSVU, had a better understanding of services that could assist survivors and for complaints of sexual violence assist their investigations as well as the survivors. However, police officers were often not sure whether the survivor had actually attended the office or service that was suggested. The reverse is also true, in that NGO services commented that they did not know whether clients had reported to the police or what action the police had taken, if any.

Many matters brought to the FSVUs are often not criminal in nature or not regarded as criminal by the complainant. This may reflect a limited understanding or awareness among the general public of the kind

of services that the FSVU and other services provide. It may also be due to the lack of alternative frontline services that the general public believe can assist with such civil matters.

The data collected and analysed for the project indicates that between one-fifth and almost half of the complaints received relate to what is categorised as non-criminal, 'welfare' matters. The most likely recorded outcome was for the complainant to be referred to other agencies, typically the welfare office. With these family matters, the complaints relate to adultery, maintenance and neglect and can be the cause of considerable conflict and disputes. FSVU police officers indicated that with more minor non-criminal matters they can issue warnings or mediate when both parties appear at the FSVU.³ Arguably, the FSVUs are in these cases adopting an approach akin to that found in Village Courts, which may account for the relatively low rate of referrals to the Village Courts. Although not core police work, the FSVU officers may see themselves as playing a vital crime prevention role by dealing with or referring on such non-criminal complaints.

It is apparent that the RPNGC as a whole has a relatively low arrest rate (see Coffey 2013) attributed to multiple challenges such as lack of resources, difficulties in finding and/or identifying defendants, demoralisation and poor working practices, including pressures bought to bear through bribes and personal or political connections. The FSVUs primarily deal with reports of less serious criminal matters — summary offences — and if the complaint relates to a potentially indictable offence, then the complaint is referred to the CID. Depending on the complaint, and if there is a large CID section with a range of squads, the referral may go to a different section of the CID, such as the SOS or the homicide squad. Project data from FSVUs and CIDs suggest a low arrest rate for minor FSV offences and a higher rate for serious FSV offences, especially by the SOS, but that such arrest rates also apply to other kinds of violent and non-violent offences.

Investigations

From discussions with police officers and with prosecutors, the central importance of victims'/witnesses' statements became very evident. They are often the only or the primary form of evidence that underpins the laying of charge(s) and subsequent prosecution. It was stressed on many occasions that it was vital to 'get them right' in the first place, which can include the police making a second version of statements, where it is necessary to translate the statement from Tok Pisin to English.⁴ Despite more widespread personal possession of mobile phones among police, there is very little collection of 'scene of crime' evidence, except if the crime is of particularly serious and/or sensitive nature. Improving crime scene practices and evidence collection has become a priority of a revamped investigations course, supported by the AFP. This along with a course implemented by the RPNGC in partnership with the OPP's office on the investigation and prosecution of FSV offences will at least provide better guidance on what should be done. The implementation of this course is supported by JSS4D.

The dependence on victim/witness statements to pursue a successful prosecution has considerable ramifications, and contributes to the high attrition in cases through the system when victims or witness do not appear or seek to withdraw the case. This is most relevant to FSV cases and is discussed later.

Implementing good practices will remain difficult, according to police stakeholders. They referred to the very limited access to forensic tools and skills,⁵ especially outside of key urban centres and in rural areas. Another huge deficit is the absence of accessible criminal histories⁶ to check on past police contact with the accused and his/her previous convictions, with every accused treated as a 'first time offender' as one police officer put it.

A further issue raised by police stakeholders is where the alleged perpetrator cannot be found, their whereabouts are unknown, or there are not the resources to track him or her down. In such situations a summons cannot be served, or the alleged offender arrested. The project data indicates that many cases are categorised as 'pending', and no doubt a major contributing factor can be the inability to find or pursue the alleged offender.⁷

Prosecutions

In some quarters, the quality of briefs was assessed by key justice stakeholders as better, especially those compiled by the SOS police, although there is still considerable variation. Another improvement was widespread agreement that there is a more streamlined and agreed process for medical reports for the police and court from hospitals and/or FSCs. These reports are especially important as evidence in cases where there are serious injuries or allegations of sexual violence.

Although there appeared to be improved consistency in referrals to and from the police (see above), the flow of information from police sections such as the FSVU and CID to prosecutions (both police and OPP) was reported to be one-way. They did not hear back as a matter of routine on progress or the outcomes of their cases, and reference was made to an older practice of 'memos' being sent by police prosecutors to investigating and/or arresting officers as a means of improving communication.

Not hearing the court outcome means police are often not aware that cases have been 'struck out'. A further concern was expressed that police in general and police prosecutors in particular assume that having a case struck out equates with the end of the matter, rather than seeing it as an opportunity to resubmit with further or better evidence.⁸ Police prosecutors were described by stakeholders as having a crucial role in screening and preparing cases for prosecution in the lower courts and for committals to the National Court. They can also advise police officers on appropriate charges and whether the elements of an offence are covered in the brief. A specific issue raised during the project, which police prosecutors could give advice on, related to widespread confusion among police as to whether to lay charges of domestic violence under the Family Protection Act or to lay an assault charge, a generic summary offence under the Criminal Code. Police prosecutors themselves lamented their inadequate training and professional development in the past decade, with younger prosecutors often learning on the job and only doing a truncated version of a prosecutors' course.

Although the project did not obtain statistics on the outcomes of the prosecution of FSV offences, most stakeholders raised the high rate of cases being dismissed or struck out in the District Court and, to a lesser extent, the National Court. With the former, a small study on domestic violence summary offences in the District Court shed light on the proportion of cases that are struck out, and the reasons for it (Ganai 2017).⁹ The study is cited at length below. It is followed by the issues identified in a report provided by the FASO office¹⁰ in relation to National Court cases.

The District Court study found the majority of DV cases were 'struck out' by the magistrate, and the reasons given were: a) non-appearance of defendants; b) non-appearance of complainants and c) the non-execution of the warrants of arrest on the defendants. Through the file review, the study found a range of key factors related to police and to the complainants that contribute to the striking out of the DV cases. Police prosecutors asked for matters to be struck out due to the non-execution of warrants against defendants,¹¹ and/or because the prosecutors believed that the complainants were not following up on their cases and may not be present in court to give evidence in their cases. The policing factors were:

- » Defendants failing to appear in court — because police do not consistently hold defendants on remand (resulting in escape or 'snake bail') and often do not identify defendants at the cells and convey them to court.
- » Non-execution of bench warrants of arrest by police — because of a lack of resources (manpower and vehicles); a lack of information on defendant's residential address or work address; defendants fleeing from jurisdiction; arresting officers not being notified about the bench warrants of arrests; and the bench warrants not being delivered to arresting officers at the police stations.

The complainants' factors were:

- » Failure to turn up to court — due to lack of awareness on court processes; lack of awareness on the effect of having the defendant arrested and charged; and lack of police action to inform and bring complainants to court.
- » Withdrawal of support for the prosecution case — due to lack of awareness of court process; lack of awareness on the effect of having the defendant arrested and charged; fear of the defendant retaliating; not wanting the defendant to be incarcerated because the defendant is the sole bread winner; and the defendant has paid compensation or promised to do so.

In terms of serious FSV offences dealt with by the National Court, the FASO office report provided to the project also referred to policing and complainants' factors. A key challenge is that police briefs of evidence are sometimes incomplete or of low quality. For example:

- » Original versions of witness evidence not included in briefs; translated versions provided may not be accurate. After committal, requests and the receipt of additional evidence are time consuming and adding to delays.
- » Records of interviews with the accused are always in typed/written form and often challenged in court. Audiovisual recording of evidence is not yet used in PNG.

The significance of a well-conducted investigation by police was demonstrated in an example provided by the FASO office, which resulted in a conviction for domestic homicide (see Box 2 with FASO office example 1).

Box 2: FASO office example 1: A successful conviction of a man for the wilful murder of his wife

The accused and the deceased were married. The accused was drunk and entered the bedroom where his wife was sleeping and assaulted her and stabbed her with a knife twice on the back and chest. She died from blood loss. The accused was arrested and charged and upon interrogation, he told the police that he was provoked by his wife's habit of smoking in public.

The case went before the National Court to be tried on the charge of wilful murder. Because the case was well investigated there were no major issues faced by the prosecution.

The accused pleaded guilty to wilful murder and was sentenced to 25 years in hard labour.

Source: FASO office, OPP

Challenges associated with complainants and raised by the FASO office report include:

- » Complainants seeking to withdraw cases due to out-of-court compensation.¹²
- » Victims or witnesses threatened/intimidated by perpetrators (usually those in positions of authority and dependency).
- » Preparing vulnerable witnesses for court, particularly very young child victims who are afraid/ashamed to talk about the incidents of sexual violence perpetrated upon them due to cultural

taboos making it difficult for them to open up and talk about sexual intercourse; or the extent of trauma and emotional distress (see Box 3 with FASO office example 2). In some rare cases, victims can be people with special needs (see Box 4 with FASO office example 3).

Box 3: FASO office example 2: FASO office example 2: A discontinued case of persistent sexual abuse against an eight-year-old girl

The accused was a 30-year-old man and was a neighbour to the complainant child's family. Between the years 2016 and 2017, he had sexually abused the complainant child on several occasions. The child was eight years old when these incidents started. It was alleged that when the child would play with her friends around the house, the accused would call her to him and take her into his bedroom without other kids noticing. He would then put his hands inside her trousers and touch her vagina and then sexually penetrate her using his penis. On another occasion, the accused had taken the child into the common share toilet area where he sexually penetrated her again using his penis. He threatened her not to tell anyone about what he had been doing to her.

The FASO office lawyers dealing with this case had difficulty in preparing the complainant child for court. The case was listed to commence trial in 2018 and it was expected that the complainant was still traumatised. Apart from telling the lawyer (a female prosecutor) her name, age and the school she was attending, and her parents' and siblings' names, she stopped talking when she was asked about what happened to her. She appeared to be very timid and would not communicate well with the lawyer. There were moments when she would just stare out the windows and not concentrate. Although she only confirmed telling her story to the police, she could not talk about it again.

After analysing the rest of the evidence, it was inevitable that the case could not be made out without the child's evidence. The matter went to court and was discontinued by way of a *nolle prosequi*. The accused was discharged.

Source: FASO office, OPP

In court

Although not a universal view, some stakeholders believed that there had been a positive shift among some defence lawyers, magistrates and judges in their treatment of victims, notably children, in court settings. The FASO office report drew attention to the lack of appropriate equipment or facilities in court, such as a CCTV/video link that would allow child witnesses to give evidence from remote locations other than the courtroom.¹³

Several stakeholders mentioned differences in attitudes towards the victims, and inconsistencies in their directions from the bench, among members of the judiciary and magistracy. The FASO office report asserted that the judge-alone trial system sometimes results in a lack of consistency in judgements.

Box 4: FASO office example 3: A discontinued case of sexual penetration of a 13-year-old school girl

The accused was 19 years old and the complainant was 13 years old and attending primary school. The accused wanted to date the girl and pursued her. Because one of her friends knew the accused, she thought she could trust him. The accused took her to his house and had sexual intercourse with her and she spent the night at his house. The girl's parents searched for her and found out what had happened. The accused was arrested and charged.

The accused claimed that she consented to the sexual intercourse, but that is not a legal defence in a case of sexual penetration of a child under 16 years.

During trial preparations, the girl was interviewed and said she could not remember what happened. She refused to cooperate because she was now married and did not want her husband to know about this case.

The case was taken to court and discontinued and the accused was discharged.

Source: FASO office, OPP

Box 5: FASO office example 4: A case involving the rape of a young woman living with disability that ended in an acquittal

The accused was a 58-year-old man. He allegedly raped a young village girl aged 18 who had a disability and was not able to communicate well. Only her closest family members could understand her and she only spoke in her native language. The circumstances of the rape were that, on the date of the alleged offence, the girl had been weeding grass in the garden. The accused followed her and enticed her with K2.00 and had sexual intercourse with her. She tried to fight him off but she could not. After the accused fled, the girl went home and told her aunt what happened. The matter was reported and the accused was arrested and charged.

This case went to trial but the accused was found not guilty because the court could not rely on the evidence of the girl because it was difficult to understand. She had chosen to give her evidence in her native language and an interpreter from her local community was engaged by the court to translate her evidence. The court viewed her as an incompetent witness, and further rejected the evidence of the girl's aunt based on inconsistencies.

