

Timap Criminal Justice Pilot

# Baseline Evaluation Report

Submitted to the Open Society Justice Initiative  
(working draft for comments)

DRAFT

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# Introduction

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Timap for Justice and the Open Society Justice Initiative launched a Criminal Justice Pilot (CJP) paralegal program in 2009 in 3 rural districts of Sierra Leone. The program is intended to provide systematic access to justice to those detained at police stations and prisons, and employs 6 paralegals and 1 lawyer. Paralegals solicit criminal cases through several strategies, including regular monitoring of police stations and prisons, outreach to communities, and taking up cases that are brought into their offices. As of December 2010, Timap criminal justice paralegals had intervened in 360 cases of police detainees and prison inmates on remand. The pilot is part of a larger justice-sector reform program underway across Sierra Leone.

Since mid-2009, the Centre for the Study of African Economies, Oxford University (CSAE) has been conducting a quasi-experimental evaluation of the impact of the program. The evaluation relies on a before and after, difference-in-difference design, where Timap ‘treatment’ sites have been coarsely matched to ‘control’ sites in similar districts in Sierra Leone where Timap does not yet operate. The evaluation has both a qualitative and quantitative component. The evaluation is funded through research grants from the Soros Foundation and the International Growth Centre.

## 1. Motivation

### 1.1. Costs of pre-trial detention

A principal motivation behind this research project, and the underlying work by both OSJI and Timap, is the belief that the arrest and extended detention of individuals by the police without access to trial or other forms of due process is a violation of fundamental human rights. Furthermore, excessive reliance on extended detention is costly to society at large. These costs include the direct costs of processing and housing detainees for extended periods, all of whom are presumptively innocent, and the indirect costs in lost earnings and economic activity born by their households and communities.

But perhaps the highest cost of excessive and arbitrary pre-trial detention, albeit somewhat intangible, is its toll on good governance. Lax, and in particular, discretionary enforcement of laws and police procedures – for instance, the failure to enforce Sierra Leone’s 72-hour/10-day limit on police detention before a court appearance – may undermine the workings of the justice system as a whole. If the public perceives that enforcement is arbitrary or unfair they may be unwilling to cooperate with the formal justice system, act as witnesses or bring new cases forward. Furthermore, discretionary use of pre-trial detention by low-ranking officials creates myriad opportunities for corruption. Indeed, the rampant, almost ubiquitous prevalence of petty bribe-taking that we document in this report is both costly in a purely monetary sense for indigent defendants, and contributes to the broader view that justice is for sale.

### 1.2. Early intervention

The Criminal Justice Pilot is based on the hypothesis that *early intervention* using paralegals in the criminal justice system will have a large impact on pre-trial detention and its associated costs, as

outlined above. An associated hypothesis is that such early intervention may also affect the trajectory of the case and prevent abuses or miscarriage of justice at a later stage.

The impact evaluation attempts to measure both the direct effect of the CJP on pre-trial detention, as well as the possible indirect effects.

## **2. Aims**

### **2.1. Understanding the criminal justice system**

A secondary goal of this overall research project -- while beyond the bounds of an 'evaluation' per se -- is to provide a compelling motivation for the intervention. Baseline data on detention rates and the overall state of the criminal justice system will help assess the need for the continuation or expansion of a specific criminal justice initiative by Timap. In addition to its usefulness for analysis and evaluation, this data will have an important documentary purpose in highlighting abuses within the system and potential avenues for future intervention.

### **2.2. Evaluation of CJP impact**

This research project is an impact evaluation. Thus its primary goal is to rigorously quantify the causal impact of Timap's Criminal Justice Pilot on reduced rates of pre-trial detention, increased conviction rates, reduced arrest rates, etc. To identify "what works"; in particular, which aspects of Timap's work are most effective and thus deserving of priority. There is little rigorous quantitative evidence on designing effective post-conflict access-to-justice and legal empowerment programs, and it is hoped that the evaluation will provide unique insights for policy, particularly as paralegal work goes national.

### **2.3. Impact evaluation versus project evaluation**

It is worth highlighting the difference between an impact evaluation, as described here, and other forms of evaluation commonly conducted in the development industry – what we refer to in the section title as 'project evaluation'. The statistical techniques used for impact evaluation are designed to measure the average effect of the program on a specific set of beneficiaries. They measure whether outcomes have improved. They are *not* principally concerned with evaluating the efficiency or competency of the implementing organization (i.e., Timap), much less specific staff members. Those are tasks for a project evaluation. While at times we may inadvertently stray into the area of project evaluation in the following chapters, it is not the main purpose of this document, and is not the main expertise of the evaluation team.

If it is found that Timap's CJP has failed to produce a significant impact by the time of follow-up data collection, the impact evaluation will be only modestly informative as to whether this was because (a) the intervention was poorly designed, (b) it was poorly implemented, or (c) other factors intervened, such as deliberate 'push-back' by police or prison officials. Disentangling these alternative stories, if at all possible, will largely depend on anecdotal evidence from qualitative interviews.

# The Criminal Justice System

This section provides an extended empirical picture of the criminal justice system as it actually functions in rural Sierra Leone, drawing on both quantitative and qualitative data.

The ultimate purpose of this data is, of course, to serve as a baseline or benchmark in the evaluation of Timap’s CJP to be conducted toward the end of 2010. In the meantime, this baseline data serves as a useful diagnostic tool, providing a detailed picture of the challenges faced by the justice sector, as well as clues to the deeper underlying causes of these problems and their potential remedies. We should emphasize that our goal in this section is not to embark on a pre-mature evaluation of Timap’s work – which will only be fully possible with follow-up data in hand – but rather to put the CJP in context and help to explain the rationale for the specific programmatic model that Timap has designed gradually over the first several months of the project.

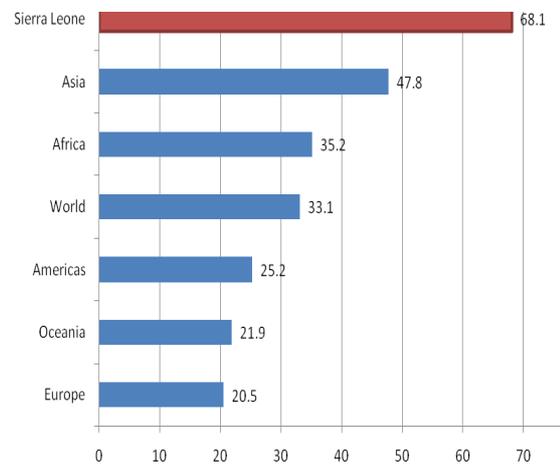
## 1. Pre-trial detention

### 1.1. Scope: How prevalent is unlawful pre-trial detention in Sierra Leone?

A logical starting point in examining Timap’s work through the CJP, and the relevance in Sierra Leone of OSJI’s Global Campaign on Pre-Trial Detention, is to assess the scope of the problem. How widespread is pre-trial detention? As a benchmark, it is useful (a) to compare the situation in Sierra Leone with data from other countries and regions, and (b) to examine the extent to which the actual practice of pre-trial detention conforms to the procedures and limits put down by Sierra Leonean law.

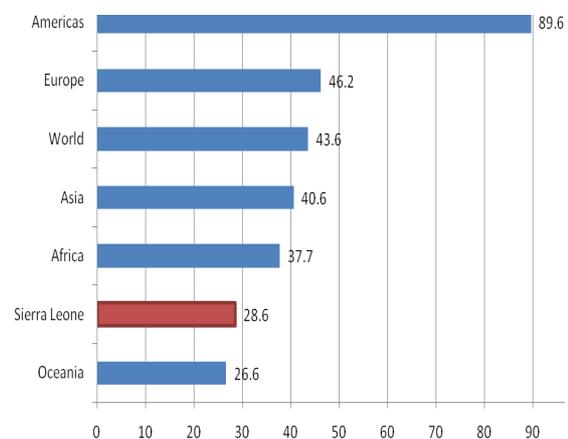
Starting from an international context, figures 1 and 2 clearly show that the overall scale of pre-trial detention is relative modest in Sierra Leone – inasmuch as the overall incarceration rate in the

Figure 1. Number of pre-trial detainees as a proportion of total prison population. (Sierra Leone, 2009; Others, 2006)



Source: Sierra Leone: CSAE Baseline Survey; All other data points: World Prison Population List, International Centre for Prison Studies, as cited by Schonteich 2008.

Figure 2. Number of pre-trial detainees per 100,000 of the total population. (Sierra Leone, 2009; Others, 2006)



Source: Sierra Leone: CSAE Baseline Survey; All other data points: World Prison Population List, International Centre for Prison Studies, as cited by Schonteich 2008.

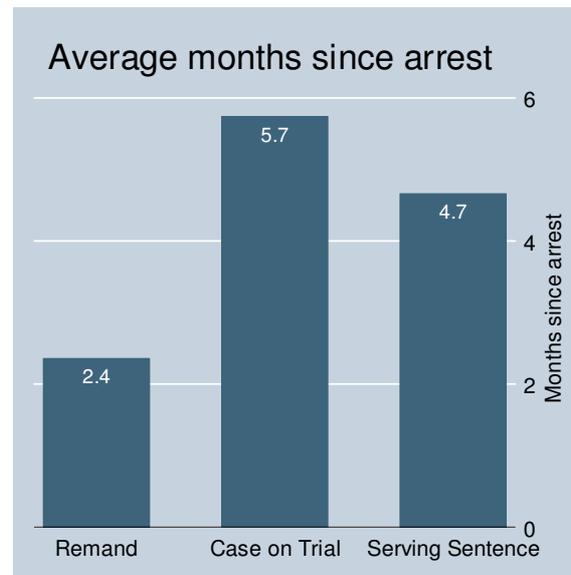
country is fairly low as a whole – but that among those in prison, the *share* who are incarcerated without trial is extremely high by international standards.

Figure 3 shows gives an indication of how long such pre-trial detention may last. On average, remand prisoners have been incarcerated for 2.4 months. Those on trial have served an average of 5.7 months – longer even than the average inmate serving a sentence, who has served an average of 4.7 months.

Turning to the situation in police stations, figure 4 provides a snapshot of the status of detainees found in jail on any given day. For a majority of these detainees, their cases are under investigation. Nearly 38% are unaware of the status of their case, and only 7.7% have been formally charged with any crime.

Detainees whose cases are under investigation may be legally detained for up to 72 hours for minor offenses and 10 days for felonious crimes. Figure 5 shows that the probability of having been charged with any crime increases with time in detention. However, after 7 days in detention, only 31% have been charged. [Further analysis is needed to break this graph down between minor and felonious crimes.]

