

# **An Australian Investment to Support Law and Justice in Papua New Guinea**

## **Justice Services and Stability for Development**

### **Investment Design**

|  |                         |
|--|-------------------------|
|  |                         |
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| Proposed funding allocation: up to \$90 million      |                         |
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## Acronyms

| Acronym        | Meaning   |
|----------------|---|
| <b>ABG</b>     | Autonomous Bougainville Government                              |
| <b>AFP</b>     | Australian Federal Police                                       |
| <b>AGD</b>     | Attorney-General's Department (Australian)                      |
| <b>AUSTRAC</b> | Australian Transaction Reports and Analysis Centre (Australian) |
| <b>BLJWG</b>   | Bougainville Law and Justice Working Group                      |
| <b>BPS</b>     | Bougainville Police Service                                     |
| <b>CAP</b>     | Community Auxiliary Police (Bougainville)                       |
| <b>CIMC</b>    | Consultative Implementation and Monitoring Council              |
| <b>CLRC</b>    | Constitutional and Law Reform Commission                        |
| <b>CS</b>      | Correctional Services   |
| <b>CSO</b>     | Civil Society Organisation                                      |
| <b>DDA</b>     | District Development Authority                                  |
| <b>DFAT</b>    | Department of Foreign Affairs and Trade (Australian)            |
| <b>DJAG</b>    | Department of Justice and Attorney General                      |
| <b>DNPM</b>    | Department of National Planning and Monitoring                  |
| <b>DPLGA</b>   | Department of Provincial and Local Government Affairs           |
| <b>DSIP</b>    | District Services Improvement Program                           |
| <b>FATF</b>    | Financial Action Task Force                                     |
| <b>FSV</b>     | Family and Sexual Violence                                      |
| <b>FSVAC</b>   | Family & Sexual Violence Action Committee                       |
| <b>GESI</b>    | Gender Equality and Social Inclusion                            |
| <b>GOPNG</b>   | Government of Papua New Guinea                                  |
| <b>ICAC</b>    | Independent Commission Against Corruption                       |
| <b>IPO</b>     | Interim Protection Order  |
| <b>ISP</b>     | Implementing Service Provider                                   |
| <b>JSS4D</b>   | Justice Services and Stability for Development                  |

|                |   |
|----------------|---|
| <b>LM</b>      | Land Mediators  |
| <b>LTI</b>     | Legal Training Institute                                    |
| <b>M&amp;E</b> | Monitoring And Evaluation                                   |
| <b>MEF</b>     | Monitoring and Evaluation Framework                         |
| <b>MS</b>      | Magisterial Services  |
| <b>NCM</b>     | National Coordinating Mechanism                             |
| <b>NCW</b>     | National Council of Women                                   |
| <b>NGO</b>     | Non-Government Organisation                                 |
| <b>NJSS</b>    | National Judicial Staff Services                            |
| <b>OC</b>      | Ombudsman Commission  |
| <b>ODE</b>     | Office of Development Effectiveness (Australian Government) |
| <b>OPP</b>     | Office of the Public Prosecutor                             |
| <b>PO</b>      | Protection Order  |
| <b>PSO</b>     | Public Solicitor's Office                                   |
| <b>PALJP</b>   | Papua New Guinea-Australia Law and Justice Partnership      |
| <b>PCG</b>     | Program Coordination Group                                  |
| <b>PCMC</b>    | Provincial Coordination and Monitoring Committee            |
| <b>PFM</b>     | Public Finance Management                                   |
| <b>PLLSMA</b>  | Provincial and Local Level Service Monitoring Agency        |
| <b>PNG</b>     | Papua New Guinea  |
| <b>PNG-APP</b> | Papua New Guinea -Australia Policing Partnership            |
| <b>RPNGC</b>   | Royal Papua New Guinea Constabulary                         |
| <b>SGP</b>     | <i>Strongim Gavman Program</i>                              |
| <b>TOR</b>     | Terms of Reference  |
| <b>UN</b>      | United Nations  |
| <b>VC</b>      | Village Court   |
| <b>VCLMS</b>   | Village Courts and Land Mediation Secretariat               |

## A. Executive Summary

This Investment Design for the Justice Services and Stability for Development program is an Australian Government funded aid program to support the law and justice sector in Papua New Guinea (PNG) from January 2016 to December 2019. The program will build on Australian support to the sector under the Papua New Guinea-Australia Law and Justice Partnership (2009 to June 2014) and subsequent Transition Program (July 2014 to December 2015). The budget envelope for the Justice Services and Stability for Development program is expected to be approximately \$90 million, to be managed by the Implementing Service Provider.

The program seeks to support the PNG law and justice sector's mission of a "just, safe and secure society for all", on the basis that this will underpin private sector and human development in PNG and will contribute to Australia's national interest by promoting prosperity and enhancing stability in PNG. The program will provide targeted support to PNG's law and justice agencies, provincial governments, the Autonomous Region of Bougainville and civil society groups. PNG's efforts to reduce family and sexual violence and corruption will be specifically supported. This design articulates indicative activities which either follow-on from activities already underway or which represent new areas of interest. Recognising the specific needs of Bougainville, there is also a 'design within a design' for Australia's law and justice support to Bougainville 2016-2019.

In the broader context, Australia's support for the law and justice sector in PNG is provided through complementary but separate programs. In addition to this program, Australian support includes: advisory support from the Australian Federal Police (AFP) through the *PNG-Australia Policing Partnership*; and the Attorney-General's Department (AGD) through the *Strongim Gavman Program*; as well as support provided by AGD and the Australian Transaction Reports and Analysis Centre (AUSTRAC) to assist PNG's efforts to improve compliance with international standards on money-laundering and financing of terrorism.

### Country and sector analysis

PNG is undergoing rapid social and economic transformation. Despite a decade of sustained economic growth, poverty persists and income inequity is growing. High population growth and inadequate formal employment opportunities are contributing to PNG's high crime and violence rates. A culture in which discrimination against women is deeply ingrained results in extreme levels of family and sexual violence, constrains women's mobility and impacts on their health and ability to participate in the economy. High crime rates impose direct costs on families, erode social trust, undermine the nation-building agenda and negatively impact on business investment. Weak law enforcement and cultural norms contribute to pervasive corruption, making PNG more vulnerable to transnational crime.

Most citizens live on the margins of the state and the Government of PNG (GOPNG) is unable to maintain law and order across the country. Agencies responsible for law and order have variably experienced weak leadership and low capacity to effectively target services. Weak public sector governance and under-resourcing means resourcing of law and justice agencies, including the police, has not kept pace with population growth and increasing caseloads.

Community-based and hybrid (mixing state authority and custom) systems of order-maintenance prevail throughout PNG. These are in many cases resilient, legitimate and accessible but they also

often perpetuate discrimination against women and in many cases struggle to deal with modern conflicts.

The GOPNG's long term vision, strategic and medium-term development plans recognise the need to reduce crime and to improve links between informal and formal justice systems to underpin socio-economic growth and improve investor confidence.

A number of major events will be held in PNG during the period of this investment that will test the law and justice system and be the subject of considerable international attention.

## **Program synopsis**

A law and justice program cannot in itself address poverty directly. However, violence and crime hinders economic development and constrains inclusive economic growth in PNG and better law and justice systems, improved dispute resolution and initiatives to promote secure communities will help achieve PNG's goal of a just, safe and secure society for all.

The program will provide catalytic and complementary support to assist the GOPNG to achieve continued progress against its policies for law and justice reform, better access to justice and improved service delivery to the men and women of PNG. Australian support will continue to support PNG's sector-based approach and improving state and non-state cooperation, to achieve tangible justice and security improvements.

The program recognises the high costs of crime and violence to communities and businesses and PNG's extremely high levels of family and sexual violence. It acknowledges citizens lack awareness of their rights and responsibilities and have little confidence in the state's ability to deliver law and justice services. Change will also require leaders and officials to resist and prosecute corruption and citizens and civil society to demand better service delivery.