The accused was acquitted and discharged.

This case posed a lot of challenges for the prosecutors — language barriers, the inability to utilise the rules of evidence which allow the use of sign language in court. This village girl never learnt sign language. Her difficulty in speech made the court view her as incompetent. It was a disappointing result.

Source: FASO office, OPP

Many stakeholders said that delays and long waiting times, especially for National Court trials, contributed to the high number of withdrawals and the non-appearance of victims/witnesses. The FASO office report indicated that the delays from committal court to the national court often lead to:

- » Young victims or witnesses often forgetting their evidence
- » Witnesses moving location and losing contact with police
- » Victims growing up and getting married and refusing to come to court (see Box 5 with FASO office example 4)
- » A backlog of cases (creating two to three years between arrest date and completion of trial).

There is very little formal support provided for victims and witnesses in the court. At a District Court level, they may be assisted by volunteer human rights advocates; in Lae and Port Moresby, they may be accompanied by a Femili PNG caseworker if she or he is one of their clients. With serious indictable offences, there are a number of victim liaison positions within the OPP, but the position has been vacant for at least a year in Port Moresby, and in Lae there is only one officer. At the National Court in Port Moresby, a Salvation Army officer is available to help children who need to appear in court.

Conclusion

Stakeholders' views and perceptions add up to an overall positive view of the attention being paid to FSV offences by criminal justice agencies. This is no mean feat given the prevailing views and practices documented in the past. Stakeholders were convinced that recent efforts to raise public awareness, and the investment in improved prosecution and FSV sensitisation among criminal justice stakeholders, are paying dividends. Cross-agency participation in training and awareness courses was seen as invaluable in strengthening local networks. In addition, local leaders in the criminal justice or service sector who were effective and took a strong stand on FSV, as well as a well-run FSVAC, were identified as having a big impact.

The impact of any changes is likely to be different across the three locations because of differences in key personnel and in the scale of crime and the presence of criminal justice stakeholders. Port Moresby, as the capital, not only has a higher volume of more serious crime but is also better equipped to handle such crimes than a less populous centre such as Arawa. Despite such variability, there was a unanimous view among key stakeholders in the three locations that there has been an increase in the reporting of FSV offences to police. Many believed that over the longer term, dating back at least a decade, there has been an increasing number of sexual offences reported against children, and an increase in the number against boys and involving juvenile sex offenders. As the next chapter reveals, the data collected for the project only showed a slight increase in reported sexual offences in the past six years (in Lae) to the SOS, but a significant increase in serious DFV and sexual offences being dealt with the FASO office in Port Moresby, and by the National Courts (in Lae and Arawa).

The ongoing challenges and problems relate to the system as a whole and are not specific to FSV offences. They included funding, personnel and equipment shortfalls and inexperienced or not properly informed and trained police and other key justice specialists. The effect on police investigations was illustrated by the extremely limited access to forensic expertise and equipment, and to criminal histories. Although having specialist areas such as the FSVUs in the police has clearly raised the profile of FSV offences and improved referral pathways and local networks, stakeholders were uncertain about how well this has led to more robust police practices, such as arrest rates, the preparation of prosecution briefs, and the execution of bench warrants. In general, victims and witnesses are seen as being treated better by criminal justice professionals but formal system support for them is only provided to the few, those in Lae and Port Moresby and who are involved in indictable cases, and for children in the National Court in Port Moresby.

Similar issues were identified in a study on the District Court as those raised in relation to the National Court by the FASO office. The withdrawal of cases and the absence of key parties were attributed to a range of policing and complainant factors. Importantly, both referred to the pressures on victims, their lack of awareness and poor communication between police and with victims/witnesses. Across the board, stakeholders said that the payment of compensation frequently caused complainants to not want to pursue the case or to assume the matter was now resolved. Combined with inadequate resources and untoward influences and practices that reduce the probability that an alleged offender will be found and apprehended, it is not surprising that there was a common view that very few minor or serious FSV offences reach a final resolution. In some instances, it was argued that the situation is deteriorating due to rising demand as the population and volume of crime increases, yet the capacity of the criminal justice system to respond to all crime, and not just FSV offences, continues to deteriorate.



Source: Permission of the Public Prosecutor, Pongros Kaluwin.

CHAPTER 3. WHAT THE DATA TELLS US

Introduction

This chapter presents the statistics we managed to generate during the project (see Attachment 2 for a list of sources). The statistics are partial, and should be interpreted with caution, given the variability in the reliability and accessibility of records. Much of the information, typically presented in tabular or graph form, can be found in *Additional Data*, which is available as a separate online document, with references made throughout the chapter to the relevant table or figure in the second document.

There are five sections. The first section focuses on the volume of matters referred to or from the police to other health and support services. Data is from the national counselling telephone line and from four services that operate in one of the three sites. The second section concentrates on matters reported to and recorded by three distinct areas of police — frontline police, the specialist FSVUs, and the criminal investigation divisions. The third section covers prosecutions, by both police and the specialist FASO office within the OPP. The fourth section is a brief overview of OPS annual data for the past three years. The fifth section focuses on the District Court and the National Court. The concluding section summarises the main findings and their implications.

Reporting FSV offences to police

Referred to police by services

The first chapter referred to the literature on the under-reporting of FSV offences to police globally but more specifically in PNG. Our focus is on what happens to the criminal offences that have been reported to the police. For the project, statistics from five services were obtained in order to examine the type of matters they are dealing with, the referrals to and from the police and any changes over time. The five sources were:

- » The national I-Tok KaunselinHelpim Lain (20 August 2015 to 30 June 2019)
- » Femili PNG Lae (July 2017 to June 2018)
- » The Family Support Centre (FSC) in Lae (2013 to 2018)
- » The FSC in Buka¹⁴ (2017 to June 2019)
- » The Nazareth Centre for Rehabilitation safe houses in Bougainville (1 April 2015 to 31 March 2019).

A review of this data shows that:

- » Police are a key, if not the primary, service that these services receive clients from or refer clients to.
- » The majority of matters dealt with or raised by clients relate to physical violence. The exception to this is the Lae FSC, which in 2018 recorded almost half of their cases as sexual violence cases.
- » The four services (and excluding the I-Tok KaunselinHelpim Lain) had clients who were predominantly female (mainly women), with only a small minority being male and these were usually boys.
- » Only the Lae FSC statistical report referred to a long-term trend, saying that in the period 2013 to 2018 there was an increasing number of child survivors of sexual violence compared with 2008 to 2012, but no data is provided to support this assertion.

Additional Data includes a summary of the key statistics available from the five services, and is available as a separate document on the Department of Pacific Affairs website.

Matters recorded by three areas of police

Recorded by generalist police

It is impossible to gain an overall picture of policing through the available national statistics. Statistics may be produced, but we did not uncover such data during the project. Instead, we gathered statistics primarily from the CID offices and FSVUs in NCD, Lae and Arawa. The only indicator we had for the kind of matters being reported to and recorded by generalist police were the Lae police toll-free telephone line statistics for 2018.

Back in 2013, a baseline report on the RPNGC included some basic national data on recorded crime for 2012 and for the first 10 months of 2013 (Coffey 2013). The number of total crimes recorded for 2012 in PNG was 1838 with 744 arrests (representing 40% of the recorded crimes), and in the 10 months in 2013, it was 2329 crimes with 1088 arrests (47%). *Additional Data*, provided as a separate document on the Department of Pacific Affairs website, includes police recorded crime and arrests for Lae in 2012 and 2013.

As noted, we do not have comparable data for more recent years. However, the data from the CID offices (including SOS) in Boroko and Lae suggest arrest rates remain low (see later section), and not confined to only FSV offences.

Lae toll-free line

For 2018, of the 3119 calls made to the Lae toll-free police line, 46 were categorised as rape/attempted rape or sexual penetration and 317 were categorised as domestic violence. This meant that 10% of the calls were for domestic violence, which was the fourth most common category of calls. However, several serious violence categories such as murder/attempted murder (n=34), unlawful wounding (n=43) and abduction (n=18) may have involved family or domestic violence. Figures 2 and 3 present the number of incidents by the most common incident categories and by serious violence categories respectively.

Recorded by FSVUs

Introduction

The 2015 evaluation report of the FSVUs notes that the 'collection of data by the FSVUs varied widely. The use of different methods of collection and different forms makes it difficult to obtain a picture of the current state of FSV at a national level' (GHD 2015:75). Evaluations were available from Mount Hagen, Waigani and Lae, but it is noted that, due to the variable nature of information and forms, it was impossible to do data comparison or trend identification.

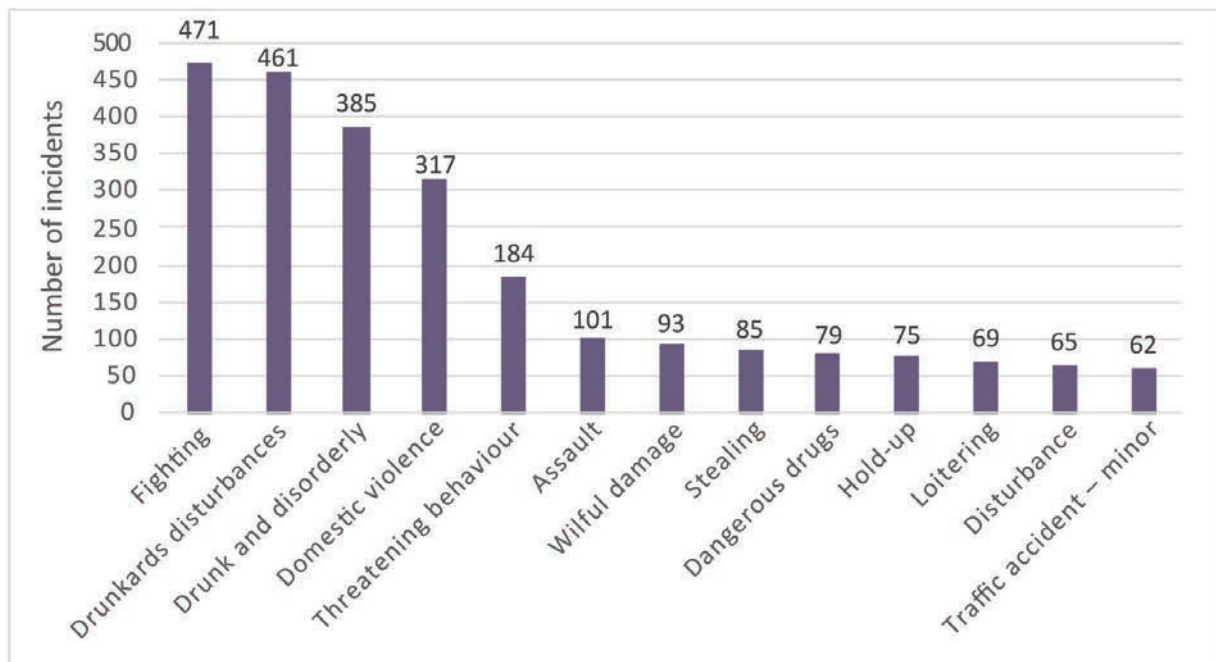
Many of the report's findings remain pertinent today. The evaluation report indicated that frontline police referred FSV complaints considered to be a 'minor crime or assault' to the FSVU, with more serious assaults and sex offences referred to the CID and SOS respectively. FSV-related arrests by FSVUs were uncommon, which was linked to most FSVU officers being female 'and not in a position to arrest people due to potential threats to their safety'¹⁵ (GHD 2015:7). Few cases appeared to be investigated by FSVUs, and four reasons were given — overloaded with cases, most cases not indictable, survivor withdraws or accepts compensation, police disinterest and/or lack of FSVU resources. No data was found on the number of cases investigated or the outcomes reached after an investigation (GHD 2015).

