

**Access to Justice: Joint Efforts Between Law Students
of the Louis A. Grimes School of Law in Liberia
and the Washington & Lee School of Law
Spark Change**

**by the W&L Liberia Access to Justice Practicum
Professor Speedy Rice and students¹**

The Liberia Access to Justice Practicum is a joint program at Washington and Lee School of Law (“W&L”) in Lexington, Virginia and the Louis A. Grimes School of Law at the University of Liberia, and seeks to assist in the broad goal of building greater access to justice in Liberia’s criminal justice system.² The Practicum is taught in partnership with the United Nations Office on Drugs and Crime, along with the National Association of Criminal Defense Lawyers.³ During the 2008 fall semester, four law students from W&L and nine graduates and soon-to-be-graduates of Louis A. Grimes participated in the Practicum, which culminated with the W&L students’ travel to Liberia to work with their Liberian counterparts.⁴

Hon. Cllr. Eva Mappy Morgan, the Deputy Minister for Administration and Public Safety at the Ministry of Justice, authorized visits by the Liberian and W&L students into Monrovia Central Prison (“MCP”) and Harper Prison. These visits were arranged to document conditions of the prisons, and to interview inmates, guards, and supervisors. The objective of the report was to identify issues faced by and in Liberia’s prisons, and to provide recommendations to address those issues. It was important to include stories from both inmates and staff to demonstrate that many problems are institutional and should be addressed at that level. Overcrowding, lack of staff, and lack of running water create problems for everyone, and the students helped all parts of the prison system speak to their government with a united voice.

The completed report was submitted to Deputy Minister Morgan, the Minister of Justice, the Supreme Court Judiciary, UNODC, the Country Director of the ABA Rule of Law, the NACDL, and the Deans of both the University of Liberia School of Law and W&L Law. As a result, new processes have been instituted to process more inmates and reduce delays in court procedures.

One of the most frequent issues brought to the students’ attention was the lack of fuel and transportation to get inmates to court. In February 2009, the Ministry of Justice and Supreme Court established a program whereby Monrovia’s magistrate judges began holding pretrial hearings at MCP to process the backlog of pretrial cases. The participating magisterial courts are: Monrovia City, Westpoint, Gardnersville, New Kru Town, Brewerville, and Paynesville.

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² The Practicum’s purpose is drawn from key provisions of UN CCPCJ Resolution E/cn.15/2007/L.16/Rev.1 “International Cooperation for the Improvement of Access to Legal Aid in Criminal Justice Systems, Particularly in Africa.”

³ The Practicum gratefully acknowledges the support and facilities of the American Bar Association’s Rule of Law Initiative – Liberia and the United States Embassy in Liberia.

⁴ The efforts continued in the Spring 2009 semester, with five students from Washington and Lee and fifteen from Louis A. Grimes.

These hearings are currently taking place as scheduled, and are slowly processing, and where warranted, releasing prisoners.

Additionally, together with the American Bar Association Rule of Law Initiative and the James A.A. Pierre Judicial Institute, the Access to Justice Practicum selects and supervises twelve Liberian law students to serve as judicial clerks for each of the magistrates holding court at the prison. The clerks work on recordkeeping, identifying prisoners for hearings, and improving communications between the courts and the prison. The program seeks to increase the number and quality of the hearings, with the ultimate goal of reducing prison overcrowding. Example activities of the clerks are: keeping records of the prison hearings; tracking cases transferred to Circuit Court to ensure that they do not get lost in the system; and ensuring that detainees are released when ordered by the court.

To be sure, the prison hearings still face obstacles that reduce their effectiveness and efficiency. Due to a lack of oversight, there is some variation in hearing procedures, and poor record-keeping creates additional confusion. However, refinement and clarification are expected steps in implementing new procedures, particularly in a country that is struggling to accomplish so much with so little. It is also worth noting that several problems are systemic, and have simply been carried over from one court to the next. For instance, if procedural variation among magistrate judges exists in their home courts, it comes as no surprise that those variations appear in prison hearings. Similarly, solicitors and public defenders who are late or fail to appear in magistrate courts may predictably continue their behavior in the prison courts.

Despite such problems, the establishment of the prison hearings represents several steps forward. The procedure helps reduce prison overcrowding, reduce human rights violations, and raises awareness of discrepancies in court procedure. The use of law students as clerks sparks the involvement and interest of young legal minds, and begins a trend of civil service which will hopefully continue throughout their careers. Perhaps most importantly, it demonstrates recognition by the government and judiciary that obstacles like the lack of fuel, however real, cannot be the explanation for constitutional violations, and that solutions can be found by tapping into the skills and efforts offered by all components of the legal profession.