Figure 3. Length of detention by case status among prison inmates



## 1.2. Diagnosis: Why is pre-trial detention so common?

The high rates of pre-trial detention and potential adverse social consequences outlined above can be seen as symptoms of an underlying problem. From a social scientific perspective, they beg an explanation. Why does the Sierra Leonean criminal justice system rely so heavily on unlawful detention? Why are courts unable to clear their backlog of cases? What specific obstacles prevent detainees from accessing their rights to due process?

As noted by OSJI's Rob Varenik, "The subtle complexities of criminal justice systems require that reform should flow from careful diagnosis. The hunt for the source of the problem should approximate a mechanic's approach under the hood of a car: try to isolate and observe different components in order to pinpoint the problem area(s) among many moving and interconnected parts." (p. 175) The following paragraphs outline our conceptual approach to this diagnosis, and they serve as an introduction of sorts to the following sections which examine the workings of the police, prisons, and courts each in turn.

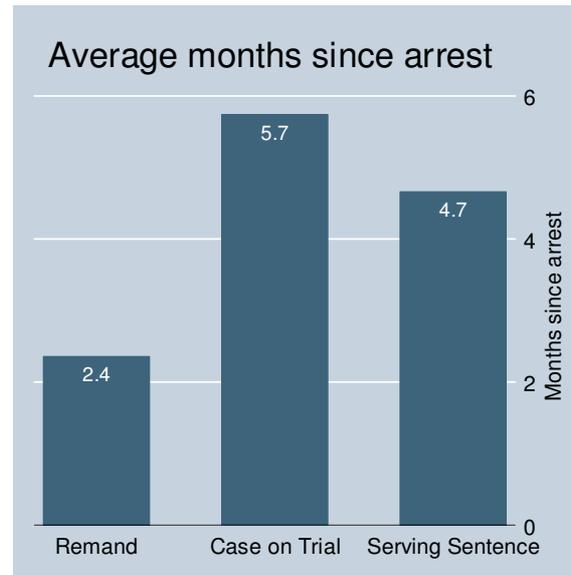
### 1.2.1. Motivations and constraints facing police, prison and court officials

Understanding the motivations of police and prison officials, as well as the constraints they face – both in terms of resource limitations and rigid procedural requirements – is key to formulating a strategy for working either with or against these officials to reduce pre-trial detention. On the one hand, if officials are deemed to be genuinely interested in processing cases more quickly and fairly, a close collaborative relationship between Timap and the police and prisons may be most effective. On the other hand, inasmuch as officials benefit from the arbitrary nature of detention, a more adversarial stance may be necessary. Timap’s leadership and paralegals clearly make a nuanced, ongoing assessment of these issues in their day-to-day work; here we attempt to give an independent assessment to complement their calculations.

**A grand conspiracy?** First, it is important to note what we did not find. Open-ended, qualitative interviews with various actors in the justice system produced no clear picture of a conspiracy at the highest levels to employ pre-trial detention as a systematic strategy, either to suppress political dissent, or as a tool of political or economic power at the macro level. We cannot rule out, and indeed suspect, that a portion of the considerable bribe revenue collected by low-level police officials flows upward to their immediate superiors. Even so, we uncovered no evidence of a strategy or motive to this system above and beyond simple rent seeking.

**Community demands for justice are often case specific.** Hypothetically, a clear motivation for ignoring due process and trampling on the individual rights of the accused might be to quell public demands for “law and order”, i.e., to be seen to punish law-breakers swiftly and severely. Public outcry about crime levels, for instance, might lead politicians to pressure the police to increase arrest rates and detention times.

Figure 4. Length of detention by case status among prison inmates



In practice, what we find is a more micro level, case-specific phenomenon. Given the lack of resources in the justice system to investigate and prosecute crimes, enforcement of the law is often effectively a private responsibility. Victims or their families or friends may detain a suspect and deliver them into police custody. Furthermore, they may incur direct costs for gathering evidence and witnesses for the prosecution. In these cases, pressure on police not to release a detainee – even after the legal period of pre-trial detention has expired – may be quite strong. However, these cases are somewhat exceptional, and most common for more severe crimes.

To understand public demands for stronger law enforcement at a broad level – for the bulk of the cases we reviewed where aggrieved party had no direct role in the case – would require additional interviews with the public at large which, unfortunately, are beyond the scope of the evaluation at this point.

**Petty corruption is a key motive.** The following chapter on police shows that bribe-taking is rampant. A large share of the cases processed daily are for very minor offenses, which are resolved with an informal payment to the police. Even for more serious crimes, access to bail is very commonly rationed by bribe payments.<sup>1</sup> The pervasiveness of this bribe system is, in our view, the major obstacle to a purely collaborative relationship between Timap and the police.

Taking one step back, lax oversight of low-level officials and high levels of discretion in the application of law and criminal procedure are a necessary condition for this type of corruption to flourish. It remains to be seen, however, whether merely shedding light on these practices would be sufficient to eradicate them or, on the contrary, whether supervisors have been fully co-opted into the bribe-taking system.

<sup>1</sup> Interestingly, the “price” for these services appears to be fairly fixed, rather than varying by the defendant’s ability to pay. In the language of economics, police do not exercise price discrimination, and thus rich and poor defendants are forced to come up with similar absolute sums of money to win their release.

Figure 5. Have police detainees been charged?

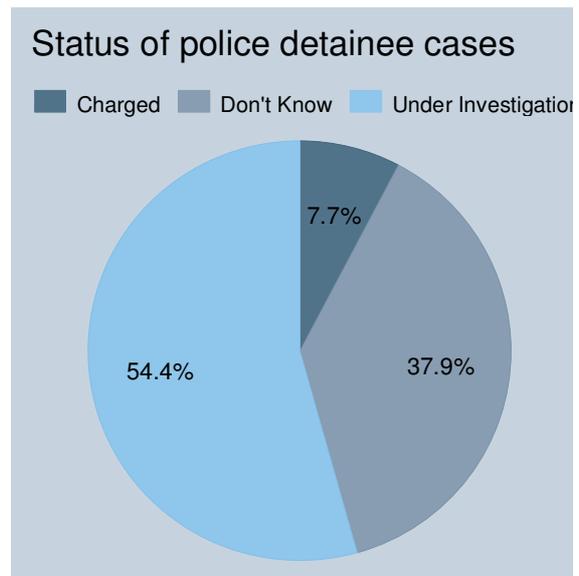
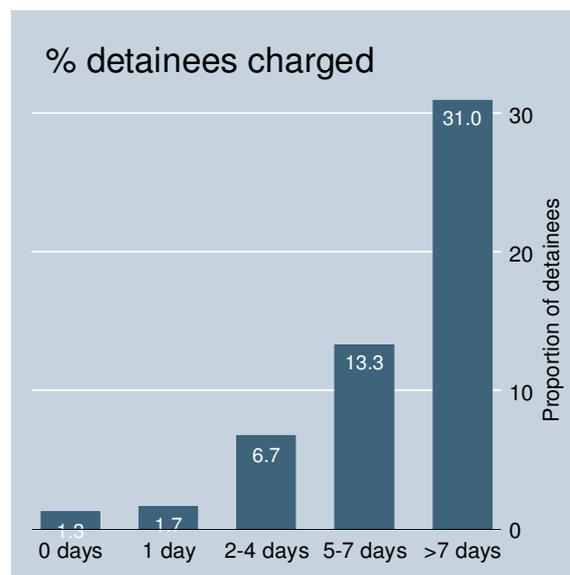
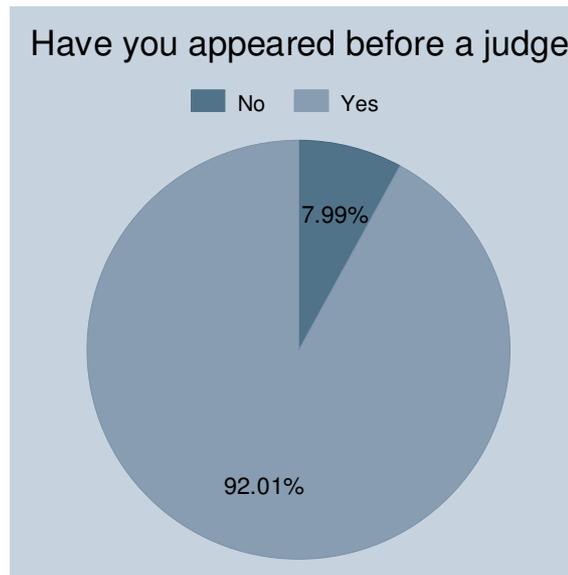


Figure 6. Probability of being charged after various lengths of time in police detention.



*There are clear bottlenecks where lack of resources impedes justice.* Inasmuch as police are motivated to process cases efficiently, they face very tight resource constraints. Lack of vehicles and/or fuel to conduct independent investigations forces police, as already noted, to rely on evidence put forward by accusers. At the level of courts, the unlikely confluence of ingredients – magistrates, witnesses, defendants and so on all arriving in court on the same day – which is required for cases to be process is detailed in the relevant chapter below. All of these obstacles point toward a clear role for Timap, without the need for an extremely adversarial stance vis-a-vis the police or other justice officials, to improve case processing and reduce pre-trial detention.

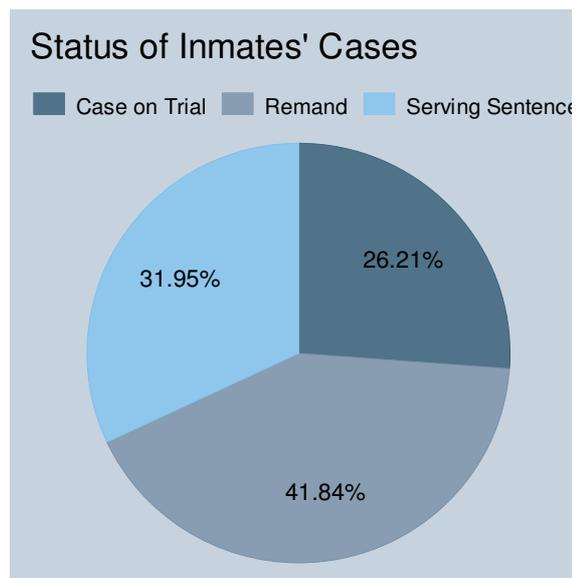
Figure 7. Case status in prisons



### 1.2.2. Obstacles to justice for detainees & their families

**Money.** Due to the lack of public resources for criminal defence, these costs must be borne by the accused and their families. As already noted, a major cost comes in the form of bribe payment. But additional, legitimate costs, also pose an obstacle to justice. Key among these are surety notification, and witness tracking. (Contracting a lawyer is also a cost that would have to be borne by defendants, but in practice is simply beyond the reach of every single defendant we came across.) Providing these services in kind is clearly a very obvious and direct way for Timap to facilitate a reduction in pre-trial detention.