FSVU statistics collected for the project

Data was obtained from a range of sources:

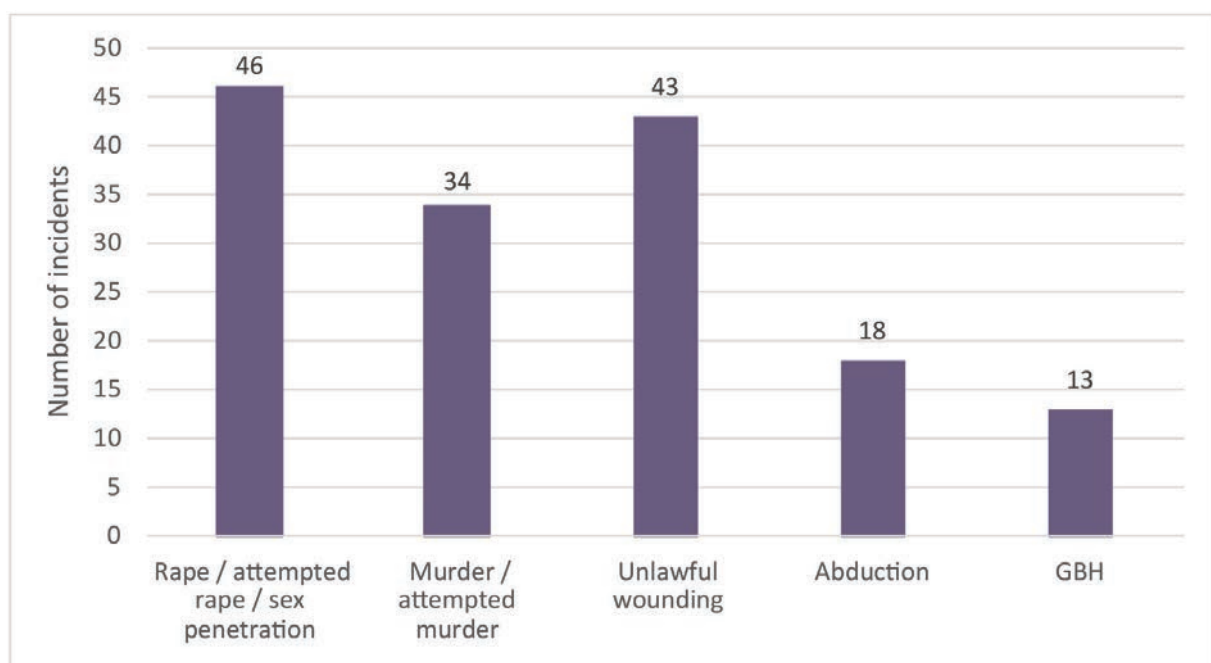
- » The central coordination office for the FSVUs. Data was entered into a spreadsheet and analysed for the period 2018 to 2019 and includes statistics primarily from the NCD FSVUs. Analysis was done on the information on all the FSVUs and, separate to this, on three NCD FSVUs — Boroko, Gordons and Waigani.

Figure 2: Number of incidents by most common incident categories, Lae toll-free police line, 2018



Source: Lae police.

Figure 3: Number of incidents by serious violence categories, Lae toll-free police line, 2018



Source: Lae police.

- » Lae FSVU, with hard copy monthly returns made available for various periods in 2015, 2016 and 2019. In addition, 2018 statistics were provided by the JSS4D Lae office.
- » Arawa FSVU, with statistics recorded on Excel spreadsheets and in hard copy form for the years 2011 through to 2019.

Not much has changed in record keeping by the FSVUs since the 2015 evaluation as it continues to be patchy, and varies by location and over time. Records are kept manually in hard copy form, with only the Arawa FSVU entering the data into Excel spreadsheets. Different forms are used by different units, and forms change over time. Only sometimes are forms filled out, and monthly returns from FSVUs outside of NCD appear to be rarely sent to the central office. Shortages in stationery and lack of access to working office equipment such as computers, printers and photocopiers no doubt contribute to the incomplete and variable nature of records kept by the FSVUs.

Based on what was recorded, the common themes that emerged from the FSVU statistics were:

- » No clear pattern in terms of trends in the volume of cases, with longer-term data only available for two FSVUs. The number of cases recorded by the Arawa FSVU increased in 2016 and then dropped slightly in 2018, and the Lae central station FSVU is apparently now dealing with fewer cases compared with 2015–16.
- » Most cases relate to domestic violence, with only a few sexual violence cases.
- » The majority of complainants are adult females, and in the 25 to under 35 years age category.
- » A variable but significant minority of cases are civil matters, with records capturing these in recent years.
- » Few complaints result in arrests by FSVU staff, with many matters being referred to other services, notably 'welfare', and a lot of cases recorded as 'pending'.
- » The presence of established referral networks and practices.

Additional comments in the forms also indicate that poor communication between FSVU and other police sections is often a problem. Ongoing challenges also persist in relation to equipment, stationery, vehicles and staffing.

It was apparent from the statistics that much depends on the staff, the station and the location of the FSVU. Table 2 shows key indicators of FSVU work for either the year 2018 or for 2018–19 for five FSVUs — Boroko, Gordons, Waigani, Lae central, and Arawa. Boroko FSVU, for example, appears to be dealing with a large number of both criminal and civil matters, while the Gordons and Lae central FSVUs seem to handle a greater proportion of criminal matters compared with civil matters. Arawa FSVU has a relatively high arrest rate, while Waigani FSVU has a low proportion of matters recorded as pending.

Based on the available recorded data, the FSVUs are primarily dealing with more minor criminal offences and a considerable number of civil matters that relate to family or domestic discord and fracturing. In many instances, it could be argued that their practices are more akin to Village Court processes, with efforts made to reduce conflict and disharmony through mediation, warnings and referrals to other services, especially to what is categorised as 'welfare'. This is not to dismiss the importance of such work, as the FSVUs' efforts may prevent further distress, and an escalation in conflict, thereby contributing to the prevention of crime.

Additional Data, provided as a separate document on the Department of Pacific Affairs website, includes more detailed statistics from the central coordination office from the Lae central FSVU and from the Arawa FSVU.

Table 2: Key indicators for FSVUs, 2018 or 2018–19

FSVU	Total no. matters per month	No. criminal matters (per month)	% assaults (criminal matters)	No. civil matters (per month)	% adultery (civil matters)	% arrests	% referrals to welfare	Pending
Boroko 2018–19	87.5	46	60%	41.5	20.7%	5.4%	28.4%	15%
Gordons 2018–19	91	71	51.2%	20	27.2%	6.1%	10.7%	12.5%
Waigani 2018–19	43	30	50.4%	13	30.9%	7.6%	15.8%	6.3%
Lae 2018	20.3	14	80.9%	6.3	11.8%	NR	44%*	NR
Arawa 2018	13.2	9.1	61.5%	4.2	80%	12%	NR	17%

Sources: FSVU central coordinating office; JSS4D Lae office; Arawa FSVU

*Percentage of referrals, not complaints

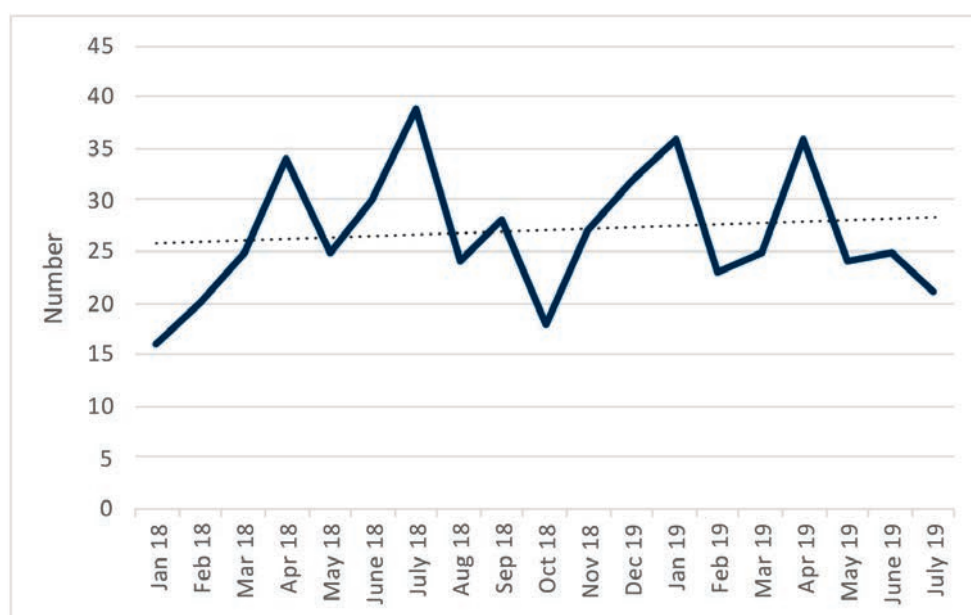
Note: NR — not recorded

Crime investigations or cases recorded by CID

Boroko SOS

Over a 19-month period, from January 2018 to July 2019, 508 matters were recorded by the Boroko SOS. A monthly average of 26.7 complainants was estimated for the 19 months. Figure 4 shows the trend in the number of complainants recorded for each month.

Figure 4: Number of complainants per month, Boroko SOS, January 2018 to July 2019

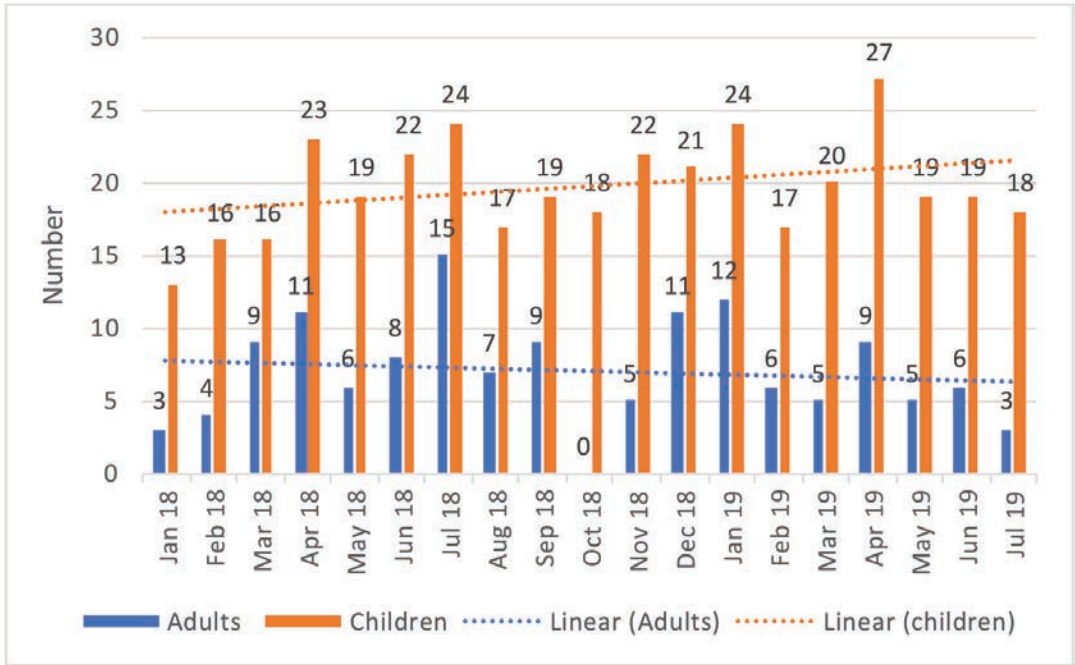


Source: Boroko SOS crime reports

For the majority of cases (73.6%), where age was recorded, children aged under 18 years were recorded as the complainant/victim. The linear trendlines suggest the number of children per month is increasing and the number of adults is declining, but not by much (see Figure 5).

Of the 134 adults, all but one of them were women. Of the 374 child victims, the majority were girls — 337 girls, 34 boys and for three cases the sex of the victim was not recorded. Where the sex was recorded, 90.1% of victims were girls.