The overall theory of change for this Justice Services and Stability for Development program is:

*that safer and more secure communities are those that have better access to non-violent conflict management systems and effective justice services; and that more accountable and responsive law and justice agencies will contribute to ensuring that disputes are settled peacefully and fairly and promote a culture of legal compliance and enforcement; and that increased access to justice services and more stability will underpin inclusive economic growth and human development.*

The program will be implemented through four inter-related outcomes focusing on community safety and security; addressing family and sexual violence; effective law and justice services; and anti-corruption. The program approaches are underpinned by experience and analysis from past initiatives in the sector. The program will be implemented flexibly to help the sector and its agencies meet shifting priorities and take advantage of strategic policy opportunities.

It will adopt a results-focused approach, promoting coordination between PNG agencies and supporting engagement with communities and stakeholders. It will also identify innovative ways to engage with the private sector, acknowledging that the private sector will bring particular insights into how law and order issues constrain economic growth. Direct engagement with private sector entities (small and large, both PNG and international) will help to ensure the program is focused on the constraints 'right across the spectrum'. It will be necessary to understand who provides safety,

security and justice; what works; and what systems citizens are already relying upon. It also means being explicit about behaviours that need to change and what would bring about those changes.

The program reflects the priorities identified by the GOPNG and the desired outcomes and strategic priorities of the Australian Government. There will be a focus on promoting prosperity, involving the private sector, empowering women and girls, combating corruption, working with effective partners and providing value for money.

Special consideration is given to the Autonomous Region of Bougainville, which is transitioning from an extended period of conflict. The investment in Bougainville under this program will be managed under the same implementation arrangements and will broadly follow the program structure for investments in the rest of PNG. However, the program outcomes for Bougainville reflect the need for peace and stability and the establishment of key services, particularly the Bougainville Police Service. This approach is consistent with the Bougainville Peace Agreement, which outlines the GOPNG and Autonomous Bougainville Government (ABG) agreed priorities for change.

This program will commence in January 2016 after a Transition Program of 18 months duration. Review of the PALJP-Transition Program prior to this program's first Annual Plan may result in adjustments. The design articulates indicative activities only - not all of those listed will necessarily be supported and additional activities may be required. All activities will need to be considered and agreed with the GOPNG during an annual planning process. More detail on indicative activities is included in Annex 7.

## **Outcomes**

### **Community safety and security**

Outcome 1: "local level dispute resolution and conflict mediation mechanisms in target areas are more effective, locally legitimate and available".

Support for activities under this outcome will focus on the provinces of Hela, Southern Highlands, Gulf, Western, Morobe and Northern (Oro). The program will work with the national level Village Courts and Land Mediation Secretariat, local village courts and land mediation officials to improve their functioning. It will work to understand and strengthen links between state and customary systems and with police and higher courts to deliver fair and effective conflict-mediation for local communities.

Activities will include strengthening village courts through skill development and support for the appointment of more female magistrates. Land mediation systems will also receive specific support. This may be through training and organisational assistance. Activities could also include support for community responses to sorcery-related violence, tribal fights and road safety. Reconciliation initiatives may be considered, along with support for juvenile justice and community-based corrections initiatives. The program will include civic education to improve awareness of legal rights.

### **Addressing Family and sexual violence**

Outcome 2: "women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services".

Activities under this outcome will focus on increasing access for women and other vulnerable people to effective legal protection from family and sexual violence and improving access to referral and



support services. Activities will include measures to strengthen institutional responses to family and sexual violence. This will include the effective implementation of legal protections afforded under the Family Protection Act and other laws, including skilling Village Court officials on their new roles and the limits of their mandates. Support may be provided to establish additional specialist Police FSV Units (FSVUs) and existing FSVUs will be strengthened. Activities are expected to build on the findings of a review in 2015 and to include training, measures to improve record keeping and to unblocking constraints to increase prosecutions of offenders. The program will also help PNG develop a more coherent system for FSV referral for counselling and medical support and where there are appropriate partners, to increasing access to emergency protections through safe houses. This component will be supported by Australia's broader support to the sector, including through police and prosecution advisers and will actively promote linkages with the *Pacific Women Shaping Pacific Development* program and support to UNICEF to improve access to justice for women and children. Additionally, women and other vulnerable people will be supported to play greater roles in law and justice agencies including increasing the numbers of women in the sector and support to improve their promotion to leadership positions.

### **Effective law and justice services**

Outcome 3: "law and justice agencies deliver ethical and accountable core state functions, with a focus on accessibility, quality and service".

The program will continue to help PNG law and justice agencies re-orient their focus to the provision of accessible, effectively coordinated and accountable law and justice services. It will include support for the expansion of law and justice services in a coordinated manner including through infrastructure investments, wherever possible through co-funding approaches. Agencies will also be assisted to secure more resources from within the PNG budget by better understanding the costs of delivering justice services and tracking and reporting results. Support will be available to increase the capability of law and justice agency leaders and workforce trainers as well as continued development of individual management and technical skillsets.

### **Anti-corruption**

Outcome 4: "target agencies and provinces demonstrate improved resistance to, detection, investigation and prosecution of corruption".

Corruption is an issue that requires political will to tackle. Activities under this outcome will provide support to willing agencies and sub-national administrations to improve their resistance and response to corruption. Activities supported under the program will balance support for law enforcement with prevention efforts. Specific program measures will aim to address workplace cultures and leadership. These may include training and service delivery charters for law and justice agencies and clients. The program will assist, where requested, law and justice agencies to address vulnerabilities to corruption. The program may support 'champions' to improve institutional cultures and systems. Australia is also willing, if asked, to consider support on a whole of government basis for PNG's efforts to establish an effective, independent anti-corruption body and this program will provide complementary support to other Australian Government efforts in support of PNG's efforts to improve compliance with international standards that will significantly harden PNG to loss due to financial crimes, including corruption.

## **Autonomous Region of Bougainville**

Recognising its unique status and needs and in support of the Joint Resolutions, endorsed by both Governments in Kokopo 2013, of the Joint Review of Autonomy Arrangements, the program will aim to support the PNG and Autonomous Bougainville Governments in their shared goal of “Peace and development in Bougainville underpinned by improved delivery of justice and policing services”. Support to the Autonomous Region of Bougainville will focus on similar component areas to those of the broader program: community peace and stability; family and sexual violence, effective law and justice services and police. While there is significant commonality of three of the four outcome statements, this program includes a focus on policing and activities in each of the outcomes will be adapted to Bougainville’s specific context. Outcomes are as follows:

1. Local level dispute resolution and conflict mediation mechanisms are more effective, locally legitimate and available;
2. Women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services;
3. Bougainville law and justice services are delivered ethically and accountably, with a focus on accessibility, quality and service;
4. A more credible and functioning Bougainville Police Service, effectively linked to community policing and other arms of Bougainville’s law and justice system.

## **Consultation**

This design has been developed over an extended period of time with significant inputs from Australian partners, PNG law and justice agencies and specifically the National Coordinating Mechanism (NCM). It has benefited from commentary and suggestions from industry, other donors and PNG’s business councils. The Justice Services and Stability for Development program builds on a firm platform of experience and analysis and will continue work underway to improve the strategic coordination of resources across Australia’s investments in PNG and particularly in the planned PNG Governance Facility and the *Pacific Women Shaping Pacific Development* program, nationally and in Bougainville.

## B. Analysis and Strategic Context

### Strategic Setting and Rationale for Australian engagement

Australia's national interest is best served by a stable and prosperous PNG. We are geographically the closest of neighbours and share history strengthened by personal bonds. Trade and investment between Australia and PNG is around \$20 billion, making PNG one of the largest destinations for Australian investments. There are approximately 10,000 Australians living in PNG. PNG and Australia share interests in maintaining the stability and security of the region and Australia's national interest is served by ensuring PNG is a confident and responsible member of the international community.

Corruption, violence and a weak rule of law hinders PNG's human development and threatens its potential stability and inclusive economic growth. Failure to strengthen PNG's anti-money laundering system risks not only PNG's financial stability, it increases its vulnerability to transnational crime with flow-on effects for Australia.

As one of the witnesses to the Bougainville Peace Agreement, Australia has a particular interest in ensuring the effective implementation of autonomy arrangements and the Autonomous Government's ability to maintain security in Bougainville as it prepares for the referendum on independence (to be held between 2015 and 2020).