The Liberia Access to Justice Practicum has been a learning experience for everyone involved. For the American law students, it was an exciting opportunity to learn firsthand about the kinds of problems faced by a post-conflict society's criminal justice system; for the Liberian students, it was an opportunity to learn from other people's experiences. The class studied criminal justice systems of other African nations faced with similar problems, and using this knowledge, set off to put their own house in order. The prison visits increased comprehension of the systemic problems plaguing Liberia's criminal justice system and the recommendations, if implemented, will go a long way in alleviating some of them. This practicum aimed at going beyond merely observing and documenting the current state of affairs in Liberia; the goal was, and is, to build greater access to justice in Liberia's criminal justice system.

The report submitted by the Practicum students is reproduced in the following sections:

1. Monrovia Central Prison: Case Studies and Recommendations
2. Monrovia Central Prison: Systemic Problems
3. Monrovia Central Prison: Conditions for Juveniles
4. Monrovia Central Prison: Report from Guards
5. Harper Prison: Conditions
6. Harper Prison: Case Studies
7. Overall Recommendations and Conclusions

1. Monrovia Central Prison: Case Studies and Recommendations

PRISON VISIT TO MONROVIA CENTRAL PRISON

On November 26, the Practicum visited Monrovia Central Prison. We interviewed 69 of 775 pre-trial detainees, including men, women, and juveniles. The interviews consisted of documenting basic information about the detainees' arrests and access to justice. We also interviewed the detainees about the prison's conditions. Furthermore, we had the opportunity to speak with several of the prison guards about the prison's conditions and the constraints that they faced.

Case Studies

The following cases are the experiences of six detainees in Monrovia Central Prison.⁵ They demonstrate the common experience at the Prison in which detainees have not been afforded access to justice and have had their Liberian Constitutional rights violated. The Ministry of Justice and the Courts should seek to resolve these matters and correct the institutional deficiencies that foster these conditions. Prompt attention to such matters will help strengthen the Liberian criminal justice system by encouraging greater legitimacy in the judicial process while reducing prison overcrowding.

M.K.

Age: 45

Date of Arrest: November 23, 2008

Charge: Theft of Property

M.K. owns a restaurant/booth in Monrovia; she decided to rent it out because she was moving to Paynesville and would not be able to manage her restaurant as she did not have reliable transportation. Another woman (X) was interested in renting the restaurant and paid M.K. half the rent amount in order to secure her arrangement. Part of the arrangement was for M.K.'s son to be employed by the restaurant under X's management. X could not come up with the remaining rent and did not open the restaurant leaving M.K.'s son jobless. M.K. approached

⁵ The information regarding these cases was obtained through interviews with the detainees. We have not independently verified the information or done any additional research. This report relies on the truthfulness of the detainees. While we believe the information presented is true, we cannot guarantee its accuracy.

X for the remaining rent and was told by X that she could not pay the balance. Further X refused to go forward with renting the restaurant, insisted that the deal was off, and that M.K. should return X's money. M.K. could not come up with the money because she had already spent most of it.

M.K. was at church when she was informed that the police came to her home to arrest her and, in her absence, arrested her son. Upon arriving at the Police Station, M.K. was informed that the charge was of "receiving money on a false pretense." M.K. realized that the arrest was based on a complaint by the woman who was demanding return of the paid rent. M.K. convinced the police that her son did not have anything to do with the money; her son was let go, and M.K. was arrested instead. She was not made aware of any of her Miranda rights during the arrest. According to the court documents, M.K. is charged with "Theft of Property."

Recommendations: M.K.'s dispute with X is a contractual issue, and should not be handled by the criminal justice system. It is unclear who actually owes money to whom as an oral contract was made and the liabilities of the parties are uncertain. Rather, the matter should be brought to the courts for resolution under civil contract law if either party makes that choice. M.K. should be released from prison as she does not belong there. Further her release will give her the opportunity to earn money so that she can pay back X if a civil court makes that determination or M.K. wants to settle the matter.

This case represents a common practice of using the criminal law system and the Liberian National Police (LNP) to extort or intimidate a party to a debt or a civil dispute. It is an abuse of the legal system, consumes the valuable time of the LNP and results in overcrowding of the prisons with no benefit to society. The Ministry of Justice and the LNP should take appropriate steps to end this practice and encourage peaceful civil dispute resolution.