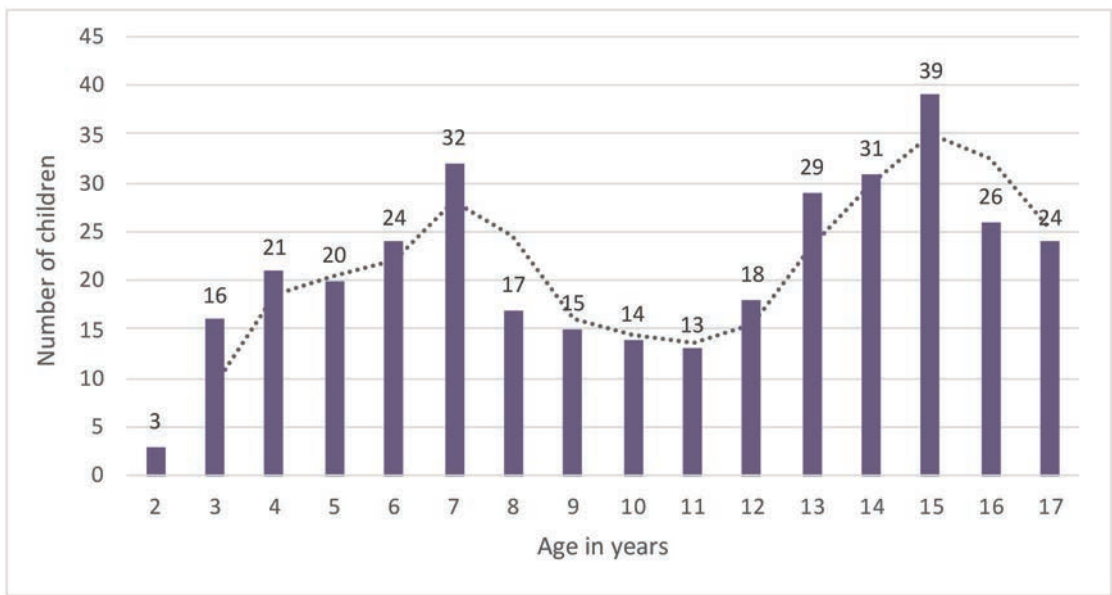
Figure 5: Number of complainants per month by adults and children, Boroko SOS, January 2018 to July 2019



Source: Boroko SOS crime reports

Figure 6 shows that the child complainants are more likely to be in two age groupings — from 4 to 7 years and from 13 to 15 years.

Figure 6: Total number of complainants by age for children aged under 18, Boroko SOS, January 2018 to July 2019

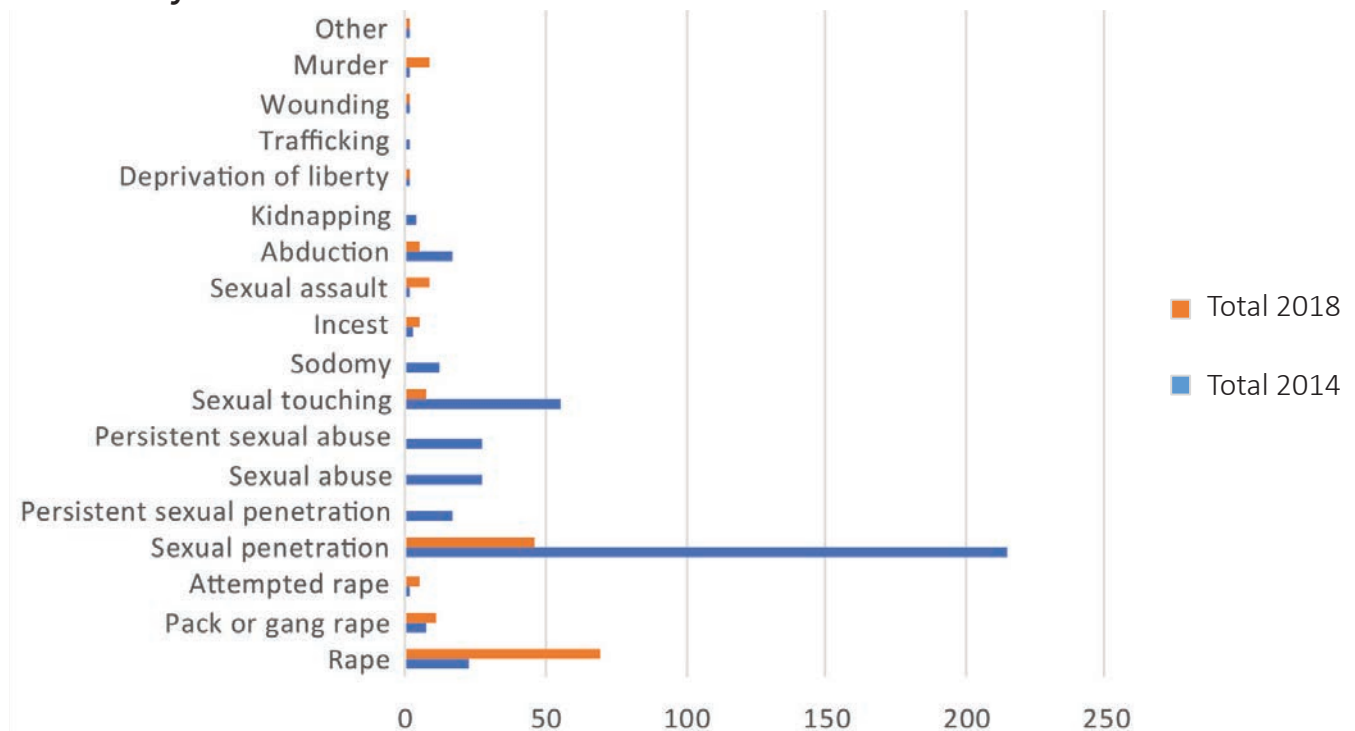


Source: Boroko SOS crime reports

Sexual offences committed against children compared with adults result in different charges. As noted previously, age is stipulated to define major sexual offences against children in the Criminal Code (see Table I). According

to the records of the Boroko SOS for 2018 to June 2019, the majority of complaints involving children resulted in sexual penetration charges, while with adult complainants it was more likely to be rape followed by gang or pack rape (see Figure 7). Adult victims of sexual violence were also more likely to be killed than child victims, based on the murders that were recorded.

Figure 7: Sexual offence charges against children and adults, Boroko SOS, January 2018 to July 2019



Source: Boroko SOS crime reports

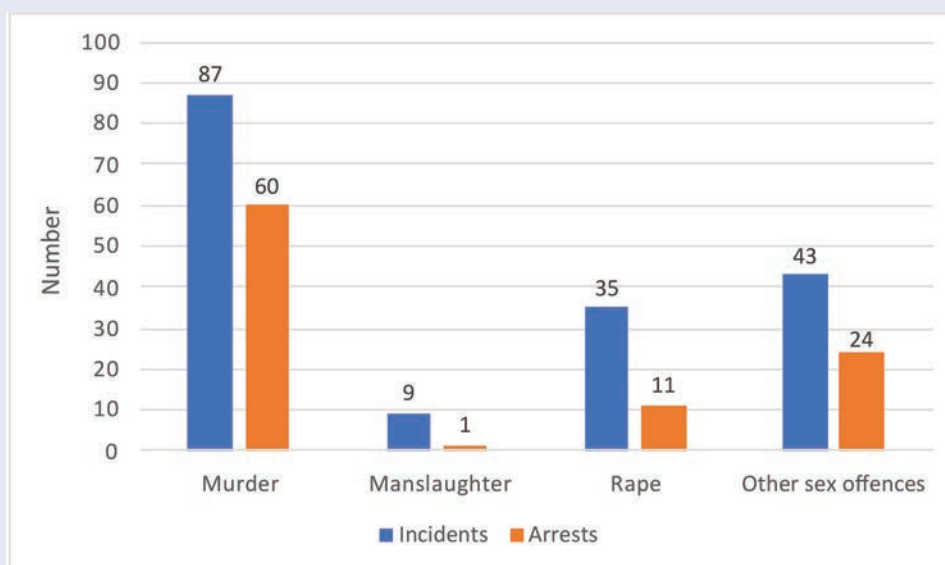
Boroko homicide squad, CID

Based on statistics reported in the *National* newspaper on 13 August 2019 and our consultations, the number of homicides reported in Port Moresby has stayed relatively similar over the past three years. In 2017 there were 75, in 2018 there were 86 and to 8 August 2019, 48 homicides. Few were recorded as domestic violence homicides — three in 2017 and two in 2019 — and in every case, arrests were made of husbands, and in one case, a wife. For the period from January 2017 to August 2019, there were a total of 209 cases and in 94, the cases were closed, arrests made and charges laid, with the remaining 115 still being investigated. In 2012 (see Box 6) it appears the recorded number of homicides for NCD was higher (n=96) and the arrest rate higher (63%) compared with the numbers and arrests made for the period January 2017 to August 2019 (45%).

Lae CID

In Lae, the CID shared the monthly crime returns for the period January to July 2019. For a total of 662 offences recorded, 31.6% were violent offences, 16.5% were sexual offences, and the rest (51.8%) were other kinds of offences, such as property crimes. For the same period there were 84 fresh arrests made and 57 follow-up arrests (including for summary offences). This gives an average of one arrest for every 4.7 offences. Table 3 shows the number of offences and arrests for different offence categories. Based on these numbers, the arrest ratios for violent offences had higher, above average ratios than for other offences. More arrests are made with sexual offences, with one arrest for every 3.1 offences. Seventeen arrests were made for summary offences, but these are not usually dealt with by the CID, and we deduce they occurred in the course of investigating more serious crimes.

Box 6: NCD reported crime and arrests, 2012, homicide and sexual offences



Source: Coffey (2013)

Table 3: Number of offences and arrests by offence category by month, Lae CID, January–July 2019

	24/1/19	24/2/19	25/3/19	24/4/19	24/5/19	25/6/19	26/7/19	Total
Violent offences	37	30	37	30	19	31*	27	211
- arrests**	1	5	7	1	2	16	10	42
Sexual offences	12	16	18	14	18	11	21	110
- arrests	4	5	4	7	11	4	0	35
Other offences (incl. armed robbery)	60	51	81	40	41	39	34	346
- arrests	7	10	12	6	9	14	10	68
Summary offences	0	0	1	0	0	0	0	1
- arrests	0	2	1	5	0	3	6	17

Source: Lae CID monthly crime briefs

*In addition, two summary offences — unlawful assault and threatening behaviour — both of which resulted in an arrest.

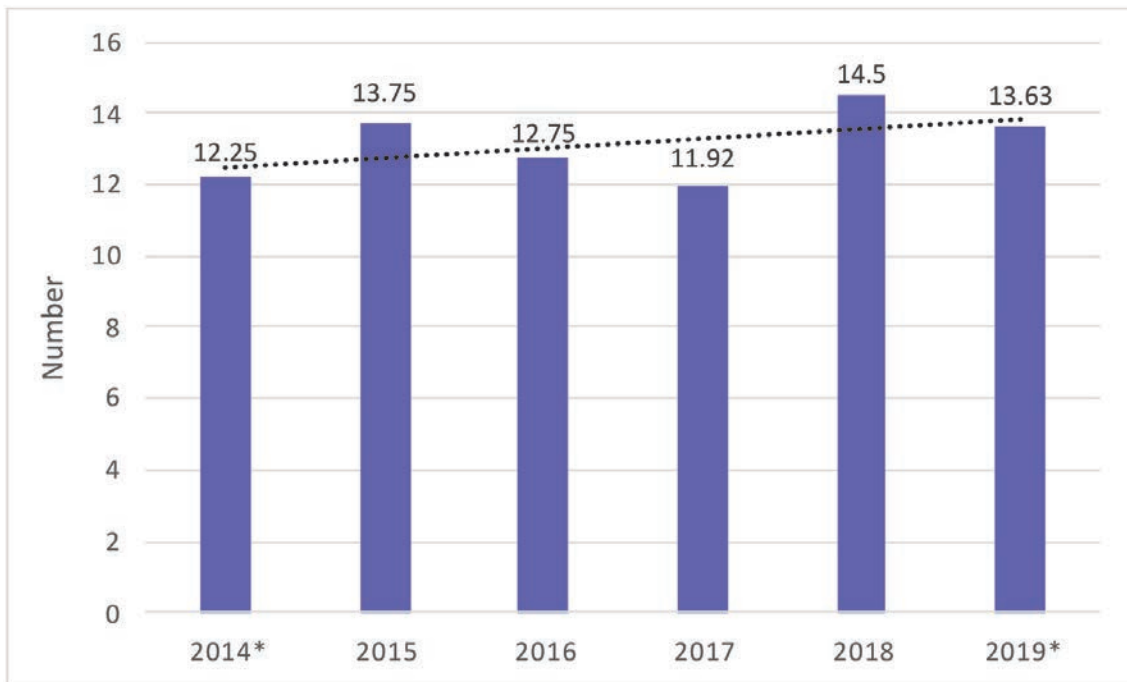
**Includes fresh and follow up arrests.

***Excludes summary offences.

Lae SOS

At the Lae SOS office, the records of the crime report registers for a six-year period — May 2014 to August 2019 — were analysed. In 2014 and 2019 only eight months of records were available, so, wherever possible, monthly averages were calculated.