The recent assessment of Australia's aid investments and priorities with PNG (2014) confirmed the need for continued high priority support to this sector, including support to PNG's police – delivered primarily through the PNG-Australia Policing Partnership.

Delivered in accordance with the Australian Government's development policy (2014), *Australian aid: promoting prosperity, reducing poverty, enhancing stability*, and new performance framework, *Making Performance Count: enhancing the accountability and effectiveness of Australian aid*, this program will ensure that separately and together with other relevant Australian investments, the greatest possible development impact is achieved. A summary of the development policy and performance framework is included in Annex 4. The program will be specifically assessed against the targets of empowering women and girls and combatting corruption as well as ensuring value for money, engaging with the private sector and promoting prosperity.

### Sector Investment Plan for Australia's assistance

The analysis of country and sectoral issues was developed in consultation with PNG partners, the Australian Federal Police and the Attorney-General's Department. The four outcomes of this program are shared, with an additional explicit focus on improving the effectiveness and legitimacy of policing, across the whole of Australia's investment in PNG in the law and justice sector. See Annex 4 for a diagram summary. Strategic policy and working level coordination, including in monitoring progress and evaluating success across Australia's whole investment will be critical to achieving shared outcomes.

### Country and Sectoral issues

Papua New Guinea is one of the **most challenging development environments in the world**. It is socially diverse and its population, estimated at over 7 million, is widely dispersed and growing rapidly. Most citizens live in rural areas and depend on a combination of subsistence agriculture and

the informal economy. Despite unprecedented economic growth over the past 13 years, there is evidence that poverty and inequality are increasing while essential services, including education, are deteriorating. PNG is not expected to meet any of the Millennium Development Goals by 2015.

**Multiple transitions, at economic, political and social levels,** are playing out in complex ways. These include further decentralisation of political and economic authority; increased use of constituency funds controlled by elected politicians which has raised the stakes in local contests for political power; demographic transitions, including urbanisation; large-scale resource exploitation; increasing costs of living; uneven distribution of wealth; pervasive discrimination against women and high levels of youth unemployment. PNG's governance is characterised by increasing political and social fragmentation. The state has neither the authority nor capacity to project a centralised uniform system of government or to deliver basic services across the country, including law and order. Accountabilities that are the cornerstone of a Westminster democracy, between politicians, citizens and bureaucratic institutions, are not functioning effectively. Traditional and/or 'informal' systems retain power and influence, often in opposition to formal institutions and rules. A key challenge for PNG's future stability and development is to foster inclusive growth and governance, including conflict management, security and justice systems that provide for the needs of all citizens.

**Most citizens do not rely on the state for their basic security and justice needs.** State systems struggle to reach them and are often thought to be irrelevant and too costly or to take too long. Community-based systems of governance and order-maintenance prevail. These systems often perpetuate gender and other power inequalities and struggle when dealing with complex and inter-group conflict. Violence can be seen, in part, as a result of the inability of both traditional and formal institutions in PNG to manage the stressors associated with rapid social and economic change.

With more resources at their disposal, the PNG Government is **increasingly asserting a greater leadership role within the region and internationally.** This includes providing financial support to other Pacific nations, playing a role in regional asylum-seeker resettlement and hosting significant regional and international events (including APEC in 2018). PNG's increasing connectedness to the global economy increases transnational crime threats. Please refer to Annex 2 for more detailed analysis of PNG's Law and Justice Sector.

## **PNG policy priorities**

The PNG Government has identified law and order, combating corruption and reducing violence against women as national development priorities. This investment is closely aligned with these priorities and seeks to support PNG partners to address these needs.

The new **National Security Policy (2014)** recognises that human development and national security are linked. It argues for more resources for security agencies and better coordination between them to enable PNG to capitalise on its natural wealth. Of the nine broad policy goals, transnational crime was identified as the single biggest security threat due to weak law enforcement and corruption.

PNG's **Vision 2050, Development Strategic Plan 2010-2030** and **Medium Term Development Plan (2011-2015)** all prioritise improving law and order. They identify reducing crime and social unrest as leading to a better quality of life for PNG citizens, by boosting economic activity and service delivery. Strengthening the capacity of the police and judicial system and expanding the presence of state law and justice services have been the key Government strategies to reducing crime. The recently launched **National Strategy for Responsible Sustainable Development (2014)** also recognises law

and order as an important enabler. It recognises the need to partner with civil society and the private sector to achieve responsible and sustainable development goals.

Within these longer term national development visions and plans, Australia's assistance to the law and justice sector continues to be guided by PNG's specific law and justice policy frameworks. These include the **National Law and Justice Policy (2000)**, the **White Paper on Law and Justice (2007)** and the **Strategic Sector Framework (updated in 2011)**. This investment places more resources toward improving links between the formal and informal law and justice systems and the White Paper's recommendation to work with communities to achieve peace, justice and social order. The White Paper says violence against women is a 'striking feature' of disorder in PNG.

The **National Policy for Gender Equality (2011-2015)** identifies gender-based violence as the first priority action area. It acknowledges the need for innovative community engagement to raise awareness of root causes of violence and address poor law enforcement. The **Gender Equality and Social Inclusion Policy (GESI, 2013)** directs National Public Service agencies to address these issues in their workplaces. This includes disability following PNG's ratification of the UN Convention on the Rights of Persons with a Disability in 2013.

The **National Anti-Corruption Strategy (2010-2030)** and its associated **Action Plan (2012-2015)** recognised the seriousness of corruption and money-laundering and the need to address these threats. The 'grey-listing' of PNG by the **Financial Action TaskForce (FATF)** in February 2014 for deficiencies in PNG's anti-money laundering and counter-terrorism policies highlights the costs and consequences of inaction. In April 2014, Prime Minister O'Neill committed PNG to implement a FATF Action Plan addressing a minimum set of legislative, regulatory and law enforcement reforms by September 2015 – further improvements will still be needed to meet minimum international obligations and implementation challenges will be ongoing beyond this initial Action Plan timeframe.

## Key development challenges

The findings of the 2011 Asian Development Bank analysis of the constraints to PNG's economic growth remain extant. Weaknesses in governance and institutions critically constrain inclusive and pro-employment growth.

PNG ranks poorly in the World Governance Indicators for Rule of Law and Control of Corruption. While there is no national reliable data on crime rates, analysis of what is available indicates overall **internationally high rates of crime and violence** in PNG. The World Bank's *Trends in Crime and Violence* (2014) analysis notes variations in rates and types of crime between provinces and between urban and rural areas. Family and sexual violence is an epidemic, with some of the highest rates in the world. It is the most common form of violence experienced by women, many of whom live in fear of attack. Violence appears to be increasing as a feature of criminal activity, as does the use of firearms. Arrest rates remain consistently low. Community and business surveys indicate low levels of trust in law enforcement and the judiciary.

PNG businesses consistently identify law and order as their highest reform priority. Insecurity **imposes high costs on businesses** and along with corruption is reported as the most significant hindrance to business investment. In addition to the direct costs to individuals, families and communities, fear of violence also imposes indirect costs. Staff and client mobility, especially women's mobility, is constrained, inhibiting productive behaviours. Fear of crime and violence erodes trust and social cohesion and reinforces stigma toward certain groups, particularly youth.

PNG's Auditor General's Office reports consistently identify systemic **maladministration and corruption in PNG**. In an increasingly connected globalised economy, the combination of weak law enforcement and corruption increases the risks for PNG from transnational crime and insecurity. According to Transparency International surveys, the perception of corruption is increasing. Police, civil servants and politicians are perceived to be the most corrupt. Corruption has a corrosive effect on individual behaviour and institutional rules. A lack of effective law enforcement results from decades of under-resourcing, poor incentives for ethical behaviour, weak accountability systems, low skill levels and the politicisation of agency leadership positions. There are champions within law and justice agencies addressing corruption, while the consequences of failing to address money laundering deficiencies appears to have galvanised PNG's political and bureaucratic leadership.

**Land and land titling** is a critical constraint to inclusive economic growth. Land and resource disputes represent the largest number of reported reasons for conflict. Along with 'tribal disputes', they are also the most destructive. Land issues affect all forms of development, from large-scale extractive projects to small community projects. PNG's land mediation and dispute settlement systems are complex and responsibilities are fragmented. A careful and incremental approach will be adopted to support PNG-led efforts to reform land dispute resolution, focusing initially on mediation of customary land disputes.