Figure 8. Pre-trial detention rates in prisons



**Information.** Ignorance of the law, and of their legal rights, is a major impediment to justice for many detainees. Without belabouring this somewhat obvious point, it is worth highlighting one particular way this problem manifests itself: reluctance of family and friends to intervene on a defendant's behalf. The bail system in Sierra Leone relies on the availability of sureties. However, ignorance of the law and of the bail system – combined, perhaps, with general distrust in the police and fear of being sucked into a case – lead many potential sureties not to come forward. As a result, indigent defendants languish in pre-trial detention.

## 2. Police

### 2.1. Arrest

An individual's journey through the justice sector in Sierra Leone begins with arrest, when a detainee is brought to the police station. He/she is supposed to have a statement taken immediately, and his/her name and arrest date entered into the detention logbook. Upon release, the release date is also recorded—although this date is often not recorded. It is important to note that not all detainees in custody have been arrested for a crime. Some have been arrested as collateral until the real culprit is found: the detainee below was recognized as from the same village as a wanted man.

*...I was then held captive on condition that until the accused man (Abu) is also arrested as he is presently on the run.*

-Detainee, Magbaruka Police Station

Others are arrested based on allegations.

*It is only the police that I don't have confidence because they sometimes perform their duties based on sentiments and they sometimes act on mere allegations without investigating properly.*

-Prisoner, Makeni

### 2.2. Minor and traffic offenses

Not everyone having a run-in with the police is a detainee, however. Many individuals brought into the station are arrested for minor or traffic offenses, or simply targets for extortion using false charges. Trumped-up arrests are especially common at night, when the police can profile someone who is suspiciously dressed, who is out late, who is "gambling," or who is clearly a prostitute. The most common charges are loitering, gambling, or public nuisance.

*...So I was trying to explain to him that we were not playing gamble but we were discussing about football. He said in fact you were not suppose to be here at that hour and I ask him if at this early hour of the night.*

-Modu Kamara PL detainee

These charges—particularly loitering—can also be seen in the CSAE corruption and minor offense logs. Those charged with minor or traffic offenses and then let go generally do not spend much, if any, time in the cells. Rather they pay a "fine" at the counter and then leave. Under Sierra Leonean law, fines can only be paid in court; thus it can be assumed that if any money is paid at the

#### *The case of Pa Bineh*

*Pa Bineh is a traffic officer in the town of Magbaruka who is ardently anti-corruption and refuses to take bribes from drivers for ignoring their transgressions. Instead, Pa Bineh charged drivers to court for real transgressions such as driving without a license or having too many passengers in the car.*

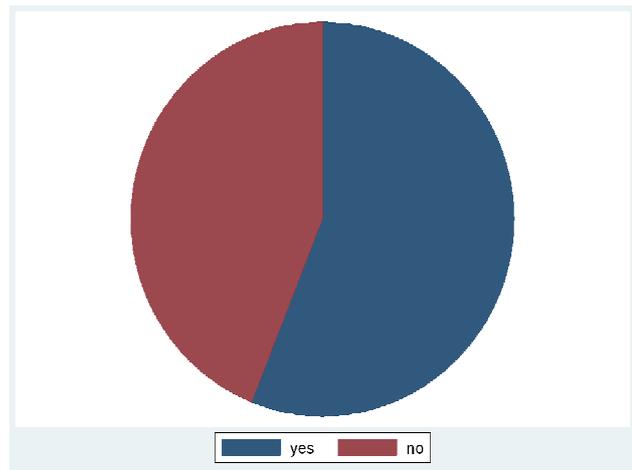
*Drivers in the area—preferring to pay the bribes than the heftier court fines—complained to the police that Pa Bineh was disturbing traffic. When the police's internal affairs branch investigated, it promoted Pa Bineh.*

*Acknowledged by the general public as easier than abiding by strict laws, the justification for corruption again becomes more plausible.*

police station by any person, it is under illegal circumstances.

But practically every person who comes through the station in this manner pays something; if they do not, the reason is noted on the CSAE corruption logs. One woman wanted to teach her detained son a lesson, so declined to pay. Another did not pay because of a connection at the station. But generally, there is “no fastness without money.” CSAE enumerators loosely estimate that 80% of cases that come through police stations involve some level of corruption, anything from payment for medical forms (for assault cases) to payment for release.

Figure 9. Most detainees pay money to post bail



### 2.3. Pre-Trial Detention

Under Sierra Leonean law, detainees can only be held in police detention for 3 days for minor crimes and 10 days for felonious crimes before they are officially charged. This means the police have 72 hours to collect all evidence, record all statements, complete records, find witnesses, contact sureties, and ensure complainants appear in court. For the reasons listed below, detainees are often held over the allotted time.

If a case is still under investigation, or UI, police will keep a detainee longer than the 3/10 day rule if they are still trying to collect evidence. This is to ensure that there is enough evidence against the accused for the charge to hold up in court. The police may take this long to locate witnesses, or to get transport to conduct an investigation, or to convince people to talk, or to do a number of things.

*I will start by saying that some accused people are stubborn to respond to accusations levied against them. This will eventually lead to delay in closing a case within a specific period of time. Moreover, others are in the habit of running away which also makes it difficult for the police to locate them. It is also but important to note here that certain cases go beyond 72 hours especially in the event of a road accident where some passengers are in a critical condition. The driver will have to be kept for over 72 hours since the police would want certain information from the passengers who may need time for recovery so in this situation the case will even depend on the speedy recovery of the victims. Further more, in cases involving two or more suspects in murder cases, if one suspect is in police net then until the other is brought to book the case will not be closed within 72 hours.*

-Police Officer, Port Loko

Even if the police do not have enough evidence and know they will not collect it, the police might keep a detainee locked up under the pretext that he/she is a danger to society. This is especially prevalent amongst cases involving violence. Similarly, police will keep detainees because of a fear

that upon release on bail the detainee will destroy still uncollected evidence or influence witnesses to speak in his/her favor.

If a case is 'kept in view,' or KIV, police will label a detainee's case as KIV and release someone on bail in order to collect more evidence. If a detainee is released but the police still suspect him/her of a crime, the file will be labeled KIV. Though not technically over-detention, KIV is a way for the police to keep a suspect in their sights.

Researchers have also noted cases in which detainees have been transferred to a different police station after 72 hours in order to keep the detainee in detention without breaking the 3/10 day rule. In one case in Makeni, a detainee was transferred 3 times in one month.

Police can often keep detainees simply to wait for money, either from the detainee, a surety, for bail, or from a family member; alternatively, the police can accept money from a complainant to keep a person locked up for some time. For such illegal detentions, the police may not record the arrest in their logbooks or detention forms. For cases in which a detainee was held over the legal limit for pre-trial detention, sometimes release dates are not recorded. Often, to avoid detection, the police burn any records of illegal detentions.

*... we are given access to see the cells but sometimes they hide certain suspects or detainees from us especially when they (the police) are expecting to receive money from the relatives of these suspects. So wouldn't want us to know anything like information about them. - Issata French, Magbaruka paralegal*

Finally, a main reason for cases not being charged to court within 72 hours is in the event of a Circuit Court not being in town, or if the magistrate's court is not sitting regularly or is too busy.

*Q: What are the causes for perpetrators to be over detained?*

*A: The courts sitting in Makeni are not frequent and irregular.*

*Q: Do these constraints even affect your work?*

*A: Yes as we cannot be keeping suspects in our custody when they should be in court.*

*-Police Officer, Mena Police Station, Makeni*

## **2.4. Treatment in Police Detention**

Once in the cells, the situation is grim. The police are not legally obligated to provide food for detainees. Instead, the complainant who reported the crime or the detainee's family must either bring food or give money for food. Moreover, many cells are over-crowded and unsanitary. One cell in Makeni was noted by researchers to contain 20 detainees. Sometimes the police can take food brought for the detainees, or beat them.

*Q: Are there any cases of other detainees which have stood out in your mind (juvenile)?*

*A: Yes there was a juvenile here, he was sick, but when he complains of his illness, he was again beaten instead of medication.*

*-Detainee, Makeni*

Because detainees are at the mercy of those incarcerating them, it is relatively easy for police to trick detainees into signing statements if the detainee is illiterate. Controlling what is written in statements is also an easy way to extort money.

*Q: In your experience, which department was the least efficient police, prisons and court?*

*A: The police department as the officer on duty that night refused to obtain statements from me until the next day. The police also failed to obtain statements from the complainant and the witnesses till late in the evening of the next day. I believe a lot must have been swept under the carpet in terms of bribes...If I had enough money to give to the police I would have given them and very nice things would have been written on my own side then I would not have gone to prison.*

*-Prisoner, Port Loko*

## **2.5. Sureties and Bail**

Every detainee has the right to a surety. The catch is that the surety must be a local resident, and must be able to prove local residence with an ID or land permit. In many cases when a suspect is arrested away from his/her home area, they are unable to get access to a surety.

The police do not often have the resources to call sureties, so can either not do so or extract money from a detainee to make the call or take transport to find the surety. Sureties themselves often do not understand what their role should be, or are afraid of getting in trouble themselves. Sureties also often shy away because the police ask them to pay for bail, though bail is free. Very rarely is bail granted without a surety or the detainee him/herself paying for it.

*A: There is no fair justice in Bo. It is written in the police station that bail is free but they did not grant me bail. It is an injustice.*

*Q: When they say it's free, do they actually maintain that?*

*A: No. They sometimes ask for Le30, 000 to grant someone a bail.*

*-Prisoner, Bo*

## **2.6. Juveniles**

Juveniles are supposed to be kept separately in police cells from other detainees, but this does not always happen, sometimes for reasons of space and sometimes because the officers have no way of ascertaining the real age of detainees. After juveniles are charged to court, prisons often do not accept them as remand prisoners because it is against their mandate, which means many juveniles do remand time in police cells in the towns where there is no remand prison. In the Timap treatment sites, the only town with a remand prison for juveniles is in Bo. The Ministry of Social Welfare, designed to deal with the needs of juveniles, is not always able to regulate the handling of juveniles in police stations across the country.