For the six-year period, there were a total of 842 complaints. This equates to an average of 13.2 complaints per month. The year with the highest number of complaints per month was 2018, with 14.5 cases per month. The year with the lowest number of complaints per month was 2017, with 11.9 cases per month. The linear trendline suggests a slight increase over the period (see Figure 8).

Figure 8: Average number of complaints per month, Lae SOS, May 2014 to August 2019

Source: Lae SOS crime report register

*These years only have reports for eight months. In 2014, this is from May to December; in 2019, this is from January to August.

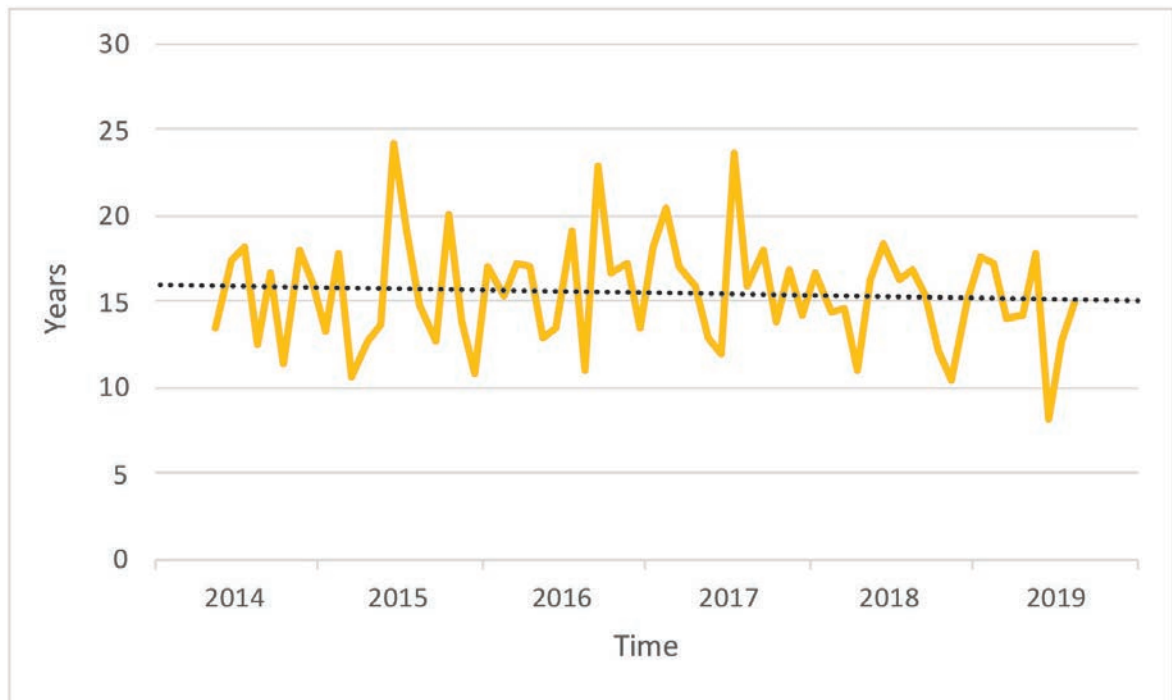
The overwhelming majority of complainants were female (93.2%) with 5.7% recorded as male and 1.1% not having their sex recorded. The highest proportion of male complainants was in 2018 (n=16; 9.2%).

The average age of the complainants was 15.4 years, with the lowest age being one year. There were, however, 111 entries where the age of the complainant was not recorded. There does not appear to be a consistent trend in terms of average age of complainants per month, although the linear trendline suggests a slight decrease in the average age over time (see Figure 9). The lowest average age was reported in June 2019, at 8.1 years old, and the highest average age was reported in June 2015, at 24.2 years old. Most complainants were under the age of 18 (n=507) (see Figure 10). Complainants in this category formed 69.4% of complainants whose age was known. Complainants in the 25 to under-35-year-old age category were the second most common (n=144), forming 19.7% of complainants whose age was known.

In total, there were 99 offences that can be described as 'extended offences', that is, they are not identified as occurring in a singular event. These offences range in length — some take place over the space of two days (one day difference), while others take place over several years. Across the 2014–19 period, there were about 1.5 extended offences reported per month. The average rate of reporting for these type of offences was lowest in 2014 (0.6 months) and highest in 2018 (2.6 months).

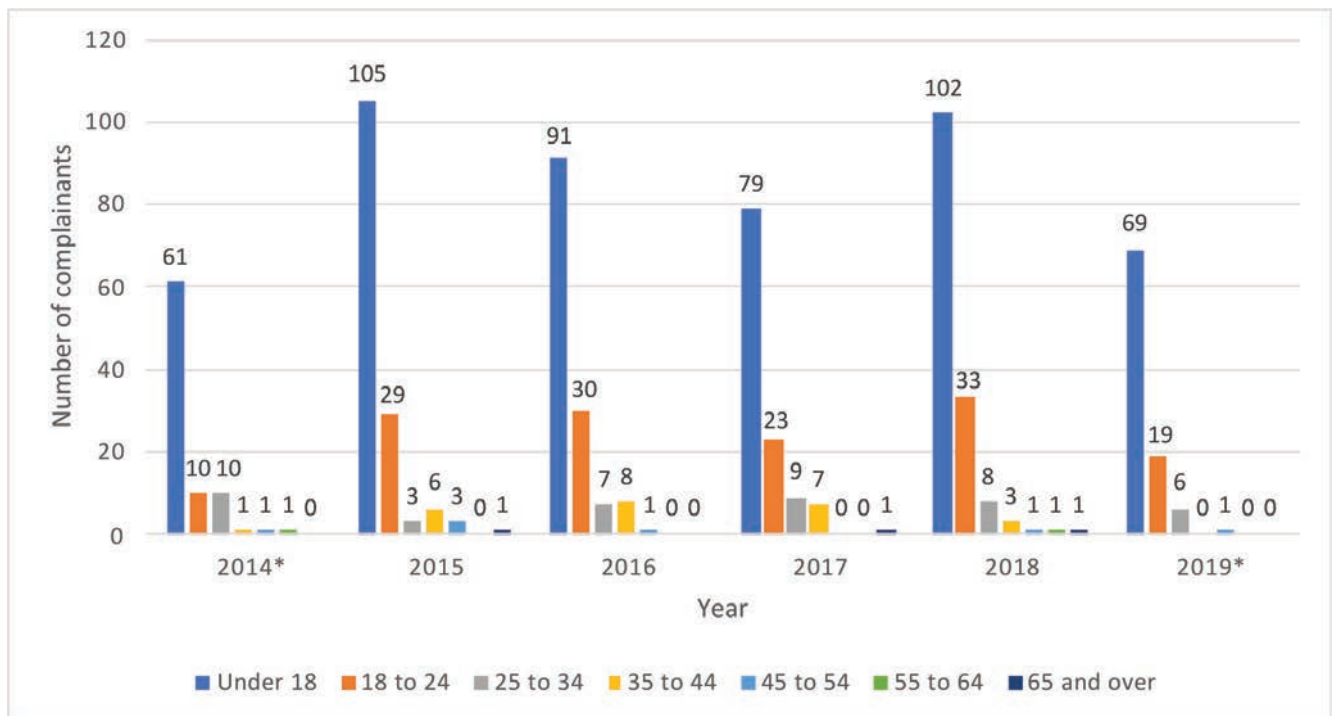
The length of time between when the alleged offence was recorded as occurring and when it came to the notice of the Lae SOS was in 2014, on average, 18 days. Because of the increasing number of 'extended offences' over the years, it becomes more difficult to calculate an average length of time, as there is no specific date recorded for these types of extended periods of abuse. This data still requires further analysis.

Figure 9: Average age of the complainant per month, Lae SOS, May 2014 to August 2019



Source: Lae SOS crime report register

Figure 10: Number of complainants by age category by year, Lae SOS, May 2014 to June 2019



Source: Lae SOS crime report register

*These years only have reports for eight months. In 2014, this is from May to December; in 2019, this is from January to August.

Prosecutions

This section is divided into two parts — the first relates to police prosecutions, and the second to an office within the Office of Public Prosecutions dedicated to serious family and sexual violence cases (FASO).

Police prosecutions

For the project, very little statistical information was obtained on police prosecutions. Individual officers retain copies of their case files, but we could not find or were not given any numerical information on the number of cases dealt with or their outcomes. The only police prosecutions areas that attempted to give some numbers were at Boroko and for Central Province, and in Buka (see Tables A6 and A7, and Box A3 in *Additional Data*, available on the Department of Pacific Affairs website).

Office of Public Prosecutions – Family and Sexual Offences office

The FASO office statistics for the financial year 2014–15 compared with 2018 to July 2019 (see Table 4) shows that the volume of work has increased, with more than double the number of fresh committals in 2018–19. The addition of an extra month for the 2018–19 period would not account for this increase. The number of sexual offences has also doubled, while domestic and family violence offences have more than trebled. Whether there has been a change in the outcomes is not known, as many (more than half) are recorded as still 'pending'. As Table 4 shows, there are similar numbers of convictions, acquittals and discontinuations for both years, but the numbers in the most recent year could alter significantly once the 25 pending cases have an outcome.

Table 4: FASO office statistics for National Capital District, PNG

	2014–15	2018–July 2019
Fresh committals received	35	75
Family/domestic violence	9	31
Sexual offences	26	55
Convictions	15	16
Acquittals	13	10
Discontinued	5	4
Pending	0	25

Source: FASO office

Characteristics of defendants, victims, incidents in serious FSV cases

The FASO office in NCD provided information about their cases, revealing that for serious DFV cases (such as grievous bodily harm, homicide):

- » 90% of all these cases are believed to be alcohol related.
- » 80% are male offenders.
- » 50% involve domestic violence resulting in death; 30% involve domestic violence resulting in physical harm.
- » 20% involve violence between siblings or close relatives resulting in death; 10% involve violence between family members resulting in physical harm.¹⁶

With the serious sexual offences dealt with by the FASO office in NCD, their records indicate the majority involve victims under 16 years (80%) and that in the majority of cases (80%), "blood" relations are the alleged offenders:

- » 40% of cases involve victims under 12 years of age (between 5 and 9 years age group); 40% involve victims under 16 years of age (mostly 13–15-year-olds); 20% involve adult female victims (over 16 years of age).
- » 80% involve relationships of trust between offender and victim (blood relations); 10% involve persons in positions of authority (e.g. police officers abusing female detainees).
- » 95% are adult offenders (most between 20 and 40 years of age); 5% are juvenile offenders (16–17 years of age).

Office of the Public Solicitor

The Office of the Public Solicitor has a crucial role in the criminal justice system, giving legal advice and representation for defendants charged with serious offences. As such, it is not directly responsible for the prosecution of FSV cases. Statistics on their workload and type of cases could still shed light on the volume and proportion of FSV offences being pursued through the criminal justice system. As a result, annual statistics for the OPS are included in *Additional Data*, which is provided as a separate document on the Department of Pacific Affairs website.

Matters reaching court

Both the District Court and the National Court have electronic case management systems. Upon request, data was extracted from these systems, and it is presented in this section. The information was not easy to extract and did not cover in detail the kind of issues the project is focused on. However, both systems do at least function and rely on input from courts across PNG.