Name: Mr K

Age: 27

Date of Arrest: April 28, 2004

Charge: Murder

Upon return to Liberia following the conflict, Mr K met up with an old friend (the victim) and they decided to go somewhere to smoke weed, drink, and listen to Mr K's tape on his tape player. While together, the friend picked up the tape player and was fooling around with it. When Mr K asked him to stop, the friend acted like he was going to try and hit Mr K in the head with the player. At this point Mr K grabbed the player and pushed the friend. The friend fell to the ground, probably hit his head and started foaming at the mouth. Mr K took his friend to the police station to get help. The police later arrested him at his home without informing him of the charge against him or his Miranda rights. Mr K remained at the police station for five days before he was told he was being charged with murder because the friend did not survive after being taken to the hospital. While in police custody he was interrogated seven different times, but each time he continued to deny everything. Mr K's first court appearance was not until September 14, 2004 (over four months after being arrested) and he has not been back to court since. He only received his indictment last year, four years and three months after his arrest.

Recommendations: Based on the above facts, murder is the incorrect charge for Mr K. The act of pushing the friend was not meant to intentionally harm the friend and if it was the act that resulted in his friend's eventual death, Mr K should have been charged with manslaughter, if anything at all.

Mr K is eligible to be released under § 2:18.1 because he was not indicted within two terms of court. Additionally, his right to a speedy trial has been violated, and there were procedural problems regarding his arrest, namely the lengthy delay in bringing him to court and the failure of the police to inform him of his Miranda rights. The delay in charging and providing counsel may have also fatally prejudiced Mr K's rights to investigate his factual defenses of other causes of his friend's death, such as a medical condition or medical malpractice at the hospital.

Name: E.Q.

Age: 33

Date of Arrest: May 2008

Charge: Gang Rape

A woman living with E.Q. and her husband went to the police and complained that she had been raped by the husband. The police arrested E.Q. and told her they were only holding her until her husband appeared so that they could arrest him. However, once the husband had been arrested, E.Q. was informed that she was not being released and that she was being charged as having held down the legs of the woman during the attack. Although she was interrogated by the police with regards to her knowledge and involvement in the rape, E.Q. denied all involvement. Since the time of the original complaint, the victim has refused to come to court to testify and has told E.Q. that there is no case against her or her husband. E.Q. has been told that it will cost \$200USD each to obtain counsel for her and her husband so that someone can file for their dismissal.

Recommendation: The prosecutor should move to dismiss this case for lack of evidence since the government's primary witness, the victim, has refused to testify.

Cases alleging rape should not be dismissed simply because the complaining witness refuses to testify. However, if no additional police investigation was done, and there are no additional witnesses or medical evidence, there is no case to proceed under and this case should be dismissed.

Name: P.Y.

Age: 36

Date of Arrest: September 9, 2006

Charge: Armed Robbery

UNMIL and the LNP arrested P.Y. in what he called a ghetto at 11:00 AM on September 9, 2006. Apparently, they had conducted a sweep of the area and arrested ten others in addition to P.Y.. At this time, the other ten have been released and P.Y. alone remains in prison. When he was taken to the police station, the police told him that he was being arrested for disturbing

peaceful citizens and for armed robbery. He was first taken to a police depot for two days and then was moved to the Monrovia Central Police Station, where he was held for four days before being taken to court. At the Monrovia Central Police Station, P.Y. wrote a statement which said that he had not been committing armed robbery but had simply been in that location after selling his goods and had been arbitrarily arrested. The police had confiscated his ID card and other property and, according to P.Y., they are still in possession of those items. Based on P.Y.'s story, there had been no complainant, nor did the police or UNMIL have any reasonable belief to arrest him. As he does not have any family or friends to help him, he has been unable to obtain legal counsel and none has been appointed to him.

Recommendation: According to P.Y.'s statements he has not committed any crime but has been in prison for over two years. The prosecutor should review P.Y.'s file and if there is not any credible evidence against him, move to dismiss this case for lack of evidence. Additionally, P.Y. is eligible to be released under § 2:18.1 because he was not indicted within two terms of court.

Name: S.B.

Age: 17

Date of Arrest: January, 2007

Charge: Murder

S.B. was involved in a dispute over money with his friend (the victim). The dispute escalated and the victim broke a bottle and came after S.B. with the bottle. S.B. went into an eatery and took a knife. The victim allegedly attacked S.B., and S.B. stabbed the victim. The victim was taken to the hospital and died later that day. The LNP arrested S.B. that night and he was detained in the police station for 5 days before being taken to court and then to Monrovia Central Prison. S.B. has been detained for almost 2 years and has not been given a Writ of Indictment or been to trial. He does not have the money for a lawyer, nor has one been provided to him by the government. The LNP did not read him his Miranda rights and he confessed the details of the incident to the LNP during interrogation.

Recommendation: S.B.'s case should be brought before a court because of the length of his detention, the potential procedural errors during his arrest, the fact that he is juvenile, and he may have a legitimate defense of self-defense. Furthermore, S.B. is eligible to be released under § 2:18.1 because he was not indicted within two terms of court.

Name: M.W.