*Juveniles are normally processed by putting them behind the counter but it is based on the magnitude of the crime as some are detained for very serious crimes while others are released.*

*-Police Officer, Port Loko*

### 3. Courts

A: *If you had a lawyer that has many cases across the country, in magistrate court or high court. They are most often than not absent to represent you. Most times he will write a letter of excuse for being busy at the high court. That will lead to so many adjournments. So based on their work load, cases will be delayed. Secondly, there are times when [the complainant] may come and testify, but to come with his/her witness will be another problem. They will give excuses on behalf of their witnesses such, my witness has travelled, and my witness is not well and so on. This will certainly lead to delay.*

Q: *Do you have any other reason for the delay of cases?*

A: *Yes. Poverty, If the complainant is poor and is staying far away from the court, he/she might not be able to pay his way together with his/her witness or witnesses to the court.*

- Thomas B.L Sam, Court Registrar Moyamba

In addition to changes in police behavior, a sustainable reduction in the incidence of pre-trial detention will ultimately require courts to work efficiently and clear their backlog of cases. As illustrated in the interview excerpt above, however, a variety of practical obstacles currently prevent courts from delivering swift justice. This section attempts to go beyond a simple lament that courts are under-resourced or plagued with corruption. Positive examples exist, where justice is served in a timely manner, and the conditions under which this happens can be informative. Additionally, detailed examination of the internal processes of the courts can provide clues as to the specific points where lack of resources bind and intervention may be most effective.

#### 3.1. Case Processing in Courts

Q: *What are the main constraints for courts in closing a case within 3 court adjournments?*

A: *The issue of getting witnesses to come to court and testify is an important factor. For instance, there is no court sitting in certain places like Kailahun. Getting witnesses from Kailahun poses a very serious problem as there is no vehicle to convey them here to Kenema. The court sits at sessions which creates delay as one sessions will have to be closed before another opens in another area. There is only one state counsel in the Eastern region.*

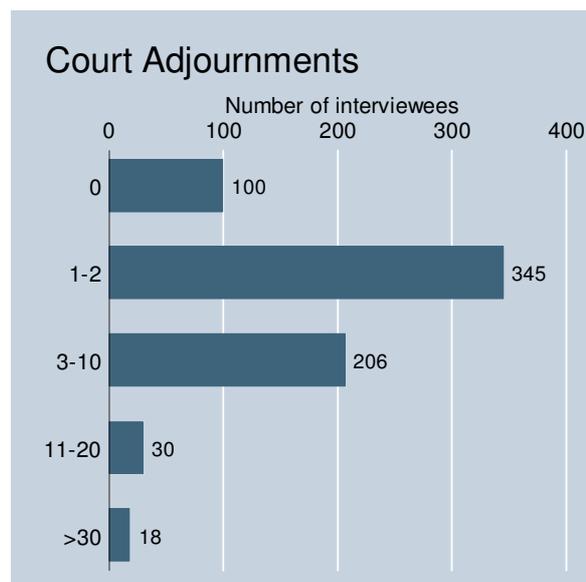
- Court Secretary Kenema

Examining the steps in processing a court case helps to understand how resource constraints hinder efficient provision of justice. After a detainee is brought into the court, s/he submits a plea and a date is determined for an official court proceeding. The date is chosen according to (1) when the Magistrate will next visit the town and (2) the severity of the case relative to other cases waiting to be heard. Bail *should* then be offered to the defendant if the case is non-felonious. If the case is felonious, the detainee will be transferred back to prison and categorized as a remand prisoner.

Figure 8. How many times was your case adjourned?

Obstacles to efficient court processing arise at this point. For a detainee's case to be heard at the given date requires five things to perfectly coincide. First, the Magistrate must arrive to town on the pre-determined date. Second, all witnesses who will testify must be present for the case to be heard. Third, the prosecuting police officer must be present. Fourth, the detainee must be present. And fifth, the preceding court cases must not take longer than anticipated.

However, the requirements needed for a case to proceed are infrequently met. Often, a lack of fuel, backed up court cases at another site, and unforeseen logistical problems arise and cause an absence. Witnesses rarely come to court as the costs associated with going to court are high and in many cases insurmountable (basic travel costs, etc). Prosecuting officers often do not show up. Interviews with officials at Makeni Prison suggest that prisoners are not always transferred to court on the day of their hearing. Moreover, court cases often take longer than expected and the queue of cases is never quite finished.



The conditions must align perfectly for court cases to be processed in a timely manner. If the conditions do not align, an individual's case is adjourned. Our survey data shows that the average case is adjourned 3.6 times. However, this number masks the distribution of waiting time; interviews and record logs have shown that there are detainees whose cases have been adjourned more than twenty times. Sierra Leonian law requires that detainees be released after his or her case has been adjourned more than three times. Yet, this law is rarely followed.

The reality of these obstacles have deterred individuals from approaching the formal system and resulted in the creation of an informal or 'grey' market for court processing. When systems malfunction or underperform in a state without oversight, procedures are parsed out and priced. As a result, getting heard in court becomes a commodity traded by court clerks. Court clerks control the hearing queue. In other words, clerks have the power to determine whether an individual's case is heard or delayed. Fieldwork has demonstrated that at some sites, clerks extra-judicially contact detainee family members to extort money and bargain over queuing order. Implementation of the court procedures does not follow the rule of law but rather the negotiation of law.

The chronic absence of magistrates fuels the timely processing of detainees as well as the ability for witnesses and others to come to court at the right day. The lack of consistency in magisterial attendance increases detention time and court processing costs. Court Registrar Thomas Sam's interview illustrates that little can be done to ameliorate the impact of magisterial absence in Sierra Leonean Courts.

- Q: The magistrate is not able to come to court for over a month now due to lack of certain circumstances. In other instances, witnesses fail to show up in court. Consequentially, many individuals who have committed minor crimes cannot have their case processed and remain in detention prison for longer than they should. What should police and prison officials do in this case?*
- A: I will go to the master and registrar and explain to him that, such is the situation. In a couple of days, they will send the magistrate to come and speed up with trials.*
- Q: But you can't release anybody, is that what you are saying?*
- A: I didn't send anyone to person. The magistrate did that so I can't release anyone.*
- Thomas B.L Sam, Court Registrar Moyamba

Exacerbating this reality is the fact that many Magistrates are either improperly trained in formal law, or hesitant to implement it for fear of being taken to task by higher authorities at a later stage. The high number of individuals who are detained for more than three adjournments demonstrates this fact.

## 4. Prisons

- Q: What do you think is responsible for the slow pace of your case?*
- A: Well the reason is that the court officials were not around and there were not sittings*
- Q: How have officials helped or hindered the process?*
- A: Actually the prisons officers have tried in their own way because they want to see me out of the prison. But the problem is with the court.*
- Tahiru Jalloh, Prisoner, Kenema, in remand 14 months and 14 days, case still in trial

A significant section of the prison population continues to await trial. These remand prisoners are subjected to the conditions of incarceration for extended periods of time without any verdict. The prisons themselves are resource-strapped, unsanitary, and prone to outbreaks of violence. Internal hierarchies fashioned and controlled by prison officials attempt to keep forms of 'order,' however are themselves repressive and dangerous. Yet, prisons are procedurally benign on issues of justice compared to police stations and courts. Because prisons operate solely as spaces of detention, there exist few opportunities for prisons to determine the outcome of an individual's case. Thus, in its prison work, Timap's focus on remand detainees appears entirely appropriate.

### 4.1. Prisons & Courts

Detainees who have not been granted bail and await their court hearings, remain in prison until a ruling has been made on his or her case. Squalid living conditions cause poor health and often prisoners are taken advantage of as forms of hard labor. Detainees who have family members visit are often treated better given that family members usually bring commodities that are then 'shared' with prison officials. A lack of food and medical services plague prisons and living conditions in prison are poor.

Yet, the institutional relationship between courts and prisons remains cordial. The prison's primary role in ensuring justice is served is transferring detainees to their court dates on time. From time to time this does not occur due to capacity. Prison officials in Makeni have aired concern over walking prisoners to the court house given they do not have any shackles. And, in the same way power resides in records in the courts, prison officials can threaten to 'lose' the files of detainees or report them sick on the day of a detainee's hearings. While this occurs from time to time, fieldwork suggests that this type of corruption is much less rampant than in police stations.

Fundamentally, prisons have the least authority and power in determining the outcomes of detainees. Efforts to identify detainees and remand prisoners do align with Timaps's Criminal Justice Paralegals program, however focus should remain on police stations and courts.

## 5. Relationships between institutions

The justice sector does not primarily rely on one institution or the other. The police, prisons, and courts all play an equal part in dispensing 'justice' to the Sierra Leonean population. To complete itself, the case of an accused must travel through the police to the courts and prisons as well. Staffed by different people, controlled by numerous bosses, and manned by individuals with varying incentives and priorities, the three departments do not always operate in harmony, although they certainly do not operate in hostility. Understanding the relationships between the three—and more importantly, how those relationships affect the efficiency of cases moving through the system—are key to understanding Timap's role in navigating the gaps between them.

It is also important to clear up common misconceptions surrounding these departments. For example, yes, the prisons are unsanitary and gloomy places to be. But to many prisoners, prison officials, police officials, and court officials, the prisons—and its officials—are no more than "custodians" of prisoners as they are shuttled from the police stations to court to sentencing. Police officials have been known to become annoyed at prison guards who refuse to accept juveniles as remand prisoners because of their mandate, because the police have an identical mandate.

A: *I have confidence in the prisons as they act as custodians and they sometimes treat us as human beings.*-Prisoner, Makeni

Q: *Based on your experience, do you have confidence in the police?*

A: *I don't have confidence in the police simply because they receive bribes to overturn cases.*

Q: *Do you have confidence in the courts?*

A: *Both of them are similar or are operating in the same frequency.*

Q: *Do you have confidence in the prison?*

A: *The prisons does not have much to do in terms of the problems highlighted in the police as we are only custodians of wrong doers.*

-Prison Officer, Port Loko

Relations between the police and the courts are far more contentious than relations either body has with the prisons. As stated before, the police often send inappropriate and or incomplete cases to

court. Often when this happens the magistrate or other court officials will reprimand the police prosecutor or other officers for not doing a complete job. This is especially true if an officer labels a case with the wrong charge, knowing it will get thrown out of court. The flip side of this is that because of a lack of legal training, officers, including the police prosecutor, do not fully understand why the cases they have put together are thrown out of court, and some can view the court officials as being on the side of criminals. The court can then think of the police as too one-sided, believing that the police think a detainee is guilty simply because he/she has been arrested. So precisely because they do different types of work, neither side fully comprehends the reasoning of the other. Allegations of corruption also fly from both bodies toward the other.