Trends in the District Court

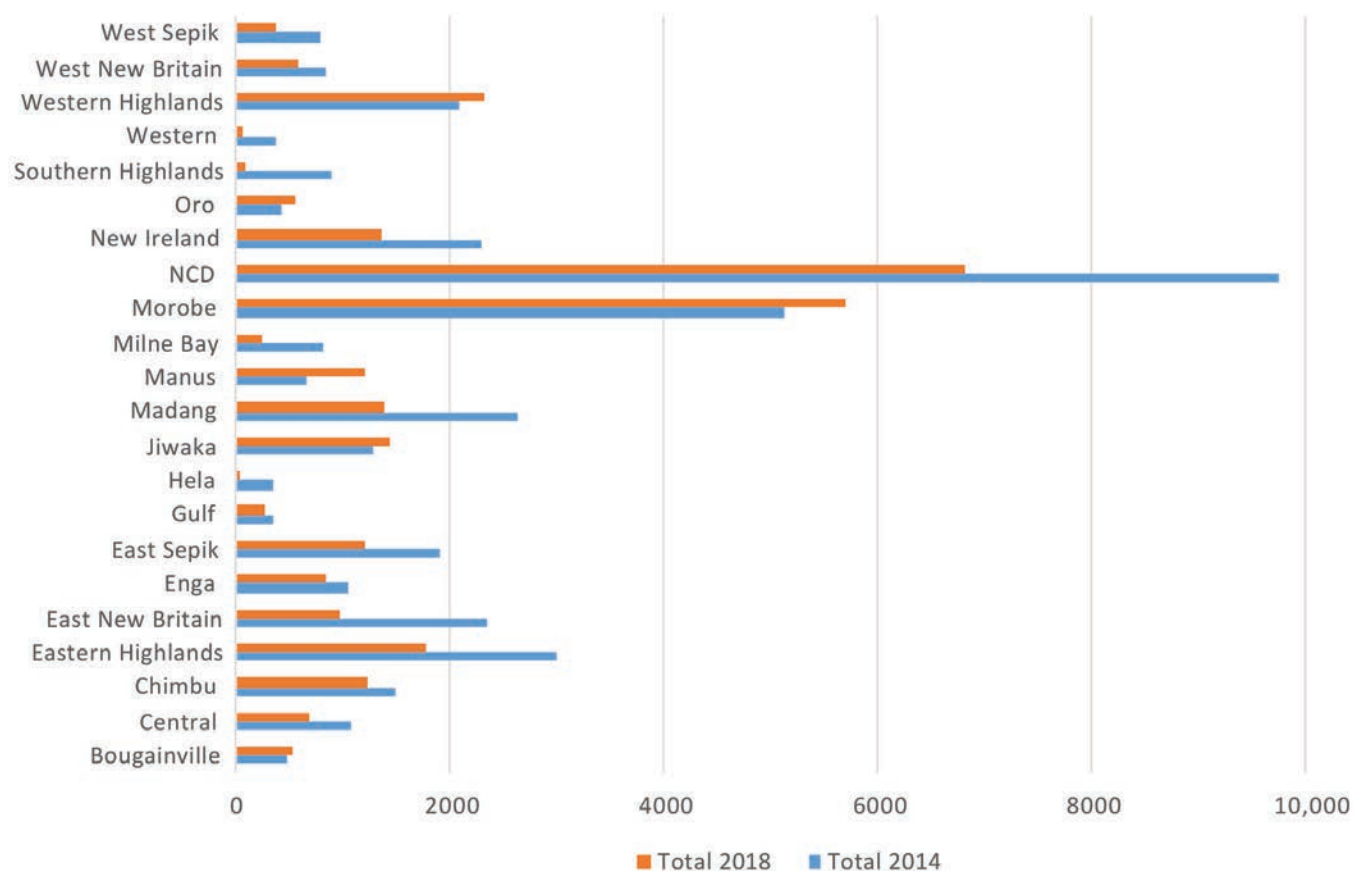
The significance of location was highlighted by the District Court statistics because of the variability in volume and trends in recorded criminal cases across provinces and court locations. When the annual total of criminal matters in 2018 was compared with 2014, there was an overall decline in the volume (see Figure 11). The only exceptions were the provinces of Morobe, Western Highlands, Oro, Manus and Jiwaka, which had more criminal matters in 2018 compared with 2014. Of the 22 provinces, a higher number (n=13), had an increase in committals, while five provinces had a higher number of summary offences in 2018. These provinces were Oro, Morobe, Manus, Jiwaka and Bougainville (see Figures A13 and A14 in *Additional Data*, available on Department of Pacific Affairs website).

District Court summary offences

A small study was carried out on domestic violence by a magistrate at the Boroko District Court, based on 2016 summary offence data on the court electronic case management system (DCECMS), along with a review of files covering a three-month period in 2016 (Ganai 2017). The experience at the Boroko District Court shows that more than 50% of all freshly registered summary offence cases in 2016, recorded on a monthly basis, were domestic violence matters. Of these cases, more than 50% were assault cases.

The electronic case management system includes a flag for domestic violence. In 2018, there were 607 summary offences with the flag, including 323 assaults and 139 domestic violence offences (see Table 5). The flagged number of summary offences represents only a small proportion of the 14,514 summary offences dealt with by the courts in 2018. Rather than indicating a low proportion of domestic violence, this suggests that the flag is not being used very often (see Ganai 2017). However, encouraging the consistent use of the flag by court recorders, and improvements in the DCECMS system, could produce more robust data in the future.

Figure 11: Total criminal cases by provinces, District Court, 2014 and 2018



Source: Magisterial Services

Table 5: District court summary offences with domestic violence flag, PNG, 2018

	Juvenile summary	Search warrant	Summary	Total
Assault	4	0	319	323
Domestic violence	0	1	138	139
Insulting	0	0	16	16
Psychological abuse	0	0	22	22
Stalking	0	0	1	1
Threatening	0	0	48	48
Violence	0	0	58	58
Total	4	1	602	607

Source: Magisterial Services

Trends in the National Court

Two batches of data were extracted from the National Court electronic case management system for the three key locations — Waigani, Lae and Arawa. The first batch focused on registered cases by offence category and status in March 2014 and March 2018. The second set of data included the annual total of registered cases in 2014 and 2018 for selected offence categories.

March 2014 compared with March 2018: Waigani, Lae and Arawa

Bearing in mind that no data was available for Arawa in March 2018, Tables A9, A10, and A11 in *Additional Data* (provided as a separate document on the Department of Pacific Affairs website) show:

- » An increase in the volume of cases (for example, a total of 31 in 2014 in Waigani and Lae compared with 83 in 2018).
- » Differences in trends by location in the proportion of violence-related offences, with an increase in the proportion of violence-related offences compared with property-related offences in Waigani (from none in 2014 to 78% of offences in 2018) and a reduction in the proportion of violence-related offences compared with property-related offences in Lae, from 76% in 2014 to 54% in 2018.
- » The number of completed cases varied by location and by type of case. (For example, in 2014 for Waigani, Lae and Arawa, 79% of property-related cases were completed, compared with 33% of violence-related offences. In 2018, only Waigani and Lae were available, and 53% of property-related cases were completed compared with 58% of violence-related cases. However, Waigani had higher rates of completion for violence-related offences than Lae.)
- » With active cases for the three locations in 2014, the majority were recorded as bench warrants. In 2018 for Lae and Waigani, the active cases were spread more evenly across remand, bail and bench warrants.
- » The majority of violence-related cases (includes Arawa in 2014) were wilful murder/murder/attempted murder cases (64%) while a total of 25% of cases were sexual offences, of which the majority were rape (14 out of 16 cases) (see Table A11, in *Additional Data*, on the Department of Pacific Affairs website).

Conclusion

The statistics from NGO services assisting victims of FSV offences indicate that the police are a key, if not the primary, service in the referral networks, given the number of referrals recorded from and to the police. Based on their records, the majority of clients complain of physical violence, usually perpetrated by intimate partners. The exception was the Lae FSC which in 2018 had twice as many sexual violence cases compared with intimate partner violence cases. Four services (excluding the counselling phone line) had predominantly female clients, mainly women, with only a small minority being male and these were usually boys. Only the report from the Lae FSC referred to a long-term trend — which was an increasing number of child survivors of sexual violence — but no data was included to show this trend.

The data collected and analysed from the FSVUs show that they, too, mainly deal with domestic violence, with very few sexual violence cases recorded. The majority of clients are adult females, the majority of whom are in the 25 to under 35 years age category. The majority of crimes are summary offences, and few arrests are made by the FSVUs. In recent years, there appears to have been an increase in civil matters, but this may be due to a change in the monthly statistical form. The volume and trends in type of matters and their outcomes vary greatly, depending on the FSVU. Across all of the FSVUs, the monthly reports show good referral networks, often poor communication with other key police areas, and ongoing challenges in relation to staff, office equipment and stationery, and access to vehicles. With the processes employed to deal with many complaints being similar to the mediation and dispute management approach found in the Village Court, it could be argued the FSVUs are playing a useful crime prevention and victim support role.

Nationwide, the District Court data on criminal matters, including summary offences, suggest that in most provinces there are fewer cases being dealt with in 2018 compared with 2014. Both Morobe and ARB provinces

show an increase in the volume in committals and summary offences, while NCD shows a decline. Data was not available on the prosecution of summary offences that relate to DFV or sexual violence. However, a study in the Port Moresby District Court (Ganai 2017) indicated that more than half of newly registered summary cases are domestic violence matters and, of these, more than 50% are assaults. In addition, the 2017 study in Port Moresby suggests many domestic violence cases are struck out by the court due to the non-appearance of complainants and defendants, and the non-execution of warrants of arrest on defendants.

With the more serious indictable offences, the CID within the police is responsible for investigations. Records of their cases suggest they have more physical violence than sexual violence cases. Over the past six years, in Lae at least, the number of sexual offences cases dealt with by the SOS has increased slightly and the average age of victims appears to be declining a little, with the overwhelming majority of victims being female and more than two-thirds aged under 18 years. The SOS seems to have a better arrest rate than other areas of the CID, but it is still not high (an arrest made in about one-third of the offences recorded). Over the past few years in Port Moresby, homicide squad figures suggest there are fewer cases and a lower arrest rate this year compared with the previous two years. The FASO office data shows the number of cases that they are prosecuting has almost doubled when 2018 is compared with 2014, with the largest increase in the number of DFV cases. There is no way of knowing whether the rate of successful prosecutions has changed because of the large proportion of cases that are marked as pending for 2018. A report by the FASO office indicates that many cases are dismissed because of poor police briefs and/or difficulties with the victim's testimony or willingness to testify.

With National Court sittings in the three locations, the majority of violence-related cases were murder or attempted murder (64%), while with sexual offences, the most common was rape. In Lae and Arawa there was an increase in violent cases in 2018 compared with 2014, while the data for NCD was not available for 2014 and did not appear accurate for 2018. The number of completed cases varied across the three locations and by the type of offence. Active cases were mostly bench warrants in 2014.



Bilurms. Source: Judy Putt

CHAPTER 4. KEY FINDINGS AND THEIR IMPLICATIONS

Introduction

The focus of the project has been on the collection and analysis of criminal justice statistics to identify trends in the past five years in the reporting, investigation and prosecution of FSV offences. In a sense, it was an exploratory project, as to our knowledge, there has been no previous attempt to systematically collect statistics from a range of criminal justice agencies to shed light on how the system is handling a defined group of offences. Yes, there have been stand-alone reports that include some police data, which have been used to assess policing performance or a new initiative (e.g. GHD 2015). An effort has previously been made to present a picture of crime in PNG through crime victimisation surveys and police recorded data (e.g. Lakhani and Willman 2014; Sustineo 2018), but none have sought to capture trends in recorded offences that span the different elements of the criminal justice system, nor the actions that the agencies have taken or not taken.

The exercise has demonstrated that records are being kept by all the key criminal justice agencies. The police retain a somewhat outdated paper-based set of ledgers and monthly tallies, while both Magisterial and Judicial Staff services input case data into an electronic case management system. At least a fair to good level of consistent record keeping, both paper-based and electronic, is required to adequately monitor and review routine administration and performance of this sector. Unfortunately, the project reveals that the required standard of record keeping across the agencies is not currently being achieved. Nor are the current records suited to analysis to establish trends in the types of crimes and actions taken by the various agencies. The potential exists to build on current record-keeping practices to achieve a robust collection of more useful and accessible information, as is discussed further on.

The project set out the parameters of what could be found and used in the three locations in a short time frame. No doubt more could have been extracted given more time. Our findings illustrate some features of recorded FSV offences and the volume dealt with at different stages of the process. It has highlighted that more in-depth research is required to uncover the factors that contribute to how FSV offences are dealt with by different agencies and the range of practices involved. It has also underlined how the aggregate statistics that were accessed shed little light on several of the key research questions — that is, the two that relate to changes in the investigation and prosecution of alleged offences, and court outcomes. It underlines how recording and collating information in the criminal justice system requires a major overhaul and significant attention. More is said on this below.

The other drawback of aggregate statistics is that they are unsuited to revealing the reasons for change. JSS4D along with other programs that seek to improve access to justice for FSV survivors and to strengthen core law and justice agencies may be making a difference, but it will be at a cumulative level. We suggest a more targeted approach is required to competently assess impact of specific initiatives. To accomplish this, we find that more rigorous and reliable records are required. Having said that, the project gives a broad-based and partial picture of the FSV offences in the criminal justice system, and can act as a first step in better documenting change over time in the handling of FSV cases in PNG.