Gender discrimination and family and sexual violence are major fault-lines across PNG society. **Gender-based violence and violence against children is very high**, under-reported and often culturally sanctioned. Violence constrains women's lives in all dimensions – socially, politically and economically. It reduces their ability to earn an income and access education and health services and participate in political life of the country. It is a human rights violation and has generational impacts on families. There are a number of constraints throughout the law and justice system in dealing with family and sexual violence. These include cultural values, fragmentation of responsibilities, limited resources and the cultural management of conflict that includes preferences for compensation. More work is required to transform the constitutional right of equality and protection into a reality for the majority of women and children in PNG.

The World Bank's *Drivers of Crime and Violence in Papua New Guinea* (2014) notes that **violence and conflict have been integral to the economic and social life of PNG** and that fighting, 'talking it out' and compensation have been central traditionally to maintaining social cohesion and wealth distribution. These cultural factors make it difficult for the formal law and justice system to effectively manage crime and violence in PNG. For example, non-financial sanctions such as incarceration may not resonate. New and evolving internal stressors, such as urban migration and proliferation of firearms, are also leading to disputes that are less amenable to management by traditional means. Understanding traditional and evolving forms of conflict, the material and non-material aspects of conflict and the stressors leading to conflict, is necessary to develop strategies to prevent violence and manage conflict appropriately.

Law and justice services are products of a wide range of institutions and processes, formal and informal and are **institutionally complex**. Eleven independent national law and justice agencies - drawing their mandates from various parts of the PNG Constitution - are members of the National Coordinating Mechanism. No one agency can deliver law and order or justice without others. While progress has been made in each institution with Australian support over 25 years, systemic weaknesses remain. The sector is building its capacity to address PNG's complex law and order

challenges. The total number of law and justice staff as a proportion of population is internationally low and funding for the sector has not kept pace with population growth and an overall increase in government spending. National agencies often rely on support from sub-national governments to deliver mandated services.

**State and non-state/community approaches** in the justice system need to be strengthened and PNG citizens need to have greater access to justice which responds to their needs. Annex 3 provides a number of tables showing the wide range of stakeholders at national and sub-national level and examples of prominent non-government players.

## **Evidence-base/Lessons Learned**

Independent evaluations of Australia's law and justice investments have highlighted numerous improvements due to Australian support. These include, for example, ongoing financial savings as a result of improved operations and practices; reduced backlogs from the introduction of case management systems and modern legal practices; more effective delivery of specific law and justice services; improved compliance with human rights obligations; and improved access to justice. This program builds on the experience and independent evaluations of the Papua New Guinea-Australia Law and Justice Partnership (PALJP) and its predecessor the Law and Justice Sector Program as well as an Office of Development Effectiveness (ODE) evaluation of Australia's law and justice assistance more broadly *Building on Local Strengths* (2012) as well as international analysis and reviews of governance, law and justice and gender activities. The following lessons will guide program delivery.

### **a) Sector approach and use of Government of PNG systems**

Supporting PNG to implement its own policies and priorities and maximising the use of PNG systems under PALJP resulted in a high degree of 'ownership' by the PNG agencies. It ensured flexibility to respond to emerging priorities and recognised critical dependencies and independencies across the sector. Numerous examples exist of Australian funding bringing about change that has since been funded through PNG's own budget. However, the *PALJP Independent Progress Report* (2012) concluded that these 'islands of achievement' were insufficiently linked with other reforms and as a consequence resulted in only a limited number of tangible service delivery outcomes. Consistent with the findings of the ODE evaluation, reliance on PNG's law and justice coordination mechanisms did not deliver intended strategic coordination required for more tangible results for the men and women of PNG. Despite sectoral coordination and sectoral approaches to budget appropriations, agencies predominantly prioritised their own institutional needs with limited sectoral impacts. Other consequences included inefficient planning processes and difficulties in monitoring Australia's contribution to change against ambitious goal statements, all of which contributed to significant under-expenditure against budgets, fragmentation of efforts and high fraud risks.

#### **Action:**

This program focuses Australia's continued support to the sector in specific areas such as family and sexual violence, anti-corruption and community safety and security in specific provinces. These are all PNG Government and the law and justice sector's priorities. Targeted provinces have been selected by the NCM and all share key economic and law and order concerns. Specific outcomes and expanded planning and review processes to involve relevant non-state actors will promote more strategically coherent responses with a greater 'end-user' focus. Where existing PNG systems

constrain cooperation, new processes will be introduced to facilitate and support multi-agency engagement. Continued support under the effective law and justice services outcome will retain the flexibility to respond to emerging priorities while promoting a problem-solving approach.

## **b) Gender and Family and Sexual Violence**

The *PALIP Independent Progress Report* (2012) identified the advancement of women's rights as one of the 'most impressive achievements of Australia's support to the sector'. Gender equality has become a mainstream issue and backed by specific initiatives is contributing to transformational change within agencies. The proportion of female staff and female lawyers working for the law and justice agencies has grown significantly. It is PNG's national policy to have at least one female magistrate in every village court. Overall, the number of female village magistrates has grown from 10 in 2004, to 18 in 2007 and 1,000 in 2014. There are now 14 police Family and Sexual Violence Units in 11 provinces providing support to over 28,000 women between 2010 and 2013. Magisterial Services introduced protection orders, the Office of Public Prosecutor introduced victim liaison officers and created a specialised Family and Sexual Offences Unit and the Family Protection Act 2013 made domestic violence an offence in its own right. However, gender inequities and ensuring an appropriate criminal justice response to violence against women and children and linking protection and support services remain complex challenges.

### **Action:**

This program builds on this platform and will build on a review of the effectiveness of Family and Sexual Violence Units to be undertaken in 2015. It allocates an increased proportion of program resources and will raise the profile of PNG efforts and 'champions' to address family and sexual violence. Intermediate outcomes as well as the broad outcomes are shared across the whole of Australia's investment in the sector to maximise the impact of Australian efforts. This program will also work closely with the *Pacific Women Shaping Pacific Development* program, leveraging off its funding, knowledge and relationships as well as with Australian-funded programs working to implement the Government's Gender Equality and Social Inclusion policy.

Feedback involving a broader range of stakeholders will help to build support for change and will deliberately involve non-state agencies as both advocates and service providers.

## **c) Increasing an 'end-user' and service delivery focus**

Under PALIP, Australia's support for organisational and individual capacity building and long-term workforce planning, packaged with capital investments in offices, staff houses, courts and police stations, has unequivocally increased access to justice. Court services and legal aid are now available in more provinces while law and justice institutions have been re-established in Bougainville. But the path from institutional strengthening to service delivery is often long, rarely direct and unless it is specifically monitored, difficult to report. In response to criticisms in the *PALIP Independent Progress Report* (2012), Australia supported a renewed focus on service delivery sub-nationally in specific provinces beginning in 2013. The independent *PALIP Infrastructure Impact Evaluation* (2013) also concluded law and justice service delivery requires the right people with the right skills and attitudes and resources in close proximity to other law and justice providers. Recommendations from the evaluation include improving the strategic coordination across agencies to maximise the tangible impact of collective infrastructure investments in specific locations.



**Action:**

This program continues the focus on delivering services and meeting local justice needs. It recognises the importance of continued strengthening of PNG's formal law and justice agencies and the limited impact of institutional strengthening and technical capacity approaches alone. The program will adopt a strategic and packaged 'problem-solving' approach as well as facilitating state and non-state engagement across all four outcomes. It will promote a multi-layered, people-centric and politically aware approach to identifying and addressing constraints to improved performance. Research and regular monitoring will be undertaken to promote understanding of end-user needs.

**d) Engaging with community-based justice providers**

PNG's policy documents identify the need to engage with informal justice actors. Under PALJP (and its predecessor program) support focused on the Eastern Highlands Province led to improvements in local coordination to mobilise and effectively expend provincial financial resources. There were also improved responses to FSV issues and the formation of District Peace Management Teams. The teams include formal law and justice personnel (eg police and village court officials) and informal actors (district administrators, church and community leaders) who respond to outbreaks of tribal fighting and negotiate truces and peace agreements. This innovative and local solution helped to reduce the number of active conflicts in the province from 84 to 3 between 2007 and 2013.