*If the police do not bring witnesses to court, it definitely affect the work of the court. And sometimes the police bring the wrong charge on an accused person or even bring a case file to court without accused person. Most of these things affect the work of the court, and the prisons, sometimes they will tell you that there is no vehicle to bring remand prisoners to court. This also affects the work of the court.-*  
Court Official, Bo

*For the police, they should train more qualified personnel and the system needs to be corrected right from the top.*  
-Court Official, Port Loko

# Timap's Criminal Justice Pilot

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## 1. Overview of the CJP

The Criminal Justice Program (CJP) at Timap for Justice is a pilot legal aid program being run in three main centers in rural Sierra Leone. Six paralegals, and one lead paralegal are spread over police stations and prisons in Makeni, Bo, and Magburaka, primarily focus their work on minimizing illegal pre-trial detention. The program is currently seeking to broaden its approach to the issue by introducing community sensitization sessions in surrounding communities, with the aim of increasing awareness within society as a whole of the operation of effective criminal justice procedure.

### 1.1. Mandate

The paralegals in the CJP program describe attaining bail for the clients as their primary role. They aim to speak to everyone who is detained in their assigned region, in order to ensure no one “falls through the cracks”. Paralegals see their involvement in the criminal justice system as a way for detainees to “fast-track the process”, and to ensure that the Criminal Procedure Act 1965 is adhered to with regards to bail. Through their involvement in their clients’ initial detention, they aim to educate the authorities, complainants, family members, and other interested parties as to the legislative process that should follow an arrest.

*Whenever somebody is on the holding cells, everyone forgets about it, including the complainant. The police are not educating the complainant about the process...In the process of contacting sureties etc, we might come across the complainant. In that instance, we will explain the process, to tell them you should not just report somebody at the police station and forget about it.*

**Steve Turay, Timap paralegal, Makeni.**

### 1.2. Tools

CJP paralegals identify advocacy as their primary tool for securing bail for their clients. They work to identify the particular police or prison officers involved in a client’s case and ensure that they are aware of the rights and responsibilities of each side throughout their client’s detention. Paralegals assert, however, that general monitoring of the treatment of detainees in both the police stations and prisons are beyond their mandate: unless it is an issue that should be escalated to the attention of the coordinator of the CJP, paralegals generally do not advocate for better conditions or treatment of detainees. Further, paralegals make clear that they do not involve themselves with mediations that take place between potential detainees, complainants and police officers. They look only to those who have been formally entered into the detention system, and determine the best way to secure bail for them.

Paralegals will seek to escalate a case to involve a lawyer, the coordinator, in two primary circumstances. The first is if the paralegal is unable to secure bail for their client – this can occur if a police or prison official is being obstructive or if there is some other unreasonable delay. Second, while paralegals do not seek to be involved in issues outside of the securing of bail, they will alert the coordinator of any issues they come across that may fit Timap’s institutional criteria for the

litigating of cases. In order for a client to be eligible for formal legal representation from Timap, they must be indigent, suffering from a gross miscarriage of justice, and the resolution of their issue must have the potential for a wider social impact.

Thus Timap’s primary role in the prisons is identifying remand prisoners in need of legal assistance, but working on behalf of those prisoners requires Timap’s time in court, whereas work with police detainees can be completed in either the police station or court, depending on the case. While Timap’s constant presence can have a positive effect on food rations and phone calls to family, overall it will not have a drastic effect on prison conditions.

Timap seems to have good relations with all three bodies, and appears to navigate the gaps between them.

*We have a very good network. It is now interesting to know that the police are now referring case to paralegals because they know the worth. And also the court refers cases that have been in court for a very long time to us. So our relationship is very good.*-Michael Luseni, Makeni paralegal

*Because they (Timap) are standing as mediators between the courts and the prison in terms of justice.*  
-Prisoner, Makeni

### 1.3. Record keeping and monitoring

The paralegals follow a rigorous record system.

Personal notebooks record every client who seen and any action taken in a day. Every person who is spoken to is officially recognized as a client, and these records are kept in an individual ledger which is kept in each regional Timap office. Hardcopy files on each client seen are also kept in the office, and every month each paralegal create a monthly report detailing their clients for that month and the action taken with respect to their cases. These reports are sent to the head Timap office in Freetown, for the coordinator and director to observe. There is currently no systemized central database in the head office which records who Timap clients are, where they are, and what services Timap can and has offered them. Timap are in the process of implementing a new Criminal Case

Figure 10. Cases over time

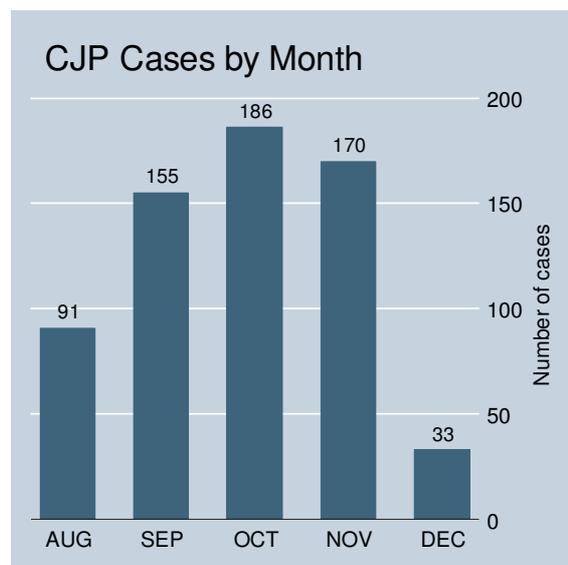
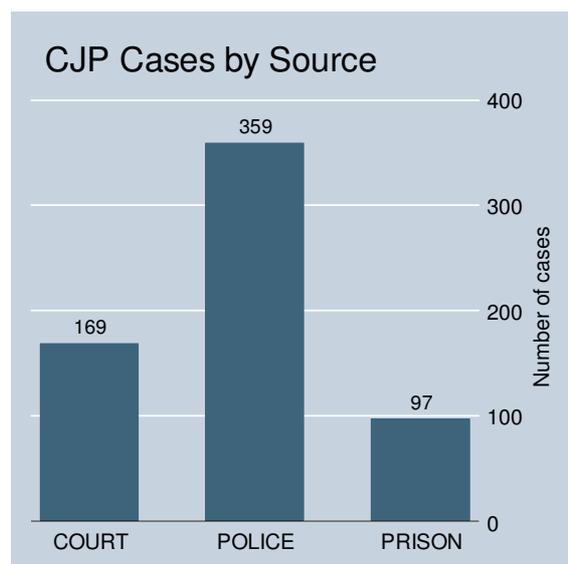


Figure 11. Cases by source



Record Form, which will be completed when paralegals first solicit clients. This will make it easier to procedurally record and track Timap clients around the country.

## 2. Interaction with CJ system

### 2.1. Daily work

Paralegals visit their assigned regional police station and prison regularly, to speak to all people detained at that time. How often they go to the police station or prison depends upon the demands on their work schedule in a given week. There is no screening process, paralegals speak to everyone being kept in the holding cells, informing them about their rights with regards to bail and the 3/10 day rule, and to determine what form of advocacy would best suit each client. This might be contacting a detainee’s surety, or speaking with the detainee’s assigned investigating officer to arrange the granting of bail. In prisons, paralegals seek out remand prisoners who may need assistance in securing or enacting court bail. A case is recorded as closed once bail has been granted and the detainee walks out of the police station or prison.

*We talk to every single person, because every single person will have come into contact with the criminal justice system. We don’t select between juveniles, or men, or women.*

**Michael Luseni, Timap lead paralegal, Makeni.**

**Table 1. What share of total arrests at police stations become CJP cases?**

		AUG	SEP	OCT	NOV	DEC	TOTAL
BO	CJP CASES	12	31	39	50	18	150
	ALL ARRESTS	262	185	258	211	174	1090
	RATIO	5%	17%	15%	24%	10%	14%
MAGBURAKA	CJP CASES	7	19	0	5	6	37
	ALL ARRESTS	96	69	43	39	61	308
	RATIO	7%	28%	0%	13%	10%	12%
MAKENI	CJP CASES	42	43	60	27	0	172
	ALL ARRESTS	203	146	323	223	246	1141
	RATIO	21%	29%	19%	12%	0%	15%
TOTAL	CJP CASES	61	93	99	82	24	359
	ALL ARRESTS	561	400	624	473	481	2539
	RATIO	11%	23%	16%	17%	5%	14%

**Table 2. Timap's CJP caseload in prisons, Aug-Dec 2009, relative to the total prison population as of Aug 2009**

		AUG	SEP	OCT	NOV	DEC	TOTAL
BO	CJP CASES	1	7	29	4	3	44
	ALL INMATES RATIO	203					22%
MAGBURAKA	CJP CASES	12	8	0	0	0	20
	ALL INMATES RATIO	76					26%
MAKENI	CJP CASES	16	17	0	0	0	33
	ALL INMATES RATIO	209					16%
TOTAL	CJP CASES	29	32	29	4	3	97
	ALL INMATES RATIO	488					20%

## 2.2. Role in police

As noted above, Timap paralegals attempt to take all cases that arrive at the police station. They open a new case file on each detainee they are able to interview. Their primary role at the police station involves: a) assisting detainees under lawful arrest to be release on bail; and b) freeing detainees who are unlawfully arrested or held without cause.

Where the police do not have the will or the resources, Timap paralegals identify sureties for their clients, locate them, educate them about a surety's role in a case, and ensure all relevant parties are informed. In cases where the detainee has the right to bail, the paralegal will explain the bail process, being clear that bail is free, and help the detainee apply for bail. In cases where a detainee is being held longer than the 3/10 day rule, Timap provides her/him with legal aid to either fast-track the case or secure the detainee's release.

Timap paralegals acknowledge that some of their bigger constraints include being given false contact information by detainees. This often makes it difficult to efficiently locate sureties, and especially difficult to follow up with clients who have seemingly disappeared.

## 2.3. Role in courts

Not being lawyers, paralegals are not permitted to speak or make direct representations on behalf of their clients in court. Once a client's case has been identified as needing formal legal assistance from the coordinator, the paralegal acts primarily as a conduit of information between the coordinator, the client, and the relevant court official in either the Magistrate or High Court. This is usually the

court clerk, who is responsible for scheduling the hearings of cases day to day. Paralegals sit in court to observe their client's hearing, taking note of any follow-up actions or dates they need to observe.

Currently, Timap represents clients who meet internal Timap criteria in courts throughout the North and South of Sierra Leone. Timap's court-based services can be broken into two categories: active defense and procedural rights protection. Traditional defense has always been a cornerstone of Timap. With the birth of the Criminal Justice Program, Timap has begun to work with courts and defendants in new ways.