Key findings

The project data gave some insights into the trends and current volume of FSV cases; characteristics of alleged offenders, victims and incidents; and the variability by location and agency. Rather than repeat the previous chapter's conclusions, a brief summary is provided:

Trends and current volume of FSV cases

- » An increase in reporting to police of FSV offences, including an increase in indictable FSV offences, notably in DFV offences.
- » A slight increase in reported sexual offences, with a slight decline in the average age of victims.
- » A significant proportion of matters reported to frontline police (via the counter, by phone or otherwise) involves domestic or family violence.
- » An increasing number of sexual offences that occurred over a period of time against individual complainants, and are not recent, are being reported to the SOS.
- » Summary offences involving DFV are common in the District Court, estimated to be at least half of new listings. Sexual offences are a more dominant category in the National Court, and the FASO office statistics suggests domestic rather than family relationships are more common with serious violent offences such as homicide.

Characteristics of incidents, victims and defendants

- » Based on police, public prosecutors' and NGO services' data, more than three-quarters of FSV victims are females (see Table 12 below). With sexual violence, girls rather than women are more likely to be victims, with almost three-quarters of victims who report to the SOS aged under 18. With DFV, adult women victims are most likely to be in the 25 to under 35 age category.
- » The majority of alleged offenders are adult males for both DFV and sexual offences.
- » In terms of more serious crime, most sexual offences were committed by those close to the children, including what are referred to by the FASO office as 'blood relatives'.
- » With serious DFV offences, an estimated 90% are believed by the FASO office to involve alcohol.

Outcomes

As can be expected, the type of outcomes varied by the type of unit or agency. Based on available and partial information for the past year:

- » Between 22% and 47% of cases recorded by five selected FSVUs are civil matters, with about one-third being the average, and therefore do not have a criminal justice outcome.
- » Between 10% and 30% of cases recorded by selected FSVUs are referred to what is categorised as 'welfare'.
- » Less than 10% of FSVU cases result in an arrest by an FSVU officer.
- » CID has a higher arrest rate, with the SOS making an arrest in at least one-third of cases.
- » With all agencies involved in the criminal justice system, the outcome of cases is often unknown as the outcomes are often recorded as pending or active, with FSVUs varying between 6% and 17% of cases, the FASO office 33% and with the National Court violence-related offences in selected locations 42%.

Table 6: Characteristics of incidents, victims and defendant (%),* different data sources, 2017, 2017–18, 2018, or 2018–19

	Sex of victims	Age of victims	Sex of alleged offenders	Age of alleged offenders	Type of violence
NGO services					
Nazareth Centre for Rehabilitation safe houses	80% F	56% adults			
Femili PNG Lae	91% F	87% adults			
FSC Lae	95 % F	78% adults (with SV, 72% children)			46.5% sexual violence
FSC Buka	84% F	70% adults			43% physical violence 29% sexual violence
Police					
Lae police toll-free line					10% domestic violence
FSVU central office	88.5% F	45% 25 to under 35 years	87% M	45.5% 25 to under 35 years	Criminal matters — 51% assaults
FSVU Lae central					69% criminal matters. Of these, 54% domestic violence
FSVU Arawa	78% F	91% adults		100% adults	
SOS Boroko	92% F	74% children			
SOS Lae	91% F	59% children			
FASO office (OPP)					
DFV			80% M		80% domestic violence
SV		80% under 16 years		95% adults	100% sexual violence

Source: Relevant services and agencies

*Percentage of the total where recorded.

Variability in focus and practices

Differences were raised by stakeholders and attributed to individual and group practices and capabilities, as well as those arising because of the location. The data showed variability in volume of cases and, to some extent, trends in:

- » FSVUs in NCD, Lae and Arawa
- » District Courts in all provinces, including ARB, Morobe and NCD
- » National Courts in NCD, Lae and Arawa.

Key themes and recommendations

Three key themes emerged and are outlined below — improving effectiveness and efficiency; attrition of FSV cases; and record keeping and collating statistics. Very general recommendations are made in relation to each of themes. The recommendations are designed to provoke discussion and further refinement, as it was not within the remit of the project to develop more practical or detailed proposals.

Improving the effectiveness and efficiency of the criminal justice system

Many of the challenges raised by key justice stakeholders apply to all criminal offences and are not confined to FSV offences. The whole system would benefit from a significant boost in budgetary funding and regular and reliable funding to cover operational costs. Nevertheless, there are several domains that can continue or should become priorities for external assistance, and these are briefly covered below.

Training/awareness raising

Many stakeholders valued training courses they had participated in, and were of the view that knowledge and skills had improved. The cross-agency training course on FSV investigations and prosecutions was valued for improving local communication and networks. Police stakeholders were positive about the recent priority given by the AFP to the professional qualifications and training of police prosecutors, and the reinvigoration of the investigators' course. Across the board, there was widespread support for continued investment in skills development in investigations and prosecutions (in such crucial fields as crime scenes, witness statements and prosecution briefs). This apparent ongoing need for courses raises questions about how well training and work experience activities are coordinated across the justice sector and in multiple locations.¹⁷ Given the enormous demand, and diminished capacity to meet it, the impact on clients of having staff often away or not available because of training and other activities was apparent during some of our field visits. Further, we concluded that participation in courses could be more evenly spread, and that the introduction of more 'train the trainer' approaches to disseminating skills and knowledge would be less disruptive.

In non-police areas of the criminal justice system, members of the FASO office expressed their appreciation of having an experienced Australian lawyer with prosecutorial experience embedded within their workplace. Although we heard of considerable variation in magistrates' and judges' attitudes to FSV offences and victims, we were not made aware of how legal actors in the system had been 'trained' or 'sensitised' to FSV issues. It may be that more could be done to promote a more consistent approach to FSV among magistrates and judges, and court officials such as clerks of the courts. More is said on this under the section on leadership.

Communication between criminal justice agencies, with the NGO sector, and within police

Among stakeholders, there was the occasional complaint of not knowing what had happened after a referral to another service, or in terms of progress and the outcome of a case. It was implied that better two-way communication was essential to improve accountability and job satisfaction, as well as ensuring that those who could or should take action were aware of what had happened. Two very concrete examples related to the police, with frontline police not knowing what had been determined in court (for example, the issuing of a bench warrant) and investigating officers not hearing back from police prosecutors on what had happened in court. We were told the latter had been addressed in the past by the routine sending of memos to the investigating and/or arresting officers.

Key areas of police capacity

Three recurring motifs during the course of the project related to boosting police capacity generally. The first was the mainstreaming of FSVUs within the police organisation, something that was recommended in the earlier evaluation of FSVUs (GHD 2015). The other area — not specific to FSV offences but seen as especially important for major FSV offences — was having access to criminal histories of alleged offenders, and the expansion of the forensic capability of the RPNGC.

Prioritising FSV cases

Given the volume of FSV criminal matters, various recommendations were made by key justice stakeholders in relation to dedicated court sittings or magistrates and/or 'fast tracking' of certain specified cases. In other countries, there has been a move towards specialised DFV courts (see, for example, an overview of Canadian policies in relation to pro-arrest, pro-prosecution and specialised courts in Tutty et al. 2008). However, this is an expensive option and dedicated listings, specialised magistrates and expedited processes may be more feasible and affordable options in PNG.

Leadership

In each of the locations, various individuals were singled out for their leadership on FSV issues. Their backgrounds included roles as a senior police officer, a stipendiary provincial magistrate, and a church leader who heads an NGO. This is not to suggest others are not quiet achievers. Nevertheless, the idea was floated of having 'FSV champions' within the criminal justice system, and that mentoring roles could be more formalised, especially among the more senior ranks in the police, the magistracy and the judiciary. At a provincial level, coordinating bodies can provide important leadership, such as the FSVACs and provincial law and justice committees, but these were thought to have less influence within organisations. Peer mentoring was seen as more appropriate; for example, for police station commanders, who are responsible for allocating critical resources such as vehicles, and who can oversee police practices and the collection and use of relevant statistical information.

Box 7: Recommendations

Broadly defined, to improve the effectiveness and efficiency of criminal justice responses to FSV offences, it is recommended that future efforts focus on:

- » Continued engagement in training and awareness raising on FSV offences, but that further thought be given to coordination with agencies that sponsor similar activities and 'train the trainer' models
- » Improving communication flows about the progress of cases and their outcomes, within police, between criminal justice agencies and with NGO service providers
- » Contributing to key areas of police capacity, namely the mainstreaming of FSVUs within the RPNGC, and a criminal histories database
- » Exploring ways to fast track or prioritise FSV offences within the court systems, and the introduction of dedicated listings and specialist magistrates
- » Fostering and supporting FSV champions and peer mentoring within criminal justice agencies.

Victim support, advocacy and protection to reduce attrition

The criminal justice system is often described as a filtering process. Of all the crimes that are committed, only some are reported to the police. Of these, only some will result in a prosecution and proceed to court. The much reduced number that reach court may not result in a conviction, and even if there is one, the sentence

that results in the most severe penalty, incarceration, is only a fraction of the potential outcomes. Having said this, certain kinds of crime are more likely to be subject to an even more extreme filtering process, with an even lower fraction of crimes committed reaching the final stages. Sexual violence in particular has attracted considerable publicity and research about the low rates of reporting to police, and the poor rates of progression through the justice system. In Britain, it has been called 'the justice gap' (Hohl and Stanko 2015), and it is found to varying degrees in other high-income countries (Daly and Bouhours 2010). A range of factors that help explain the gap relate to the nature of the crime and evidentiary emphasis on victim statements, the pressures on the victim, and the adversarial system. Many of these factors also apply to domestic and family violence, that is, crimes where both parties know each other intimately or are related (for example, see Hester 2005).

For this project, we were only able to estimate a level of attrition of major sexual crimes in the criminal justice system in Port Moresby, which we calculated as about 6% of cases recorded by the SOS reaching the National Court. This is extremely low. However, it is not surprising that in PNG there should be greater attrition through the criminal justice system, with both sexual crimes and DFV offences, than that found in better-resourced nations. There are four main factors that exert pressure on a survivor not to pursue the matter:

- » A frayed and under-resourced criminal justice system resulting in technical problems and inaction at each stage of the process (for example, the non-execution of bench warrants by police).
- » Alternative mechanisms outside of the formal criminal justice system — especially compensation.
- » Very little support for vulnerable survivors throughout the process.
- » Low levels of legal literacy and limited communication about the process with the victim.

Weaknesses in the criminal justice system are discussed further below. To reduce the high rates of withdrawal and dismissal, a key area of development is funding more formal arrangements¹⁸ for the support of FSV victims from when incidents are reported through to the final court appearance. In the District Courts, volunteers or Femili PNG case workers (in Lae and Port Moresby) may accompany the survivors to court and help with keeping track of court decisions and forthcoming appearances. For more serious crime, there are several victim liaison officers in the OPP in Port Moresby and Lae, and the Salvation Army officer at the National Court helps with child victims of sexual violence. For greater engagement of NGO services, and for a more formalised designation of key victim liaison positions within the police and the courts, it would be beneficial to initiate discussions with the national and provincial FSVACs to explore how victim support and advocacy can be improved.

A further matter is improving the understanding of court processes. Ganai (2017) recommended creating and publishing awareness materials (information sheets) for District Court users,¹⁹ more particularly victims of domestic violence (and IPO) cases, on court processes and what they may expect to happen when going to court.

Given how long cases can take, a critical point is the level of protection survivors feel from further victimisation or intimidation. It seemed that District Court magistrates were not issuing IPOs or POs for survivors during committal proceedings, when adjournments were made or when hearings were conducted for FSV summary offences. At present the common practice appears to be for the magistrates to issue the protection orders in response to applications unrelated to criminal proceedings.²⁰ This was identified in the Lae study of family protection orders (see Putt et al. 2019).

It is worth stressing that studies have found victims who use advocacy programs and protection orders (in high-income countries) are more likely to testify or have cases completed in court (Tutty et al. 2008). In a global review of evidence on how to improve law enforcement/justice responses to violence against women, five key areas are identified: enforcement of punishment, reducing mistreatment of victims, facilitating the collection of evidence, systematically collecting crime data, and establishing coordinated systems and procedures for the protection and support of survivors (also see Gennari et al. 2015).