Village Courts and land mediators are hybrid formal-informal justice mechanisms. Whilst they derive authority from the state, decisions are made based on local custom and their mandate is to maintain peace and harmony. They are often the first 'formal' justice provider for the majority of the men and women of PNG and play an important role in managing disputes to limit the negative impact of conflict. Long-term Australian support to the Village Courts and Land Mediation Secretariat has led to sustained and transformational improvements. The number of Village Courts has increased, the number of female magistrates and officials has increased and performance audits provided an evidence platform for significant increases in paid allowances for village court officials.

**Action:**

This program increases the focus on sub-national service delivery, providing dedicated resources to improve the skills, knowledge and behaviour of village court officials and land mediators. Better monitoring and specific research will enable more deliberate inclusion of end-user perspectives and the adoption of innovative and experimental approaches to delivering justice and stability locally.

While important, the village courts are not the only local justice and security providers. A nuanced understanding of local and potentially diverse stakeholders to improve community safety will be adopted in specific locations. See Annex 3, Table 2 for a list of existing community based initiatives that may become relevant to the program. Australian-funded World Bank research into urban safety in Port Moresby and Lae in 2014-2015 is expected to identify practical interventions that may be tested for potential replication in other locations. Opportunities to engage the private sector as one of the local stakeholders are already underway including for example in Hela province.

**e) Whole of Australian Government coordination**

The ODE evaluation (2012) identified the need to improve Whole of Australian coordination to maximise the impact of Australian investments in law and justice. Coordination in PNG between the various Australian providers has evolved over the past ten years. In 2014 a range of working level

committees were established focusing for example on information sharing and coordinated activity in relation to family and sexual violence, anti-corruption efforts and Bougainville activities. These were supplemented by a monthly Australian High Commission law and justice meeting to promote high level strategy policy coordination as well as activity information sharing.

**Action:**

A Sector Investment Plan has been developed with the AFP and AGD in parallel with this design. The process has ensured that this program complements and is complemented by support provided by the AFP police advisers and AGD's legal and prosecutor advisers. (See Annex 4 for a summary of Australia's sector investment and Australian Government agencies working in the sector). Recognising the division of primary relationships and the opportunities to maximise the impact of our collective support, the design and Sector Investment Plan share outcomes and where-ever possible performance indicators. This is particularly but not exclusively the case in relation to family and sexual violence and anti-corruption outcomes. Regular whole of government high-level strategic direction setting and coordination as well as working-level committees will be refined during the term of this program to ensure coherent strategic and practical approaches and well-timed policy engagement.

Just as importantly, this program will work closely with other Australian investments in governance more broadly, in Bougainville and through the *Pacific Women Shaping Pacific Development* program. The PNG Governance Facility, for example, will lead on sub-national public sector and financial management and the transfer of powers and functions in Bougainville. It is anticipated that this program will leverage the Facility's planned knowledge platform and public sector leadership courses. It is also anticipated that community initiatives and organisations, such as the Family and Sexual Violence Action Committee and Bougainville Women's Federation will also be relevant to and involved in this program though their core funding relationship may be with other Australian-funded programs. In 2015, a gender stocktake across Australia's investments in PNG will be undertaken and a common performance framework developed. This program will report against the common gender performance framework as well.

## **f) Monitoring and Evaluation**

Measuring results in Australian law and justice assistance programs has been an acknowledged area of weakness broadly and within PNG. This is in part due to the difficulty of objectively measuring results in law and justice. It has been exacerbated by the adoption of ambitious sector-wide goals and an over-reliance on PNG's monitoring systems.

**Action:**

The program seeks to articulate more modest goals for change supported by Australia in specific agreed priority areas. Greater focus on the point of interaction – on family and sexual violence services and village courts for example - will improve data collection and ensure shorter feedback loops. The program allocates specific resources and responsibility for result-based monitoring systems to supplement PNG reporting frameworks for program management, funding decisions and policy advocacy purposes. Collection of baseline data will begin during the PALJP-Transition Program in 2015. Independent mid-point and end of program evaluations will be undertaken in consultation PNG and Bougainville and Australian Government partners.

## C. Investment Description

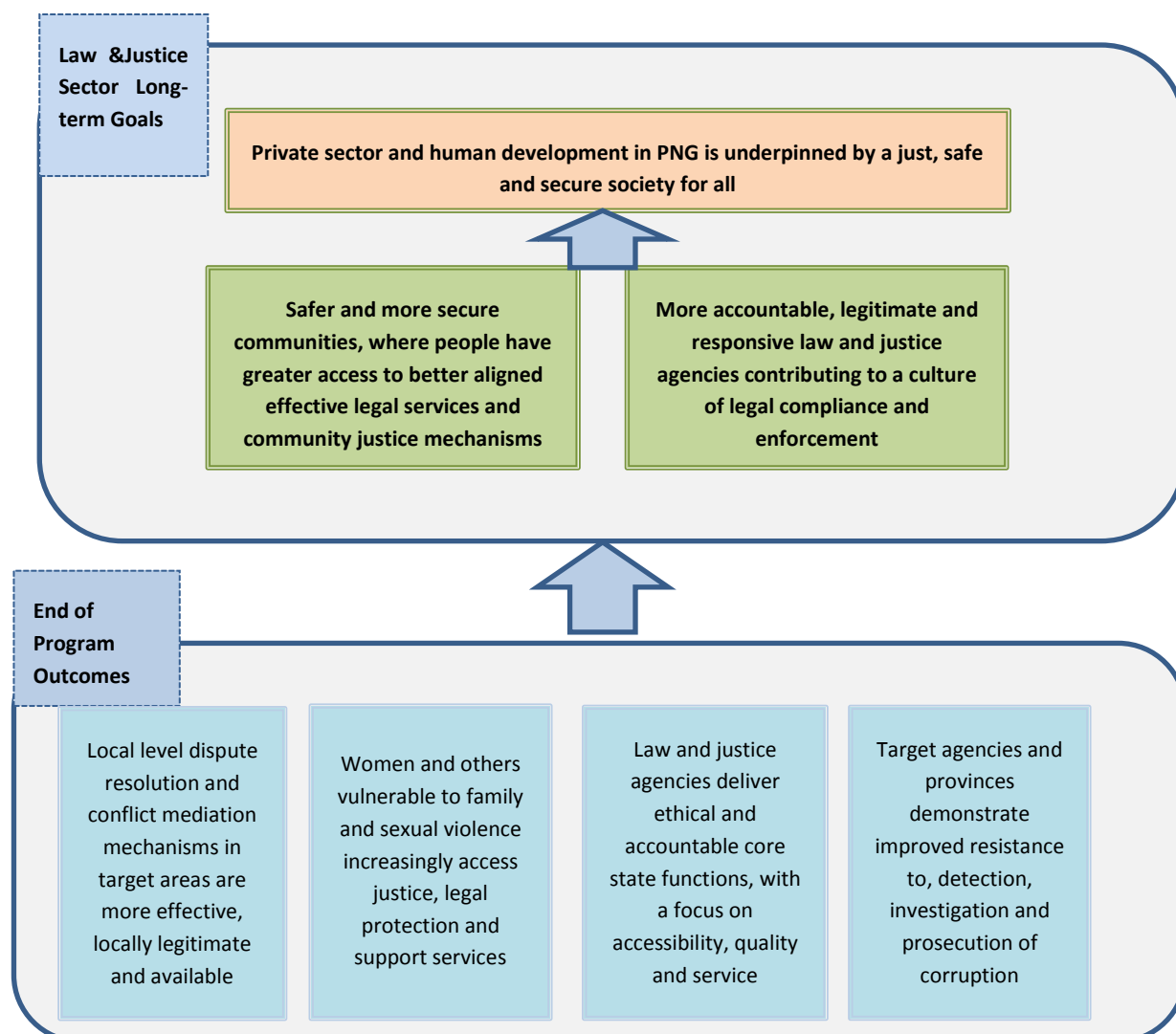
### Logic and Expected Outcomes

#### *Long-term Goals*

The program aims at its highest level to help PNG to ensure that **private sector development and human development in the future are underpinned by a just, safe and secure society for all**. It is consistent with the highest level goal of PNG's Law and Justice Sector Strategic Framework of a "just, safe and secure society for all". (See Annex 5 for a summary of Australia and PNG law and justice priorities).