Through the CJP, Timap paralegals interact with court officials on a daily basis ensuring that procedures are followed to the best of Timap's knowledge. Often times, court officials sympathetic to the conditions detainees face offer Timap information on specific detainees they can help. This collaborative and productive relationship has proved fruitful: Timap has taken on cases that have long ago fallen through the cracks. Moreover, paralegals fill a much needed niche of helping detainees apply for court bail when applicable. In addition to client defense, Brima Koroma has spent a significant amount of time ensuring that detainees' cases that have been adjourned more than three times are released. These steps have had a positive impact on detainee processing as well as court culture. Procedural rights have been protected for those that Timap serves and the oversight, and aid, of a civil society organization like Timap improve court outcomes.

#### **2.4. Role in prisons**

Currently, Timap talks with all remand detainees in prisons to identify and select cases where they will have an impact. In interviews with Timap paralegals, they have asserted that they often work with sentenced inmates to get in touch with family members and establish links for the incarcerated beyond the walls of the prison.

#### **2.5. Community outreach**

Each Friday, the pairs of paralegals visit a different community in their assigned region, and hold information sessions with groups within that community. They use this time to educate people about the same things they speak to their clients about: the correct procedure once someone is detained, their rights as to contacting sureties and accessing bail, and what they can expect if they enter the court process. The goal of this work is to increase wider community trust in the criminal justice system, allowing regular people to navigate it in a practical way.

### **3. Future directions**

[Additional material still pending for this section, to be inserted based on Bilal's final interview with Simeon.]

### 3.1. Scaling up the CJP?

#### 3.1.1. Challenges

#### 3.1.2. Role of Timap's core program

#### 3.1.3. The 'Timap effect'

### 3.2. Extending the ambit of Timap's criminal justice work

- Goal is to increase society's *trust* in the system as a whole. Increased public awareness
- Working with other institutions eg Anti Corruption Commission to enhance capacity of the police force.

There are numerous low-cost and potentially highly effective interventions within the police stations the criminal justice paralegals could plausibly launch in the police stations—interventions primarily aimed at reducing pre-trial detention rates, reducing the time spent in remand even within the 3 court adjournments rule, and reducing corrupt practices such as tampering with records or extortion.

#### 3.2.1. Reducing court caseload

Despite the police, prisons, and courts being three separate entities, the work—or lack of work—of one directly influences the others. Thus many interventions launched in the police station, where an individual's journey through the justice system begins, can have an impact on time spent in remand prison or the efficiency with which the courts process cases.

One trigger for a string of inefficiencies throughout the justice system are the arresting and investigating officers of a case. These officers are trained in police work, but not necessarily trained in law. These officers do not have a good understanding of which cases will actually hold up in a court of law and which cases will not. Thus numerous cases are charged to court with the wrong charge attached (i.e. murder instead of manslaughter), with insufficient evidence, with fabricated detainee statements, or with the police unable to ensure witnesses and complainants arrive in court.

The criminal justice paralegals, however, have the legal training and capacity to know which cases are appropriate for court and which cases are either fruitless or unjust. A reduction in the number of cases inappropriately charged to court has a domino effect: it reduces the number of cases in court—a number too large for the court system's limited capacity to handle, especially with Circuit Courts. It also reduces the number of cases that are adjourned due to missing witnesses or complainants. When the number of overall cases in court decreases, then the time remand prisoners are forced to wait until trial decreases as well. Furthermore, an intervention aimed at reducing the number of cases inappropriately charged to court would reduce pre-trial detention rates, as officers with legal knowledge might not waste time trying to build a case that cannot be built and simply release some detainees.

How could Timap facilitate this? By utilizing their knowledge of the legal system in Sierra Leone to conduct trainings with the officers involved in investigating and charging cases. Such training goes beyond the *human rights* rhetoric to focus on the *processing* of a case. In a country where many of

the human rights issues in the justice sector stem from a lack of resources, improving the processing and efficiency of cases is the most effective way of upholding human rights. Since the paralegals' jobs are to ensure this process goes well, the program could benefit from selected trainings with officers, framed not as human rights training—frightening to most officers—but as training to improve their worth as officers.

Furthermore, most detainees complain not of human rights abuses, but of legal abuses and processing deficiencies.

*Q: Do you have confidence in the justice system? Why?*

*A: No, because they don't follow procedure.*

*-Detainee, Makeni*

This same detainee was held for six days without being charged in Makeni, and had never heard of Timap.

### **3.2.2. Mediations**

Police officers sometimes mediate cases not deemed necessary for court, or that are a “waste of time” for court. Often the reasons for this are that one party or the other is able to pay the officers for a beneficial decision. In many cases that would normally be mediated but where an accused does not have the money, the police may forego the mediation in favor of lock-up. The following interview took place in Kenema, a control area.

*Q: Do you ever resolve disputes and how do you do this?*

*A: Yes I do resolve disputes through medication.*

*Q: What types of disputes are resolved outside the scope of criminal protocol?*

*A: Minor cases like debt or loan cases/ and fraudulent conversion.*

*Q: How are these disputes resolved?*

*A: I will invite both parties to explain and from that point I will set a date for payment that will be conviction for both parties with a surety to serve as a middleman.*

*Q: Who is involved in the process?*

*A: The complainant, suspect, police and surety.*

*Q: Is there money exchanged?*

*A: It is only in terms of payment to the complaint and we do not receive any money for that service. But we accept token given at the complaint's free will.*

*—Police Officer, Kenema*

But mediations also seem to be the way many police officers feel they can interact with the Timap core program in treatment sites, as the core program often gets calls to come and mediate at the station, particularly at the Family Support Unit (FSU). Mediating domestic disputes is especially common out of the FSU. The idea is not to split up families by, for example, arresting a father for spousal abuse or a mother for child neglect, but rather to resolve the dispute with the end goal of keeping a family peacefully intact. With Timap paralegals acting as unbiased arbitrators, these cases can be solved justly, and importantly, without any money being exchanged.

Since the police already view the core paralegals and the criminal justice paralegals as part of the same institution, there is no reason for the CJsPs not to conduct mediations as well. An increase in

mediations, especially for minor cases, again reduces pre-trial detention rates and the caseload in court. It also has the beneficial aspect of improving relations with the police. Prisoners seem to have a better idea of Timap than detainees, perhaps because of the time spent in prison, but Timap could improve its reputation with police *officers* through mediations. Furthermore, detainees seem to know the work of the core program better than the work of the criminal justice program, even at the police stations.

A: *When there is dispute between two people, they (Timap) come in and try to mediate.*-Detainee, Bo

### 3.2.3. Records

Injustices do not only occur through extortion and prolonged periods of waiting. They also occur in the records kept by the police, when the police fail to record release dates, or burn certain records, or “lose” them. A simple intervention where the paralegals monitor the detention forms to ensure that release dates are always recorded might go a long way in reducing pre-trial detention rates. Similarly, if the paralegals could track records from the police to the courts to the prisons, they could ensure that records are viewed in a timely manner at the courts and that they aren’t ‘lost’ at the prisons. This intervention would be especially effective if, in addition to the two files the police prepare on each case for the courts, Timap were to fund the police to make a third file for them.

### 3.2.4. Courts

Nonetheless, there are many opportunities for Timap paralegals to have a significant impact in courts. The primary thrust behind the following recommendations is assuring that court cases are head in a timely way given the constraints. Additionally, these recommendations emphasize tracking detainees outside of the court to ensure that court hearings occur in a timely way.

1. Paralegals should reach out to witnesses and facilitate their presence in court cases. This entails obtaining a list of all the expected witness prior to the court date, contacting witnesses, and aiding in their transport to court hearings. The absence of witness is and will continue to be a stumbling block in the timely processing of cases.
2. Timap paralegals should be present on court hearing days. This will allow paralegals to identify candidates for further legal services as well as keep track of individuals who are, or fail to be, processed in a timely way. Moreover, paralegals can serve as a information sharing conduit between detainees and family members or surteys in order for detainees to have more informed advocates outside of Timap. Lastly, this will serve as a basis for Timap to learn where and how paralegals can aid court officials.
3. Timap paralegals and lawyers should hold meetings and training sessions with court personnel, including magistrates. In addition to building a productive relationship between Timap and courts, this can serve as a platform for legal knowledge sharing. Magistrates and court officials can articulate their needs to Timap and similarly, Timap can assert the procedural transgressions that compel Timap – i.e. over-adjudgment cases, etc. – such that court officials can begin altering their behavior and decisions.

4. Paralegals should work with police stations and prisons to ensure that records are appropriately transferred for the detainees that Timap tracks. Insufficient records and paperwork often result in unnecessary delays. Timap should work with officials throughout the justice system to guarantee that all of the needed information is present for a case to be heard.

### 3.2.5. Prisons

While targeting and programming should be focused in prisons, there remain concrete opportunities for Timap to have a systematic impact in prisons.

1. Currently, prison monitoring is largely outside the scope of the CJP. However, according to interviews with prison officials, the mere presence of CSAE survey enumerators has had a positive impact on living conditions and treatment within prisons.

*Q: Have you noticed CSAE monitors?*

*A: Yes.*

*Q: Have they impacted how officials or prisoner's act.*

*A: Situations have changed as prison's inmates are behaving better. There bedding materials now available. The issue of hard labour has now been forgetting about.*

*Q: Do these changes end once the monitor's leaves?*

*A: Perhaps*

- Jacob Yamba, Prison Official, Moyamba

Timap paralegals engaged in monitoring would likely have a similar, if not greater impact on prison conditions. Thus in our view, broadening Timap's Criminal Justice Paralegal mission to include monitoring of prisons would be low-cost and high benefit.

2. Timap paralegals might consider monitoring the transfer of detainees. Given Timap's presence in courts, paralegals have inside knowledge of when court hearings are to be held for certain cases. Timap could potentially visit prisons the day before or day of hearings to apply respectful pressure on prison officials and ensure that prisoners are appropriately transferred.
3. Timap might also monitoring internal records within prisons. This could aid in identifying remand detainees to whom Timap can offer services and ensure that records are not 'lost'.

### 3.3. Advocacy for legal reform

-Brima said the greatest problem he deals with is wrong charges being laid in court. He acknowledges that some of this comes from a simple lack of knowledge of the police, they simply don't know the law or the right criteria to be taking into account when laying charges. He also says that, inexplicably to him, police appear to arbitrarily lay totally unfounded charges.