Box 8: Recommendations

The development of activities and programs that improve the support, advocacy and protection for FSV victims within the criminal justice system to assist in reducing rates of withdrawal and dismissals.

Complementary or integral to these programs and activities there should be more education on legal literacy and on the criminal justice system for FSV victims and their families.

Record keeping and collating statistics to assist with monitoring and review

More than 30 years ago, to build a useful PNG crime and justice statistical collection, Walker (1985) recommended the standardisation of classifications (for example, of crimes and of actions), improved supervision of the recording and maintenance of statistical data, and improved communication of data within and between justice agencies and between them and the public. The same holds true today and the dearth of reliable data has been a constant refrain of consultancy and research reports in the intervening years.

The obvious explanation for so little change is the grossly inadequate funding to support regular collection of paper-based records and for upgrades to existing databases. Despite the increased presence of computers and connectivity in police stations, equipment often does not work, there is no ink and paper, and officers use personal mobile phones. Both Magisterial and Judicial Staff services rely on databases that are increasingly out of date. Building expensive case tracking systems are of little purpose if the basic data is not recorded and stored in a way that can connect to other agencies. In effect, we would argue for more investment in low cost improvements that draw on what is currently recorded, and adds value to users and stakeholders. For example, Ganai (2017) recommended collating appropriate domestic violence (and IPO) data so that good monthly statistical reports are produced. This will allow stakeholders such as the police and magistrates to be informed of the court outcomes with domestic violence cases and the reasons for such outcomes. A proposed approach to collating monthly statistics was outlined in the report.

The limited investment in data collection and analysis by the various agencies may well be, in part, because of the continuing lack of understanding or appreciation of the potential value of such data to the work of these agencies. A fundamental question for the collection of any data is the purpose of it. Information is typically passed up the chain and to donors, and usually aggregated for organisational imperatives, without feedback being provided to the record makers and keepers. The information should be relevant, albeit often for different reasons, to a wide range of stakeholders, not least those who are responsible for recording and collecting it. From a management perspective, data can provide essential output indicators that can assist in performance management, the allocation of resources, and planning for the future.

Box 9: Recommendation

Further work should be undertaken on designing and implementing a crime and justice statistical collection that is affordable, sustainable and feasible. Integral to this will be clearly articulating its purpose, and the practical approaches needed to enable consistent and reliable record keeping and storage of data. This work should align with the aims of the National GBV Strategy and promote the sharing of uniform and useful information.

Further research

During this short project it has become evident that much needs to be better understood, especially when it comes to gaps in services and the blockages and ineptitude that contribute to the attrition of FSV cases. Two research priorities are recommended.

Box 10: Recommendations

The following research would help shape future program development and implementation:

- » A proper in-depth study of investigations and prosecutions of FSV offences, through file reviews and case tracking.
- » Developmental action research on sexual offences reported to police and committed against women and children, with the latter viewed by stakeholders as a burgeoning social problem that requires dedicated attention and effort in the criminal justice system.



ATTACHMENT 1. KEY STAKEHOLDERS CONSULTED OR INTERVIEWED

Agency/group	Role	Location	Number
National Court	Judges	Port Moresby, Lae, Buka,	1
	Staff	Arawa	4
District Court	Magistrates	Port Moresby, Lae, Buka,	4
	Staff	Arawa	5
Office of Public Prosecutions	Public prosecutors	Port Moresby, Lae, Buka	4
	VLO*		1
Office of the Public Solicitor	Legal officers	Port Moresby, Lae, Buka	0
Police	Senior leaders	Port Moresby, Lae, Buka,	5
	CID (incl. SOS)	Arawa	8
	Prosecutions		3
	FSVU		7
Private law firms/lawyers	Criminal lawyers	Port Moresby, Lae	0
FSVAC members	Chair	Port Moresby, Lae, Buka,	1
	Key members (FSCs, FSV services)	Arawa	5
JSS4D	Advisers	Port Moresby, Lae, Buka	3
AFP	Advisers	Port Moresby, Lae	3
Total			54

*VLO — Victim liaison officer

ATTACHMENT 2. SOURCES OF DATA

Source	Type of data	Area	Time period	Comments
National Court	Number of serious violent cases registered, by selected categories	National, NCD, Lae and Arawa	2014 and 2018	Extracted from database Categories based on list provided by research team
	NCD, Lae and Arawa	National	March 2014 and March 2018	No data available for Arawa in March 2018, circuit scheduled for Buin
OPP FASO	Total number of FSV serious offences, by type, by outcome Sex and age of perpetrators and victims	NCD	2014–15 and 2018–19	Most relevant and comprehensive
OPS	Annual statistics for active civil and criminal files; offences/charges by crime categories; workload by provincial office, by officers; FSV or sorcery cases (Boroko 2019)	National, provincial offices (selected data)	2017, 2018, 2019	Provided by JSS4D, no opportunity to interpret the statistics with guidance from OPS
District Court	Total number of registered criminal cases, by type of matter, by province	National	2014 and 2018	Extracted from a database (DCECMS)
	Total number of criminal and civil cases, by province and court		2017 and 2018	
	Quarterly statistics 2016 — % of summary cases that are DV, % struck out	Boroko	2016	Report on DV cases in Boroko DC by Ganai (2017); an invaluable study which should be replicated
	File review — reasons for def. and compl. fail to appear; non-execution of warrants	Boroko	Sept–Nov 2016	
FSVUs	Number each month — reports, arrests, IPOs, referrals, pending, cleared Compl. and resp. by sex (for some)	NCD x 6–7 units; Central, ARB	July–Dec 2018	Patchy, based on monthly returns collected by national office Researcher did data entry
		NCD x 9 stations; Central	Jan–July 2019	
		Vanimu	Jan 2018–Jan 2019	
	Number each month — reports, arrests, IPOs, referrals, pending, cleared Compl. and resp. by sex (for some)	Lae FSVU	Jan–July 2019 Jan–Dec (excl. Feb, May, Nov) 2016 Jan–Mar, July–Sept 2015	Monthly totals, hard copies Researchers converted to Excel spreadsheet
	Violence against women — reported incidents by date, offence/matter, relp, sex and age of compl. and perp., place, status	Arawa FSVU	2011–15 2016–July 2019	Different recording practices for the two periods, Excel spreadsheets and quarterly reports
	Number of reported incidents by type of offence, by outcome	Buka FSVU	Jan 2017–Mar 2018	Patchy, quarterly reports Copied from hard copy docs

Source	Type of data	Area	Time period	Comments
Other police data	Monthly totals of criminal matters by offence type. Referrals to and from	Lae central police station	Jan–June 2018	From JSS4D Lae office (July 2019)
	Monthly total number of juvenile sex offenders	Lae police juvenile justice unit	Jan 2018–May 2019	Numbers by month provided by OIC
	Number of offences by type, by sex and age of victim	Boroko SOS	2018–June 2019	As recorded in crime report register Researchers converted to Excel spreadsheet
	Total number of homicides, number cleared, number unsolved, number DV homicides	Boroko homicide squad	2017	Memo, also see newspaper article (NCD homicide nos. 2017–Aug 2019)
	Number of offences reported by type of offence, by arrest	Lae CID	Jan–July 2019	Monthly returns Researchers converted to Excel spreadsheet
	Number of offences by type of offences, by sex and age of victim	Lae SOS	2016–19	From crime report register Researchers converted to Excel spreadsheet
	Number of reported incidents, by type, for the whole of 2018, and part of 2019	Lae toll-free police phone line	2018–?	Report provided by the police communications unit, Lae
Other data	Number of GBV cases by year, by sex, by age group, medical treatment, medical reports for courts, referrals to and from the FSC	Buka FSC*	2017–June 2019	Copy of the FSC report provided to ARB FSVAC July 2019
	Tables of total number of clients by abuse/violence, by sex, by age	Lae FSC	2018	FSC report provided by JSS4D Lae office Some info on referrals and longer-term numbers and trends
	Total number of calls by caller status, province, type of incident, referral from and to, age group and gender	National, I-Tok Kaunselin Helpim Lain	20 August 2015–30 June 2019	From Whitelum Group — copy of a report on the Lain
	Three phases: project activities by total number of clients, by sex, by adults/children	Bougainville, Nazareth Centre of Rehabilitation (NCR)	1 April 2015–1 March 2019	Output statistics provided by NCR
	Monthly totals by sex, by age Referrals to and from (incl. police and courts)	Femili PNG, Lae	July 2017 – June 2018	Tables of data from JSS4D Lae office

*We visited the Buka FSC and although it is open some of the time, the lack of staff means they are currently receiving no more than one client a day.

Note: compl. — complainant; def. — defendant; excl. — excluding; incl. — including; perp. — perpetrator; relp — relationship; resp. — respondent.

Endnotes

1. FSV is one of the JSS4D's outcome areas, but activities under the other outcome areas — community safety and security, law and justice services, and anti-corruption — should also contribute to improved criminal justice responses to FSV offences.
2. The two senior police officers said 'the whole family gets involved' and there is the threat of 'payback'. An arrest is equated with guilt, and there is 'family pressure for the suspect to be brought into custody as soon as possible, so they can start negotiations for compensation'. If compensation is agreed, and the case goes to trial, it is common for 'no-one to turn up', and sometimes the case is withdrawn.
3. A Police Commissioner circular and the standard operating procedures for the FSVUs state that FSVU officers are not allowed to mediate or counsel any FSV matter. However, it did seem from the data and from interviews that FSVU officers may assist in civil matters where they do not believe a criminal FSV-related offence has occurred and does not warrant an arrest.
4. We were told of specific cases in which statements translated from Tok Pisin into English had been challenged in court.
5. The Forensic Science Centre of the RPNGC is in Gordons, Port Moresby, with regional offices in Mount Hagen, Lae and Kokopo. There are seven sections within the directorate, covering different areas of expertise such as ballistics, biological evidence and document examination. In total, at present, there are 29 staff employed by the Centre in the capital and in the regional centres.
6. Banks of fingerprint records dating back to the 1970s are kept at the head office of the Forensics Science Centre. They are paper-based records, and without an index that makes it difficult to identify and retrieve past cases, unless an officer can remember the date of the alleged offence and the name of the alleged offender.
7. We were told that it was 'standard practice' that investigating officers have no more than three months to prepare and submit a prosecution brief in court. If it goes beyond the three months, the matter is discharged and the defendant, if in custody, released.
8. Magistrates said they give directions in court on why cases are struck out but this may not be relayed back to the investigating officers that prepared the police brief of evidence.
9. A small study on domestic violence by a magistrate at Boroko District Court, based on 2016 summary offence data on the court electronic case management system (DCECMS) along with a review of files covering a three-month period in 2016 (Ganai 2017).
10. In response to a request the FASO office provided a report that summarised the challenges they face and which gave examples of cases that highlight these challenges. The report is cited at length.
11. We were told the backlog in bench warrants issued by the National Court had been reduced because of an edict issued by the Chief Justice in 2015–16 that stated that if a warrant had not been executed within six months, then it needed to be thrown out.
12. The payment of compensation outside of formal court proceedings leading to withdrawals/non-appearances of victims/witnesses was raised by multiple stakeholders including the police and in relation to summary offences in the District Court. The report by the FASO office stressed that the OPP has a strict policy against discontinuing cases on account of compensation.
13. We were told of efforts by individual judges to mitigate the stress on child witnesses of giving evidence, through, for instance, the use of screens in court and retiring to see the child in the judge's chambers.
14. The researchers visited the FSC in Arawa, and although it was open at the time, it was only operating on an intermittent basis while staff recruitment was underway.
15. This was not raised by the female FSVU police officers we talked with.
16. The domestic violence and family violence cases add up to 110%.
17. The mid-term evaluation of the JSS4D program recommended a protocol between the AFP and the program to assist with coordination and planning (QTAG 2018).
18. Funded by UNICEF, we were informed that the Salvation Army in Port Moresby had recently started training volunteers to assist child victims of family violence cases in the District Court.

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19. The Office of the Public Prosecutor produced a guide for the general public on going to court, which provides practical and useful information, including appendices that are primarily for victims of FSV offences. However, it needs to be updated and relies on a high level of English literacy (OPP 2008).
 20. The District Court magistrate in Buka often issues a protection order at the time of sentencing in DFV cases.

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