This is summarised in Figure 1 and encapsulates the need to work from both ends of the state-community nexus. The program will help to ensure communities accept the need to comply with the law while benefitting from justice services. It will also help ensure that the state is responsive to community needs by aligning the provision of services to those needs. This will provide a stronger, more secure basis for long-term economic and social development in PNG. It recognises that the state needs to strengthen its ability to provide services but that concepts of justice and security are not totally reliant on the state. It aims to strengthen opportunities to improve citizens' experiences of justice and safety and to promote more service-focused, accountable and ethical state services.

Figure 1: Law and Justice Sector Long-term Goals and Program outcome areas



## **Theory of Change**

The overall theory of change for the Justice Services and Stability for Development program is:

*that safer and more secure communities are those that have better access to non-violent conflict management systems and effective legal services; and that more accountable and responsive law and justice agencies will ensure disputes are settled peacefully and fairly and promote a culture of legal compliance and enforcement; and that increased access to justice services and more stability will underpin inclusive economic growth and human development.*

This program is not a panacea for addressing PNG's multiple and complex law and justice challenges. The program will provide catalytic and complementary support to assist the PNG Government to implement law and justice reform and to increase access to justice and improve service delivery to the men and women of PNG. Noting the complementary support provided through other Australian investments, this program aims to:

1. Improve access to more effective local conflict management in target areas to promote community safety
2. Increase access to legal protection for women against violence to reduce the apparent impunity for such offences and challenging the acceptance of destructive norms
3. Improve the capacity of law and justice agencies collectively to deliver services that meet the needs of end-users
4. Support PNG's efforts to strengthen compliance with international standards against money laundering and improve accountabilities between staff, leadership and the general public

The outcomes and intermediate outcomes for Bougainville have been developed along similar themes but are adapted to its specific needs and context. In Bougainville policing is a separate explicit priority for this program and will work very closely with the New Zealand and Australian Federal Police.

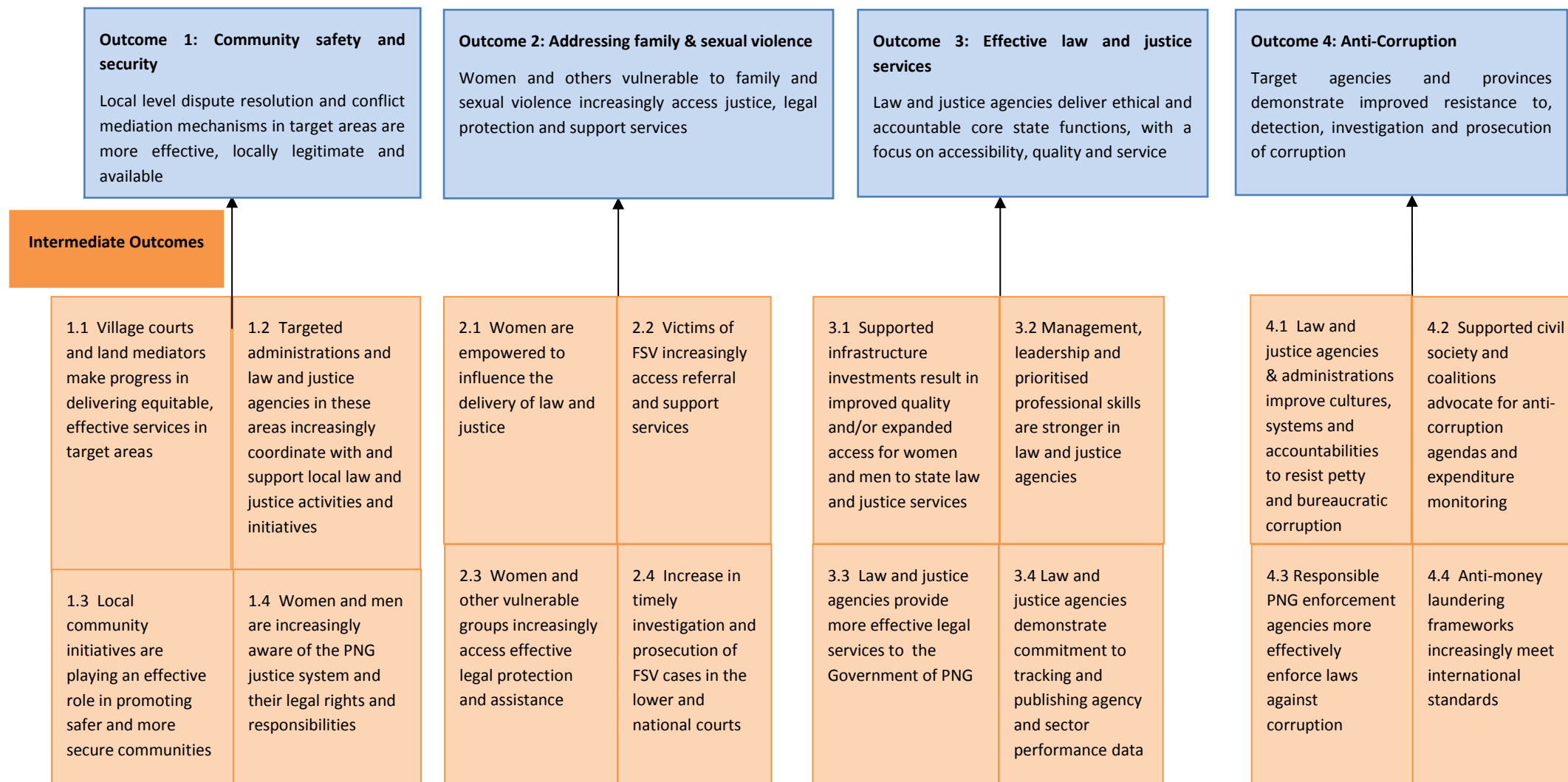
At all levels, the program will aim to develop linkages and leverage resources from other Australian programs. In particular, this program will work very closely with the *Pacific Women Shaping Pacific Development* program and the broader PNG Governance Facility. To underpin economic and social development in PNG, the improvements to end-users of justice must as far as possible dovetail with other programs being supported.

With some amendment, the outcomes and intermediate outcomes included in this program are shared with the outcomes and related 'key result areas' of the PALJP-Transition Program. Evaluation of changes under the Justice Services and Stability for Development program will take into account activities undertaken during the PALJP-Transition Program where relevant.

Figure 2 summarises the end of program and intermediate outcomes expected to be realised from implementing the Justice Services and Stability for Development program.

**End of Program  
Outcomes**

**Figure 2: Justice Services and Stability for Development Program: Theory of Change**



## **Outcome 1: Community safety and security**

Outcome 1 is visualised in Figure 3 with further detail regarding indicative activities provided in Annex 7. At the end of the program it is expected that:

**Local level dispute resolution and conflict mediation mechanisms in target areas are more effective, locally legitimate and available**

The theory of change is:

*If village courts and land mediation services and other conflict mediation mechanisms are together strengthened to equitably tackle safety, security and crime prevention and target provinces and law and justice agencies are assisted to service and support them, communities will be better able to resolve disputes, maintain peace and reduce the risk of serious violence.*

Hela, Southern Highlands, Gulf, Western, Northern (also known as 'Oro') and Morobe Provinces have been identified by the NCM as locations where law and order and stability are impacted by resource projects, land issues, remoteness, internal migration and they have economic significance to PNG. Incentives and support for law and justice stakeholders to work together are weak and the fragmentation of resourcing, operations and management is the norm. As a result these provinces have been identified as the 'target areas' for this outcome in the program.