Since the paralegals are present each day as well, their mere presence acts as a kind of monitoring system. Though the paralegals are not monitors per se, the police realize that the paralegals know the law. Thus we can expect to see a decrease in pre-trial detention rates, an increase in the number of detainees who obtain access to a surety and bail, and a decrease in illegal fines paid—particularly during the bail process.

Q: *Have they impacted how officials act?*

A: *Yes.*

Q: *How?*

A: *We now avoid over detention.*

-Police Officer, Moyamba

*I have seen them, but they hardly talk to us about their mandate. Indeed their presence created an impact, because the police are unable to know what they have spoken to suspects and that makes the police to get afraid.*

-Isata French, Magbaruka paralegal

One aspect of the CJPs' work that is somewhat confusing is the focus on detention conditions; there is a much higher focus on recording these conditions than recording aspects of the case itself. Detention conditions in Sierra Leonean police and prison cells are deplorable, but this is primarily a resource problem and not a concerted effort by the police to make life as miserable as possible for detainees. It is unclear to what extent the presence of Timap in the police stations will actually impact these conditions, and primary focus should be directed elsewhere.

During qualitative work, many respondents stated that they knew the work of Timap, but as mediators and as educators at community awareness sessions; paralegals from the core program, not the criminal justice paralegals, have this agenda, so the respondents must be thinking about the core program. While this is excellent news for Timap for Justice, it also begs the question of what else the paralegals could be doing in the police stations to make an impact.

# Evaluation Methodology

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## 1. Aims & scope

### 1.1. Goals of the intervention & metrics of impact

Timap's Criminal Justice Initiative in Sierra Leone, as well as this evaluation, form part of OSJI's Global Campaign on Pre-Trial Detention. As noted in early project documents, the broad, overarching objective of this global campaign is to promote "criminal justice for the poor in low-income countries that is equitable, rational, accountable, and mitigates economic and other costs to victims, defendants, and the state."<sup>2</sup>

The evaluation seeks to ascertain whether the paralegal intervention:

- (i) helps improve case processing and efficiency, through
  - less time spent in pre-trial detention and detention during trial & sentencing,
  - more frequent bail requests and awards, and
  - better adherence to proper procedure;
- (ii) improves treatment during detention, through
  - lower rates of physical and sexual abuse,
  - less extortion and corrupt practices, and
  - better access to health, outside time, jail conditions, etc.;
- (iii) improves attitudes towards
  - the justice system
  - violence, citizenship and trust
- (iv) improves justice outcomes, in terms of
  - more 'equitable' and 'appropriate' sentencing,
  - lower rates of recidivism and re-arrest
  - lower crime rates

Table XXXX reproduces the list of impact indicators originally proposed for OSJI's Global Initiative by Cape (2009, op cit.) and summarizes the coverage of each indicator in the Timap quantitative data collection.

### 1.2. A note on measuring justice

Identifying appropriate quantifiable metrics of justice to serve as the basis for an impact evaluation of this sort is a daunting task – one which Cape's list and our data collection strategy has attempted to address by proposing a long list of alternatives and attempting to cover all the bases. Nevertheless, defining indicators poorly, or excluding certain important dimensions of a good outcome may lead the evaluation to misrepresent the program's impact, or more ominously,

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<sup>2</sup> Ed Cape, 2009, "Promoting equitable and accountable criminal justice for the poor: Discussion paper on the methodology for assessing the impacts of pre-trial legal representation for the poor."

incentivize Timap paralegals or other actors in the justice system to work toward targets that are counterproductive.

The experience of Malawi's Prison Advisory Service (PAS), serves as a cautionary tale on properly defining objectives, especially when relying on inflexible quantitative metrics. In the PAS case, a strong focus on processing detainees awaiting trial appears to have shifted the problem from excessive use of pre-trial detention to (arguably) quick convictions and alarmingly rapid growth in incarceration rates. From 1999 to 2005 the program saw a 4% decline in PTD combined with a massive 74% increase in the overall prison population.

As Varenik (2008) notes, the combination of quantitative and qualitative evidence can help to overcome the potential for "gaming" overly simplistic quantitative metrics that fail to capture hard-to-measure dimensions of good outcomes. If the intervention simply pushes the problem elsewhere, outside the scope of quantitative data collection, then open-ended qualitative interviews will be especially valuable in uncovering these unforeseen side-effects. Our qualitative survey, described below, attempts to serve this role.

### **1.3. The fundamental challenge of impact evaluation: Establishing causation**

The fundamental challenge of impact evaluation is to measure causal effects of a project, distinguishing these effects from other factors that may cause differences (in cross-sectional comparisons) or changes (over time) in outcome indicators. The goal is to construct a valid counterfactual: What would have happened if Timap (and in this case, CSAE as well) had not been present?

The basic strategy to establishing a counterfactual employed in this evaluation is known as a "differences-in-differences" approach. This repetitive name refers to an evaluation that compares changes over time (the first difference) across "treatment" and "control" samples (the second difference). In short, we ask whether outcome indicators, such as the average pre-trial detention time, improve over time more in areas where Timap is working than in areas where it is not. To carry out the differences-in-differences analysis, the quantitative data collection involves the following components:

**Baseline data collection.** This report represents the culmination of baseline data collection, which has taken place in three stages. First, interviews were collected in prisons in both treatment and controls sites with all prison inmates and a sample of prison officials. Second, daily monitoring of police stations at both treatment and control sites was conducted from XXXXXX to XXXXXX, 2009. An attempt was made to interview all detainees who spent at least one night in jail, and basic data was collected on all arrests even if a night was not spent in jail. Third, enumerators have returned to police stations to collect official records on the release dates or final disposal of cases from all detainees originally interviewed during police station monitoring.

**Follow-up data collection.** Follow-up interviews will follow a similar pattern to the baseline data collection. We will not seek to re-interview the same detainees or prisoners. Rather, we will draw a new sample of cases from both prisons and police stations. In prisons, a second round of surveys will interview all prisoners at a point in time. In police stations, three more months of additional monitoring will interview a random sub-sample of arrestees in both treatment and control sites. (The decision to move to sampling rather than interviewing all detainees was taken on the basis of the higher arrest rates than originally anticipated, leading to sample sizes much greater than strictly necessary for the evaluation, and the costs of conducting so many interviews.)

**Treatment sites.** A list of both treatment and control sites is given in Table XXXX. Treatment sites refer to prisons or police stations where Timap’s CJJ is actively working.

**Control sites.** Control sites include both police stations and prisons where Timap is NOT present. These sites were selected to be, inasmuch as possible, comparable to the treatment sites. Figure XXXX provides a rough overview of the division of treatment and control areas. Because the catchment areas for prisons is quite large, it was necessary to divide treatment and control sites at a very broad geographic level, i.e., the district.

**"Super control" sites.** One feature of this evaluation in particular poses a unique challenge, that has forced an element of methodological innovation beyond the standard differences-in-differences setup: there is an obvious concern that the presence of CSAE enumerators at “control” sites (both prisons and police stations) may have a positive impact on conditions or official behaviour in these sites. This positive effect of merely being observed is known in the social science literature as a “Hawthorne effect”. In the case of this evaluation, Hawthorne effects could lead us to underestimate Timap’s impact, by making control sites look “too good”.

Figure 12. Prison inmate interviews in baseline survey

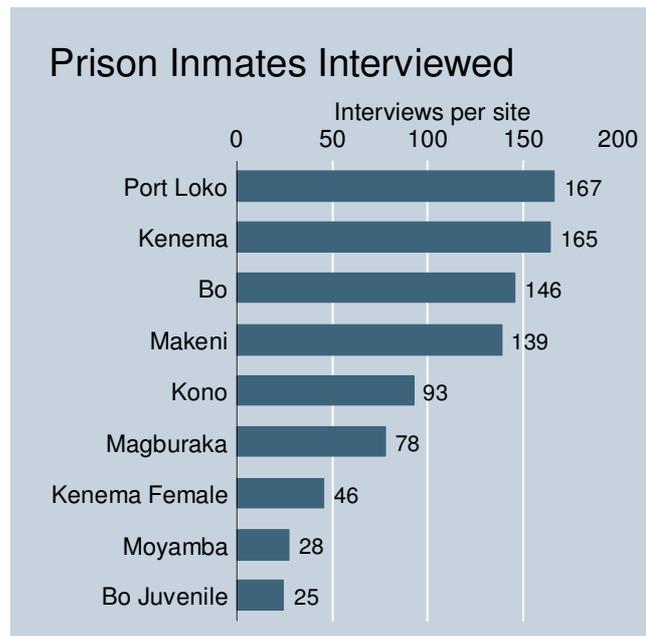
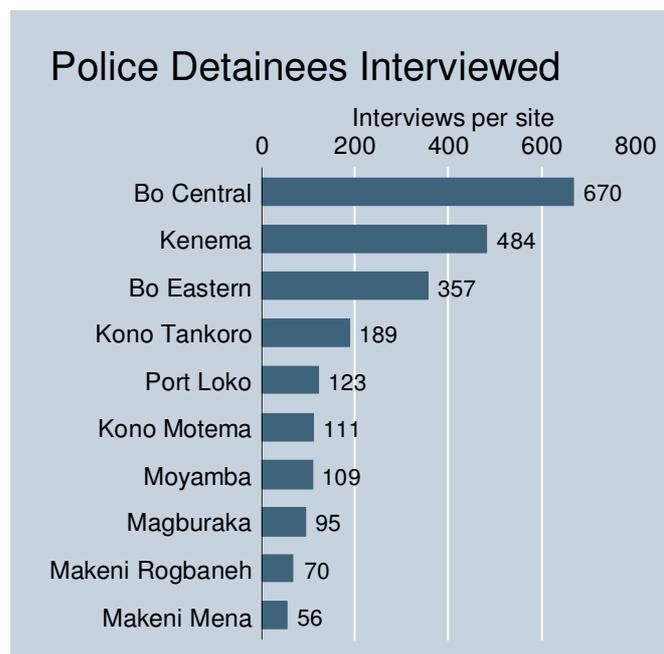


Figure 13. Police detainee interviews in baseline survey



To measure – and thus overcome – any Hawthorne effects, the sampling strategy relies on an additional set of control sites that are not subject to the same intensity of data collection. No direct interviews will be conducted with prisoners or detainees. CSAE enumerators will not be present on a regular basis. Instead, a single baseline and follow-up visit will be made to these sites to retrieve official records of arrest and detention rates. The logic to this design is that this lighter, less-intrusive form of data collection – while sacrificing some of the richness of information we would like to have – will provide a picture of conditions in prisons and police stations that are almost entirely uncontaminated by the presence of CSAE enumerators and their potential Hawthorne effects.