Age: 49

Date of Arrest: November 17, 2008

Charge: Theft of Property

M.W. is a nurse. She went to a patient's house to treat the patient. M.W. treated the patient and left. After she left, the patient told the police that she was missing jewelry and claimed that M.W. had stolen it when she was at the house treating the patient. The police arrested M.W. during the day at her workplace. M.W. maintains her innocence and claims that other people had access to the jewelry (namely the patient's relatives) and could have committed

the theft. However, these people have not been detained by the police. M.W. does not have the money for a lawyer, nor has one been provided to her by the government. Also, the LNP did not read her Miranda rights.

Recommendation: Her case should be investigated and dismissed if there is no other evidence to support the defendant's allegations (was any of the missing jewelry found in her possession, for example.) If the case proceeds, then M.W. can hire a lawyer or one should be provided to her so she can properly defend herself.

As a nurse, M.W. is a productive member of society who provides valuable and much needed medical care to the Monrovia community. She is an ideal person to release on her own recognizance which would allow her to return to work pending resolution of this case.

2. Monrovia Central Prison: Systemic Problems

In addition to the above example cases, our interviews highlighted some of the systemic problems that are currently undermining the Liberian criminal justice system. The following section discusses some of these areas along with relevant portions of Liberian and international legal standards.

Miranda Warning and Legal Representation:

Article 21 (c) of the Liberian Constitution states:

“Every person suspected or accused of committing a crime shall immediately upon arrest be informed in detail of the charges, of the right to remain silent and of the fact that any statement made could be used against him in a court of law. Such person shall be entitled to counsel at every stage of the investigation and shall have the right not to be interrogated except in the presence of counsel. Any admission or other statements made by the accused in the absence of such counsel shall be deemed inadmissible as evidence in a court of law.”

And, Article 21 (i) reads:

“The right to counsel and the rights of counsel shall be inviolable. There shall be no interference with the lawyer-client relationship. In all trials, hearings, interrogatories and other proceedings where a person is accused of a criminal offense, the accused shall have the right to counsel of his choice; and where the accused is unable to secure such representation, the Republic shall make available legal aid services to ensure the protection of his rights.”

These two Constitutional provisions taken together aspire to protect the accused from police and prosecutorial excesses. In practice these provisions have remained only aspirational. Of the 69 inmates interviewed only nine (9) received a Miranda like warning upon arrest. Often, in their zealotry to put away criminal elements, Police Officers tend to overlook the importance of informing the accused of their rights. They seldom realize that this lapse in following proper procedure could result in a dismissal or an acquittal of a guilty person, thus making their job that much more difficult. These provisions are structured to protect the innocent and ensure that the guilty receive punishment commensurate to their guilt while protecting the basic rights of all accused. Therefore, it is paramount that efforts should be made

to educate the police and the citizenry of the importance and benefits of these constitutionally protected rights.

The failure to get counsel involved in the early stages of investigation has resulted in additional problems. Based on our interviews, it became evident that some of the detainees were arrested for civil matters and not criminal offenses. Many detainees have not had a court appointment since their arraignment and it is likely that they have spent more time in prison than they would have had if they were tried and found guilty. The result is increasing unsafe prison overcrowding that can lead to poor conditions, health risks for the inmates and guards, violence and escapes.

An informed police force that follows proper procedure in concert with a functioning legal aid services program would catch these problems in a timely manner and not only help alleviate the problems arising from prison overcrowding but also increase the citizens' respect for and trust in the criminal justice system.

Living Conditions:

§34.11 of Title 2 of the Liberian Criminal Procedure Law states:

“All accommodation provided for the use of prisoners shall meet all requirements of health, due regard being paid to climatic conditions and particularly to cubic content of air, minimum floor space, lighting, both natural and artificial, heating, and ventilation.”

§34.2 of Title 2 of the Liberian Criminal Procedure Law reads:

“In institutions or parts of institutions supervised by the Department of Justice, the following groups shall be segregated from each other:

- (a) Female prisoners from male prisoners;
- (b) Prisoners under the age of twenty-one from older prisoners;
- (c) Persons detained for hearing or trial from prisoners under sentence of imprisonment.”

Interviews and observations indicated that the prison authorities did a satisfactory job of segregating vulnerable groups from the general prison population. However, there are no separate cells or wings for mentally ill prisoners.

Both male and female adult wings of the prison are overcrowded. Some cells housed as many as twelve prisoners in less than desirable conditions. There was not enough floor space per inmate in certain cells—7 inmates in approximately 5ft by 7ft cell; the prisoners, however, used their ingenuity and put together makeshift hammocks using discarded rice bags thus creating additional sleeping area.

Most of the prison population is allowed to walk around the prison campus during the day, which also helps alleviate the problem to some extent.