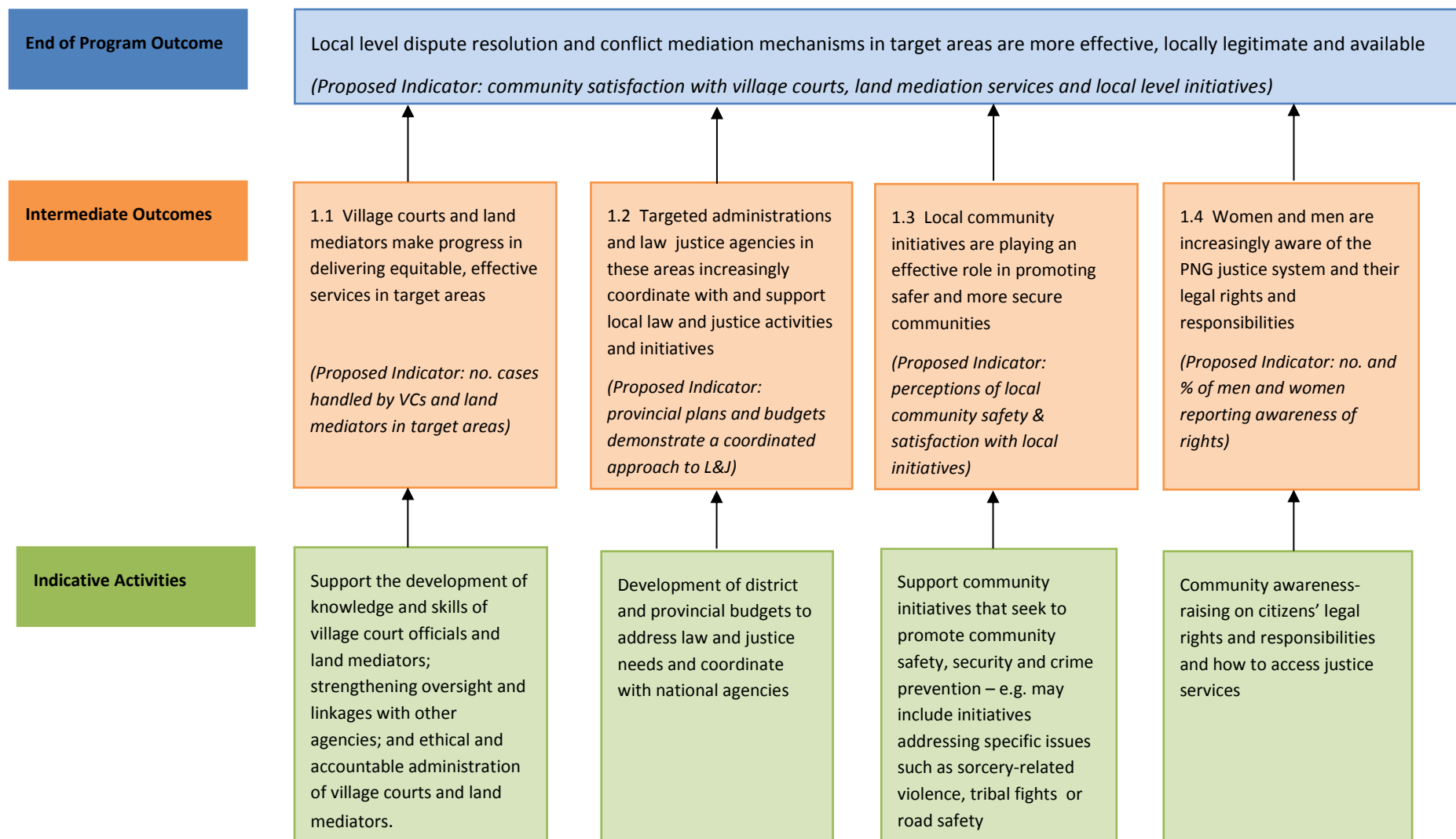
Levels of engagement in the target areas will be regularly reviewed, to avoid the danger of 'spreading too thin' and to ensure value for money of Australia's investment. The addition of new target areas will be assessed on the basis of local constituencies for change, the commitment of co-funding and existing levels of investment by PNG and Australia.

Australian support will be provided to geographic areas in addition to these provinces but there will be a preference to maximise the impact of the whole of Australia's investment by focusing efforts across the investment in these target areas. Investments under other outcomes may be made in other locations where there is an obvious law and justice need, partners with particular capacity, opportunities to provide quick wins and catalytic change or in response to PNG or Australian Government priorities.

In 2014, ExxonMobil entered into a partnership arrangement with Australia to support positive development outcomes for PNG. Under this arrangement, and on an initial pilot basis, ExxonMobil is financially contributing to the costs of a full-time community safety adviser in Hela until December 2015. This arrangement is a reflection of ExxonMobil's interest in promoting stability, the role that better village courts can play and our shared interest in promoting gender equality and addressing family and sexual violence. It will also provide opportunities to share lessons learned and leverage ExxonMobil's access to and relationships with communities through its own programs. This experience will provide one model for future private sector engagement in this sector. Other approaches may include for example co-financing of infrastructure, involvement in training, as a contributor or participant of initiatives to improve safety and security and/or to address gender inequities and improve human rights.

**Figure 3: Outcome 1 – Community safety and security**

Geographical focus: Hela, Southern Highlands, Gulf, Western, Northern (Oro) and Morobe provinces



### ***Outcome 1: Theory of Change Explanation and Assumptions***

The intermediate outcomes are necessary stepping-stones but they may not be sufficient in themselves to fully realise the desired end of program outcomes. Identifying what else is necessary and advocating for those resources will also be a role for the Implementing Service Provider in consultation with PNG partners.

**Village courts and land mediators make progress in delivering equitable, effective services in target areas.** For most people in PNG village courts provide the most accessible formal law and justice service. This intermediate outcome assumes that improving these services will result in a benefit for many and that quick, fair, local conflict management will help reduce violence and increase community safety. The assumption is that developing the knowledge and skills through training programs for village court officials and land mediators will result in them delivering better quality, fairer decisions. This assumption will be tested through community satisfaction surveys. In addition to initiatives to improve individual capacities of village court officials and land mediators, it will also be necessary to strengthen the ethical and accountable administration. Support to improve oversight and linkages with other agencies, most notably the police and district courts, will also be required.

**Targeted administrations and law and justice agencies in these areas increasingly coordinate with and support local law and justice activities and initiatives.** This intermediate outcome focuses on reducing the fragmentation of resources and responsibilities as a means of achieving safer communities. The theory of change is that improved coordination will lead to more effective law and justice services that meet the needs of the local population. In particular this includes infrastructure investments being linked to strategic need, available staffing and the availability of related agencies/services. Target provinces currently differ in relation to their existing provincial level coordination and the level of engagement with individual national agencies or collectively with the NCM. The program will work closely with the PNG Governance Facility and build on previously provided support.

**Local community initiatives are playing an effective role in promoting safer and more secure communities.** This intermediate outcome acknowledges the number of locally-driven initiatives which are already achieving positive changes in the safety and security of communities and provides an explicit role for this program to learn from these initiatives, to seek to replicate and/or to scale up these initiatives in the target areas. It also assumes that specific safety and justice needs will differ between communities.

**Women and men are increasingly aware of the PNG justice system and their legal rights and responsibilities.** This intermediate outcome reflects the assumption that in addition to supply constraints, demand limitations also constrain the effective use of the services available, particularly from police, district court and the public solicitor. It is assumed that by increasing awareness of: legal rights and responsibilities; of what can be expected from law and justice institutions; and how to access services, that women and men will increasingly demand and be satisfied with those services.

While not a specific intermediate outcome, it is assumed that the program will need to learn from and invest in research to understand local approaches to dispute resolution and conflict mediation and their linkages and separation from more formal justice services. This will be important to influence behaviour and ensure a 'do no harm' approach is practiced.



## **Outcome 2: Addressing family and sexual violence**

This program will promote gender equality throughout all outcome areas and also provide targeted support for responses that increase women's empowerment and access to justice. It has a specific focus on improving the responses to and protection from family and sexual violence (FSV).