## 2. Quantitative interviews

*Interviews with police detainees.* Individual cases will serve as the primary unit of measurement. Two cohorts of individual cases – the baseline cohort and the follow-up cohort – will be collected by daily monitoring of arrests at treatment and control police stations for three months each. The accumulation of these individual cases will provide a robust sample to analyze the impact of the paralegal program. Interviews are conducted on a one-on-one basis with the detainees while in detention. Interviews are conducted in private, without the supervision of police, and are strictly confidential. Detainees are alerted that the purpose of the interview is purely to collect information for research purposes, and enumerators will not intervene in their case on their behalf. The appendix to this report contains the survey instrument administered to detainees.

*Interviews with prison inmates.* Interviews with prisoners are simple in purpose and structure to police detainee interviews. The survey instrument includes most of the information from the detainee interview – asked retrospectively about the inmates arrest and time in police custody – as well as questions about more recent experience in prison and the proceedings of the prisoner’s case.

*Interviews with police and prison officials.* Prison and police officials will be interviewed and all institutional records will be collected and recorded to provide a ‘top-down’ impact in addition to the ‘bottom-up’ approach provided by detainees. The purpose of official interviews relates less to the collection of impact indicators, and reflects an attempt to measure intermediate changes which Timap may affect on officials attitudes and behaviors.

## 3. Qualitative interviews

Qualitative data serves at least two vital, complementary roles alongside the quantitative data: First, it allows respondents an open-ended format in which to expose aspects of Timap’s work or the justice system that the quantitative questionnaires may have failed to capture. Second, qualitative interviews allow respondents and interviewers to explore perceived causal chains and behavioral explanations for various outcomes in the justice system.

While the bulk of the resources for the evaluation have been invested in quantitative data collection, detailed qualitative work is also an integral part of the evaluation. There are a number of distinct goals of the qualitative evaluation worth noting:

- The qualitative work is intended to generate hypotheses that can be tested statistically with quantitative data. The use of open-ended questions allows respondents to point out issues and dynamics that would otherwise have been neglected.
- The qualitative work will attempt to unpack causal mechanisms -- to open the black box linking Timap's presence to observed changes in outcomes in the quantitative data.
- As noted above, open-ended interviews provide an efficient way of searching for any unintended consequences of the project, perhaps beyond the scope of the specific indicators collected through the quantitative interviews.
- Finally, it is hoped that qualitative interviews may be useful to Timap management in the fine-tuning and adjustment of specific project activities, at a much more nuanced level than the measurement of final impacts from quantitative data.

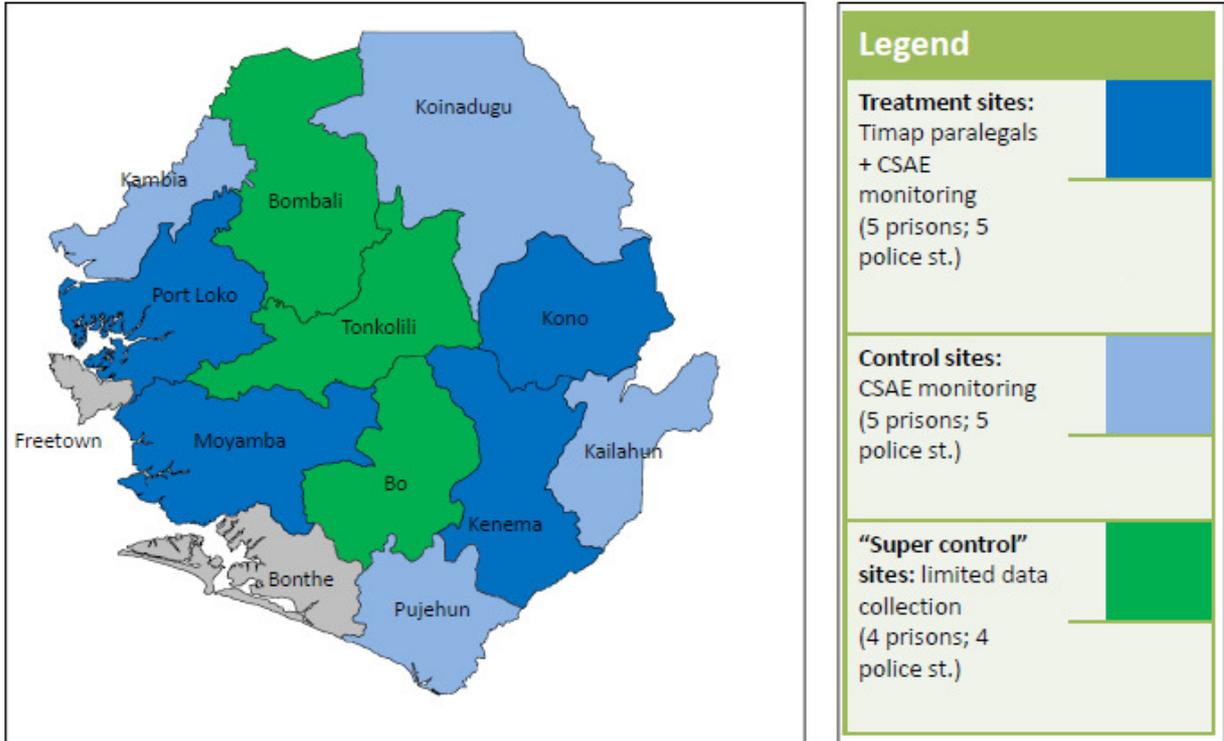
To complement the quantitative analysis and gain insight into aspects of the justice sector not captured by quantitative work, CSAE has also launched a qualitative survey. Enumerators use semi-structured questionnaires to conduct open-ended interviews with targeted participants in the justice sector. The interviews are recorded, translated into English, and transcribed verbatim. Targeted participants include: police officials, prison officials, court officials, detainees, released detainees, remand prisoners, sentenced prisoners, former Timap clients, and the Timap criminal justice paralegals themselves.

Conducting semi-structured interviews with this cross-section of individuals allows us to capture experiences in the justice sector from multiple angles. Importantly, interviews with Timap criminal justice paralegals provide rich information on the program from those who work on its implementation. In addition to semi-structured interviews, several focus groups have also been held with the enumerators to record their informal observations and experiences. In total, 65 qualitative interviews will be recorded and transcribed across the 6 sites.

In the following table is a breakdown of the semi-structured interviews conducted to date:

Respondent Type	Interviews	Interviews by Region
Detainees	11	Bo (1), Makeni (4), Magburuka (1), Kenema (3), Port Loko (2)
Police Officials	8	Bo (1), Magburuka (1), Kenema (3), Moyamba(1), Port Loko (2)
Prisoners	8	Bo (1), Makeni (3), Magburuka (2), Port Loko (2)
Prison Officials	3	Magburuka (1), Kenema (1), Moyamba(1)
Court Officials	7	Makeni (1), Magburuka (2), Kenema (2), Moyamba(1), Port Loko (1)
Paralegals	5	Bo (2), Makeni (3), Magburuka (2)
<i>Total</i>	42	Bo (3), Makeni (8), Magburuka (6), Kenema (11), Moyamba(3), Port Loko (7)

Figure 14. Treatment, Control, and "Super Control" Sites



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Table 3. Coverage of proposed impact indicators

	Proposed Impact Indicator (Cape, 2009)	Comment on Availability in Timap Evaluation
A	Local crime rates	Crime victimization data will not be produced, as household interviews are not conducted. Subjective assessments of crime rates may emerge from qualitative interviews. Official crime rates from police records and police detainee monitoring will be available. Note that these may evolve due to changes in either the underlying crime rate, or changes in reporting rates.
B	Numbers of people arrested and/or detained by police, by reference to whether in receipt of legal advice/representation	Yes, available from police detainee interviews.
C	Length of detention in police custody, by reference to whether in receipt of legal advice/representation	Yes, available from combination of detainee interviews and police records on release dates. Data on detention times is fragile, however, to deliberate misrepresentation of release dates by police and the known practice of shifting detainees between stations to conceal their presence.
D	Measures of police misconduct, eg., assaults, bribe-taking, involuntary confessions	Yes, available from police detainee interviews.
E	Numbers of people proceeded against, formally diverted from prosecution, and released without further action	Yes, though as with basic PTD indicators, there is some dependence here on the integrity of official police records.
F	Numbers of people in prison: sentenced and un-sentenced	Yes, available from inmate interviews and prison records.
	Numbers and proportions of those proceeded against who are detained in custody by reference to...	
G	offence suspected/charge	Yes, from detainee interviews.
H	previous offending history	Yes, from detainee interviews.
I	previous bail history	Omitted inadvertently.
J	whether legally advised/represented, and	Yes, from detainee interviews.
K	reason for detention	Yes, from detainee interviews.
L	The numbers and proportion of those release pending trial who are arrested for breach of bail, re-offending, etc.	In principle, it will be possible to calculate this statistic by linking detainees identities across repeat offenses. In practice, there will be high costs to doing so, and it has yet to be confirmed that it will be logistically and financially feasible.
M	Average length of time between commencement of criminal proceedings and final disposal, by reference to whether the defendant was in pre-trial detention or at liberty	As with the above, it will in principle be possible to calculate this by linking initial detainee interviews to follow-up information on final disposal from courts. Financial and logistical considerations to be assessed.
N	Average length of pre-trial detention, and length of detention by interval (eg. numbers detained for more than 1 week, 1 month, 3 months, etc.)	Yes, available from detainee interviews and follow-up record retrieval. An initial picture of the situation is give by the snapshot taken at the baseline in police stations and prisons.
O	Conviction rates, by reference to whether had legal advice/representation, and whether kept in pre-trial detention	Yes, contingent on fully linking court records to detainee interviews as noted above.
P	Proportion of sentences that are custodial sentences, by reference to whether had legal advice/representation, and whether kept in pre-trial detention	Yes, available from prison inmate interviews (which include case history).
Q	Average length of custodial sentence, by reference to whether had legal advice/representation, and whether kept in pre-trial detention	Yes, available from prison inmate interviews (which include case history).
S	Any data on legal aid in criminal cases, eg., overall expenditure, number of cases in which legal aid granted	Yes, incidence on legal aid is available from detainee and prisoner interviews. Expenditure data may be accessed from Timap.
T	Any data on prison conditions (including violence in prison), and health of prisoners, including data from interviews/case studies, and including the financial implications	Yes, available from prison inmate interviews.

# Appendices

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The appendices include the following reference materials:

- The transcripts of the qualitative interviews
- The final versions of the questionnaires used for the quantitative data collection
- A sample of the corruption logs collected (data entry still ongoing)

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