Food and Health Care:

§34.10 of Title 2 of the Liberian Criminal Procedure Law states:

“Each prisoner shall be provided with good and wholesome food, properly prepared under sanitary conditions, and in sufficient quantity and reasonable variety.”

Although we got conflicting responses from the guards and prisoners on the issue of food, one could decipher that most of the time a majority of the inmates are fed only once per day and the entire meal consisted of one serving of bulgur wheat. The inmates complained that they usually did not receive enough, or any, oil with their bulgur wheat, or any fish or meat. There are times when the inmates received two meals and also times when vegetables and/or meat donated by missionaries/church groups (such as the Catholic Church) were added to the menu. Overall the inmates are not receiving sufficient nutrition.

Proper diet and meals is the responsibility of the prison system. Until the prison system is funded properly, greater assistance should be sought from the NGO community.

Better documentation of the meals and the lack of proper diet can support efforts of non-governmental groups to provide food assistance to the prison.

§34.10 of Title 2 of the Liberian Criminal Procedure Law states:

“Each prisoner shall have regular medical and dental care.”

The medical care made available to the prisoners is sub-standard. The prison’s health center employs only one medical professional, a nurse, and the center lacks even basic medical equipment and other medical supplies. Some of the inmates expressed hesitancy about going to the health center for fear of receiving incorrect treatment. Furthermore, there does not seem to be any regular medical care provided for mentally ill prisoners. Although we are not clear on the local Red Cross’s involvement with the health center, this could be something that the prison authorities could pursue.

Work, Skills Training and Exercise:

§34.14 of Title 2 of the Liberian Criminal Procedure Law states:

“A prisoner held in detention pending trial shall be offered an opportunity to work, but shall not be required to work. He shall be paid for any labor performed by him.”

§34.6 of Title 2 of the Liberian Criminal Procedure Law states:

“In developing [rehabilitation programs], the Attorney General shall seek to make available to each prisoner capable of benefitting there from academic or vocational training, participation in productive work, religious and recreational activities, and such therapeutic measures as are practicable.”

§34.12 of Title 2 of the Liberian Criminal Procedure Law states:

“Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily if the weather permits.”

Most detainees at the Monrovia Central Prison do not work. Some are assigned to chores like drawing water, sweeping the yard, and cleaning the buildings. Prisoners performing these chores are not paid for their labor. Although the law does not require pre-trial detainees to work, given the length of detention and the lack of any educational, vocational, or recreational activities at the prison, it would be a good idea to create work programs for the detainees as this will not only keep them busy and away from trouble but also help them gain real-life skills and earn money while in prison. Walking around the yard is the most exercise most inmates receive and many of them expressed interest in playing football (soccer). Therefore, investing in a few footballs may help solve the exercise problem and also help relieve the monotony of prison life.

3. Monrovia Central Prison: Conditions for Juveniles

Particularly relevant laws and treaties applicable to the treatment of arrested and incarcerated juveniles include Section 34.2 of Title 2 of the Liberian Criminal Procedure Law as well as the Convention on the Rights of the Child, which was signed by Liberia on 26 April 1990 and ratified on 4 June 1993. The relevant sections are produced in part below.

Liberian Criminal Procedure

§34.2 of Title 2 states:

“In institutions or parts of institutions supervised by the Department of Justice, the following groups shall be segregated from each other:

....

(b) Prisoners under the age of twenty-one from older prisoners.”

Convention on the Rights of the Child

Art. 1 states:

“For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.”

Art. 37 states:

“States Parties shall ensure that:

- (a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- (b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- (c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child’s best interest not to do so and shall have

the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

- (d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.”

Art. 40 states:

1. “States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child’s sense of dignity and worth, which reinforces the child’s respect for the human rights and fundamental freedoms of other and which takes into account the child’s age and the desirability of promoting the child’s reintegration and the child’s assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - a. No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reasons of acts or omissions that were not prohibited by national or international law at the time they were committed;
 - b. Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - i. To be presumed innocent until proven guilty according to law;
 - ii. To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defense;
 - iii. To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - iv. Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - v. If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - vi. To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - vii. To have his or her privacy fully respected at all stages of the proceedings.
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

- a. The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - b. Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counseling; probation; foster care; education and vocational training programs and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.”

General Information

While at Monrovia Central Prison we interviewed twenty-two juveniles ranging from the ages of thirteen to twenty years-old.^{6, 7} These juveniles were detained for charges including theft and burglary, armed robbery, assault and battery, kidnapping, making terroristic threats, rape, sodomy, and murder.⁸ Of these nineteen juveniles one had yet to be charged of a crime but had been questioned by the police under suspicion of involvement with a vigilante group.

Regarding Arrest

Article 37 of the Convention of the Rights of the Child requires that any arrest or detention of a child conform to the domestic law, which in Liberia requires that all individuals be charged within forty-eight hours of their arrest. Of the twenty-two juveniles interviewed, only five were taken to court and charged within the forty-eight hour time-frame. While one juvenile could not recall the duration of time that passed, the other sixteen juveniles waited anywhere from three days up to one month before they were formally charged. Only two of the juveniles recalled being told of their Miranda rights and twelve of those whom were not informed of their rights also said they had been interrogated by the police or asked to write a statement without counsel or a parent/guardian present. Four of these wrongfully interrogated juveniles confessed to crimes at that time.

Regarding Conditions of Detention

In large part it appeared as though all juveniles were detained separately from adults, as

⁶ As noted above the minimum standard required by the Convention on the Rights of the Child, Art. 1, is that individuals under the age of 18 must be separated from adults, but the Liberian Criminal Code, §34.2 of Title 2, imposes a more stringent requirement of all individuals under the age of 21 being separated from adults.

⁷ The number of juveniles in each age group: 1 female aged 13 years, 3 males aged 15 years, 5 males and 1 female aged 16 years, 9 males aged 17 years, 1 male aged 18 years, 1 female aged 19 years, and 1 female aged 20 years.

⁸ The number of juveniles detained for each type of charge consists of 9 charges of theft or burglary, 1 charge of armed robbery, 1 charge of assault and battery, 1 charge of kidnapping, 1 charge of making terroristic threats, 1 charge of rape, 1 charge of sodomy, 6 charges of murder, and 1 individual who has not yet been charged.

required under §34.2 of Title 2 of the Liberian Criminal Code and Art. 37(c) of the Convention on the Rights of the Child. However, there were some claims that as a form of punishment for misbehaving, juveniles will be taken and placed among the adults for the day. Other punishments mentioned included being beaten and being left in bathrooms. The cells for juveniles do not appear to be overcrowded, with each cell usually containing between three to five persons with each individual having their own mattress and blanket. Although bathing/toilet facilities generally seem adequate, there were some remarks as to the cleanliness of the facilities as well as one comment that the toilet had not been functioning and that they had been told to remove feces from the area by hand.

Additionally, some of the juveniles commented that they were not provided with nor had money to purchase razors to trim their hair.

Sixteen of those interviewed reported having health issues during their detention and while some noted that they had reported their illness to the Five Star⁹ or an officer and not received medication or attention, others said they never even told anyone. When asked who they would contact if they were having any problems, juveniles were divided between reporting to the assigned Five Star or going straight to the officers.

During the interviews a pregnant sixteen-year old remarked that she is not feeling well but that the clinic does not have medication for her. It was not noted whether or not she is receiving any pre-natal care or attention nor was there discussion of a prison plan for when she gives birth. However, pregnant juveniles represent special health circumstances and her condition and status should be of significant concern to the prison personal and the Ministry.

With regard to meeting the dietary needs of juveniles, those interviewed reported that they usually eat one meal per day, and that the meal most often consists of bulgur wheat and black beans. However, they also noted that on Mondays and Thursdays they frequently get rice and beans and that occasionally on weekends they also get fish or other food that religious organizations, such as the Catholic Church, will prepare and bring to the prison.

Of final, but important, note with regard to situation of detained/imprisoned juveniles are the ideas of rehabilitation and eventually reintegration. Articles 40(1) and 40(4) of the Convention on the Rights of the Child give particular weight to the desirability that detention of juveniles will lead to the rehabilitation of such individuals and their reintegration into society as a contributing and constructive member. Article 40(4) also strongly suggests the use of alternative sentencing for juveniles which would better prepare and encourage juveniles to take on a positive role in society. Currently there are no educational, vocational, or rehabilitation courses available to juveniles in prison. Many of the juveniles reported being students before their arrest and they are presently unable to continue their education, or an opportunity to learn any other trade skills. This reduces their likelihood to reintegrate successfully upon their release and increases their likelihood of being a future criminal justice problem.

⁹ The Five Star appears to be the ranking inmate in each cell block who acts in some capacity of authority over the inmates in that cell block. It is not clear how the inmate becomes the Five Star.

4. Monrovia Central Prison: Report from Guards

There are currently 94 guards for a total of 825 prisoners, of which only 50 prisoners have been convicted. According to the correctional officer interviewed, there is a need for 60 more guards. The guards work in 2 shifts, 75% of them work on the first shift from 8:00 AM to 10:00 PM, 25% work from 10:00 PM to 8:00 AM.

The budget comes from the Ministry of Justice, but no one at the prison has direct access or discretion over any portion of the specific prison budget. This means that if the Superintendent or guards have any suggestions for improvements or want to make any changes, however small the budgetary impact, they have to go through the chain of command of guard to Superintendent to Director of Prisons to Assistant Manager for Rehabilitation, which usually results in no action occurring. A system promoting positive suggestions from the guards doing the actual work could result in savings and improvements in safety, operations, and conditions that would be beneficial to all parties.

Some of the things the guards and Superintendent are able to accomplish even with limited resources are listed below:

1. Keep juveniles and women separate from adult male prisoners as is necessary based on United Nations Standard Minimum Rules for the Administration of Juvenile Justice §13.4 and United Nations Standard Minimum Rules for the Treatment of Prisoners §8(a), as well as Liberian law mentioned in other sections;
2. Prisoners are allowed visits from family and friends during set visitation days and hours as is necessary based on Standard Minimum Rules for the Treatment of Prisoners §37;
3. The prisoners receive mail regularly through a program administered by the Liberia National Red Cross Society;
4. There are areas available for prisoners and their counsel to speak confidentially as is necessary based on Liberia Constitution Article 21(i) which stipulates that there shall be no interference with lawyer-client relationship;
5. Attorneys are freely allowed to visit their clients which meets the requirement of section 2:34.13 of the Liberia Criminal Procedure Code;
6. The guards do not interfere with the prisoners right to freedom of religion as is required by the Liberia Constitution Article 14; allowing them to conduct prayer services and attend services conducted by the local imam at the prison mosque on Fridays;
7. There does not seem to be much evidence of guard violence against prisoners or any other kind of inhumane treatment, which meets the requirements of Liberia Criminal Procedure Code section 2:34.18. When prisoners are unruly, the guards isolate them within the standards set by law; and
8. There is a system for prisoner complaints; the prisoners will complain to the Five Star or other surrogate head prisoner who will then inform the officer in charge of the block who will then in turn inform the Superintendent. Most prisoners interviewed indicated knowledge that a complaint could be addressed in this manner.

Unfortunately because of limited resources, the guards face many problems that they are unable to solve:

1. As mentioned above, there is a shortage of personnel. Given the current population of the prison, the Superintendent noted that an additional 60 guards are necessary to run the prison in an orderly fashion;
2. The guards work 12 hour shifts;
3. They do not have uniforms; this makes it difficult to tell the difference between prisoners and guards. This is an issue because this enables prisoners to escape. When we visited there had just been an escapee who had left with a group of people during visiting hours;
4. There are not enough supplies for sufficient recordkeeping. The prison records consist of a chalkboard with the prisoners separated into different categories. The record-keepers have to buy their own chalk. While there is a filing cabinet, there are no folders to file the papers in an organized fashion so any prisoner files they do have are not organized;
5. Food is donated by the United Nations World Food Programme. While the prisoners are able to all have at least one meal a day, it is unsure whether this meets standards. Sometimes there is enough food for the prisoners to have two meals a day but it seems more often they only have one;
6. There is some issue with wages not being paid to the last couple of classes of guards trained by UNMIL; however, it is unclear whether or not the issue is because of miscommunication between UNMIL and the Liberian government regarding the budget for the remainder of the year;
7. Soap and toothpaste are at times donated by the Liberian National Red Cross Society but when this runs out, there is no further supply unless prisoners receive it from their own family; and
8. There are no vehicles for the staff to convey inmates to the hospital or court; sometimes they use public transportation to convey inmates to the hospital, which is against regulations.

5. Harper Prison: Conditions

VISIT TO HARPER PRISON

We had the opportunity to travel to Harper, Maryland County and to accompany Counselor Aaron Kparkillen, Deputy Minister, Ministry of Justice Republic of Liberia, on November 21 for a tour of Harper Prison, where we met with Corrections Officer and Superintendent Crispin Doe, and held brief discussions with a few of the prisoners. Harper Prison is not overcrowded, has many empty cells, and typically houses 4 prisoners per cell. Yet, even with fewer prisoners, the prison still experiences many of the same or similar issues as Monrovia Central Prison.

Harper Prison Conditions

Through our discussions with Superintendent Doe and his colleagues, as well as our own observations, we identified several issues with the prison, including:

1. The prison does not receive any government funding, and must rely solely on the UN and NGOs in order to operate;

2. The prison does not have fuel for its generator (and there is no city power), so the prison does not have electricity;
3. The electric water pump is broken (and the prison does not have electricity—see above), so the prison’s internal plumbing is not operational. The prison guards must escort prisoners to a water pump outside of the prison walls in order to obtain water for the prison. This method is dangerous and inefficient for the guards, prisoners and public;
4. Prison guards are paid irregularly, and most work for periods without pay. Additionally, someone (usually the Superintendent) must travel to Monrovia to pick up the guards’ salaries;
5. The prison does not have resources to keep adequate prison records (even something as simple as chalk to keep the inmate record current). The prison does have a computer, but does not have electricity to operate it;
6. The prisoners have a small garden, but it is located outside of the prison walls so prisoners must be escorted and supervised by guards when they work in the garden. The garden is used to supplement the prison pantry;
7. The prison has no means to transport prisoners to court for trials and hearings. The prison has, at times, resorted to transporting prisoners by motorbike, which has allowed at least one prisoner to escape;
8. There are no on-site medical or dental facilities, and, due to the lack of transportation, it is often difficult to provide medical and/or dental care to prisoners. In severe cases, the guards have sometimes obtained taxis to transport prisoners to the local hospital;
9. There is one mentally ill prisoner housed in the prison, and it is uncertain whether he receives treatment for his condition;
10. The prison does not offer any educational, vocational, or training programs to assist in the rehabilitation of its prisoners;
11. Outside of the small garden, the prison does not offer any work opportunities for its prisoners; and
12. Not all guards have uniforms.

Some of the things that the guards and the Superintendent are able to accomplish with limited resources are:

1. The prison is not overcrowded;
2. Adults, females, and juveniles are housed in separate cells;
3. The mentally ill prisoner is housed in a separate cell, both for his benefit and the safety of the other prisoners;
4. The prisoners are able to maintain a small garden;
5. The guards work hard to maintain a rapport and discipline with the prisoners and to keep the prisoners from establishing a “government” so that the guards can maintain proper control¹⁰; and
6. There does not seem to be much evidence of guard violence against prisoners or any other kind of inhumane treatment, which meets the requirements of Liberia Criminal Procedure Code section 2:34.18.

¹⁰ This is unlike the situation in Monrovia, where the guards depend on a hierarchy, or “government”, to help the restricted number of guards control a much larger population of inmates.

7. Superintendent Doe and the guards appear to work hard at maintaining a professional and respectful environment under very difficult conditions. The prisoner conversations with us confirmed that observation.

6. Harper Prison: Case Studies

At the Harper Prison we did not formally sit and interview the prisoners and did not compile case studies for Harper Prison as we did for Monrovia Central Prison. However, during our brief conversations with some of the prisoners, two particular cases did catch our attention and are worth mentioning here.

The first case was that of an adult male brought to our attention by Counselor Lemuel Reeves, counsel for the ABA in Harper. This individual was arrested, tried, and found guilty in 2007 for a charge of aggravated assault that was committed during the conflict. His trial and conviction did not occur at the Truth and Reconciliation Commission, but in the normal courts of Liberia. This case should have been dismissed from the courts and sent to the Truth and Reconciliation Commission as soon as possible.

The second case was of an adult male who has been detained at the prison for four terms of the court, but has not yet been indicted. This is largely due to the fact that there is not a prosecutor in Harper. As put forth in section 2:18.2 of the Liberia Criminal Procedure Code, barring the showing of good cause, the court is to dismiss the cases of arrested individuals who are not indicted within two terms of court.

Following our visit to the prison we accompanied Minister Kparkillen to the courts, where these cases were immediately brought to the attention of the judge and defense counsel. It is our hope that they will now proceed in these cases as recommended.

7. Overall Recommendations and Conclusion

1. The serious prison overcrowding must be addressed as one of the highest priorities of the Liberian Government.
2. Non-violent crimes, minor felony crimes and economic disputes can and should be declared non-custodial during pretrial stages, absent a showing by the prosecution before a judicial body of community danger or risk of flight from the jurisdiction.
3. Individuals currently in pretrial incarceration for non-violent crimes, minor felony crimes and economic disputes should be released immediately without bail, absent a showing by the prosecution before a judicial body of community danger or risk of flight from the jurisdiction.
4. Economic disputes should be restricted to civil jurisdictions.
5. For violent and serious felony cases, pretrial hearings can and should be conducted at the Prison site as the most efficient and cost effective way to determine the accuracy and legitimacy of charges filed against each detainee.

6. For each detainee case a determination should be made by a judicial officer as to whether further incarceration is warranted in light of the nature of the charges and the time served in pretrial detention.
7. The Liberian Constitutional and Criminal Procedural provisions requiring release of any pretrial detainee held over two court terms should be respected.
8. Prison conditions are below international and domestic standards in spite of the efforts made by the prison guards and staff. Overcrowding at the Monrovia Central Prison is particularly acute but much of this can be addressed by the recommendations outlined above.
9. Regular inspections and recommendations by the International Red Cross and its affiliates should be encouraged and respected.
10. Prison guards and staff demonstrate commitment to their profession and the needs of the incarcerated. However, they deserve and need more institutional support. For example, need uniforms or some standardized dress to promote respect among themselves and the incarcerated persons and to distinguish them from incarcerated persons at all times, especially during emergencies.