Outcome 2 is visualised in Figure 4 with further detail regarding indicative activities provided in Annex 7. At the end of the program it is expected that:

**Women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services**

The theory of change for this component is:

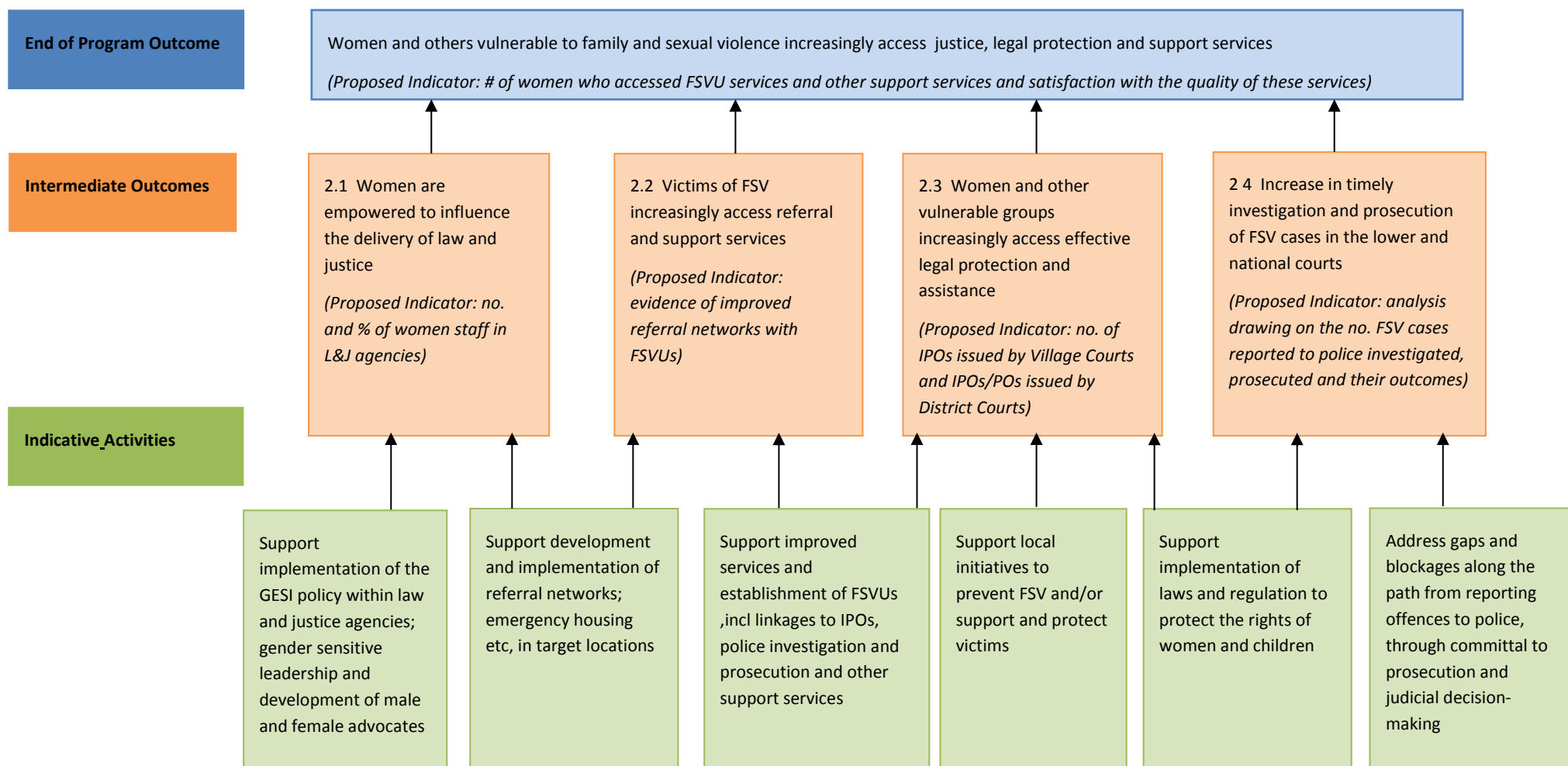
*If state, non-state and community systems are strengthened together to tackle family and sexual violence (FSV), survivors and their families and communities will be better able and less reluctant to access justice, legal protection and support services, then in the long-term communities will be better able to address FSV and to reduce its incidence and impact.*

There are PNG groups, sector 'champions' and a platform of sector leadership from which to build in this area. The achievement of this outcome is premised on four complementary intermediate outcomes that together will build confidence that legal protection and justice is available for those vulnerable to FSV and will improve the access to emergency and referral services. This will require more effective networks involving a number of support service providers as well as advocacy groups.

FSV is an immensely complex challenge. The program will take a multi-layered approach – working across different levels of organisations and facilitating state and non-state engagement. It will be coordinated strategically and at a working level with input from AFP and AGD advisers working with their PNG counterparts. All Australian investments will also be assessed against a common performance framework in support of the *Pacific Women Shaping Pacific Development* initiative (currently being developed).

From 2015, an Australian-funded UNICEF Justice for Children specialist will work as a de-facto member of the program advisory team. The position is funded for 3 years (2015-2017) and will provide integrated support to the program in delivering improved access to justice for women and children. The integration of the UNICEF specialist officer is expected to enable greater information sharing and learning from UN initiatives relevant to the sector. The UNICEF specialist officer will be expected to work very closely with the program team especially in relation to achieving outcomes 1 and 2. Arrangements to integrate this support into the broader program will be tested during the PALJP-Transition program and may be refined during the program as a result.

**Figure 4: Outcome 2 – Addressing family and sexual violence**



## ***Outcome 2: Theory of Change Explanation and Assumptions***

**Women are empowered to influence the delivery of law and justice.** This intermediate outcome reflects the findings in PNG and internationally that women will report crimes and access justice services more often when they are served by women. Activities in pursuit of this intermediate outcome will encourage more women into law enforcement and justice services and developing skills to become managers to influence services to meet the needs of women and children clients. An important assumption of the aid program is that it is important to build broad support for women's equality and participation with men and social 'gatekeepers'. The program will continue support to implement the PNG Gender Equality and Social Inclusion policy and may continue male advocates and transformational leadership development activities underway in the PALJP-Transition Program.

**Victims of family and sexual violence increasingly access referral and support services.** This assumes that a key constraint to survivors of FSV accessing services (including girls and those who are disabled) is the availability of support services and the linkage between organisations offering support. The program's support for these services reflects international evidence that taking a 'siloed' sector approach limits the effectiveness of impact. Current FSV services include Family Support Centres and health facilities, safe houses, FSVUs at police stations. These services are provided by a number of different groups – often community, quasi-government or faith-based organisations. As with sub-national service delivery, fragmentation of responsibility, weak coordination and competition for limited resources limits the availability of quality services to meet the different needs of survivors of violence. Yet there is interest and attention in the sector to increasing and improving referral and support services, including by private sector organisations. This program will leverage the gender program's knowledge and relationships.

**Women and other vulnerable groups increasingly access effective legal protection and assistance.** The village courts, the higher courts and the police are all legally mandated to provide a measure of safety and protection to survivors of family and sexual violence. Moreover, it is assumed that improving access to legal protection and formal justice consequences to family and sexual violence is one of the necessary elements to change destructive norms relating to the acceptance of this behaviour. A review of the effectiveness of the FSVUs will be undertaken in 2015 and will inform activities under the program. It is expected that further support will be required to develop the knowledge, skills and attitudes of police officers, village court officials, district court magistrates and clerks and others such as legal aid lawyers and paralegals to sensitively handle FSV cases. This program will also support the effective implementation of legislative frameworks.

**Increase in timely investigation and prosecution of FSV cases in the lower and national courts.** This intermediate outcome acknowledges that while women may choose not to pursue a criminal justice resolution, low prosecution and enforcement rates contribute to a culture of impunity. It is assumed that undertaking activities to better enable women to pursue criminal justice as a viable option will assist to address this issue. Activities to address gaps, blockages and constraints along the path from reporting to police, through committal to prosecution and judicial decision-making will be pursued working closely with AFP and AGD advisers. Some activities are already underway in the PALJP-Transition Program including a 2014 workshop to build skills of police, prosecutors and defence lawyers in interviewing child witnesses. This work will also complement agency-specific support provided by the AFP and AGD with their PNG counterparts.

### **Outcome 3:      Effective law and justice services**

Outcome 3 is visualised in Figure 5 with further detail regarding indicative activities provided in Annex 7. At the end of the program it is expected that:

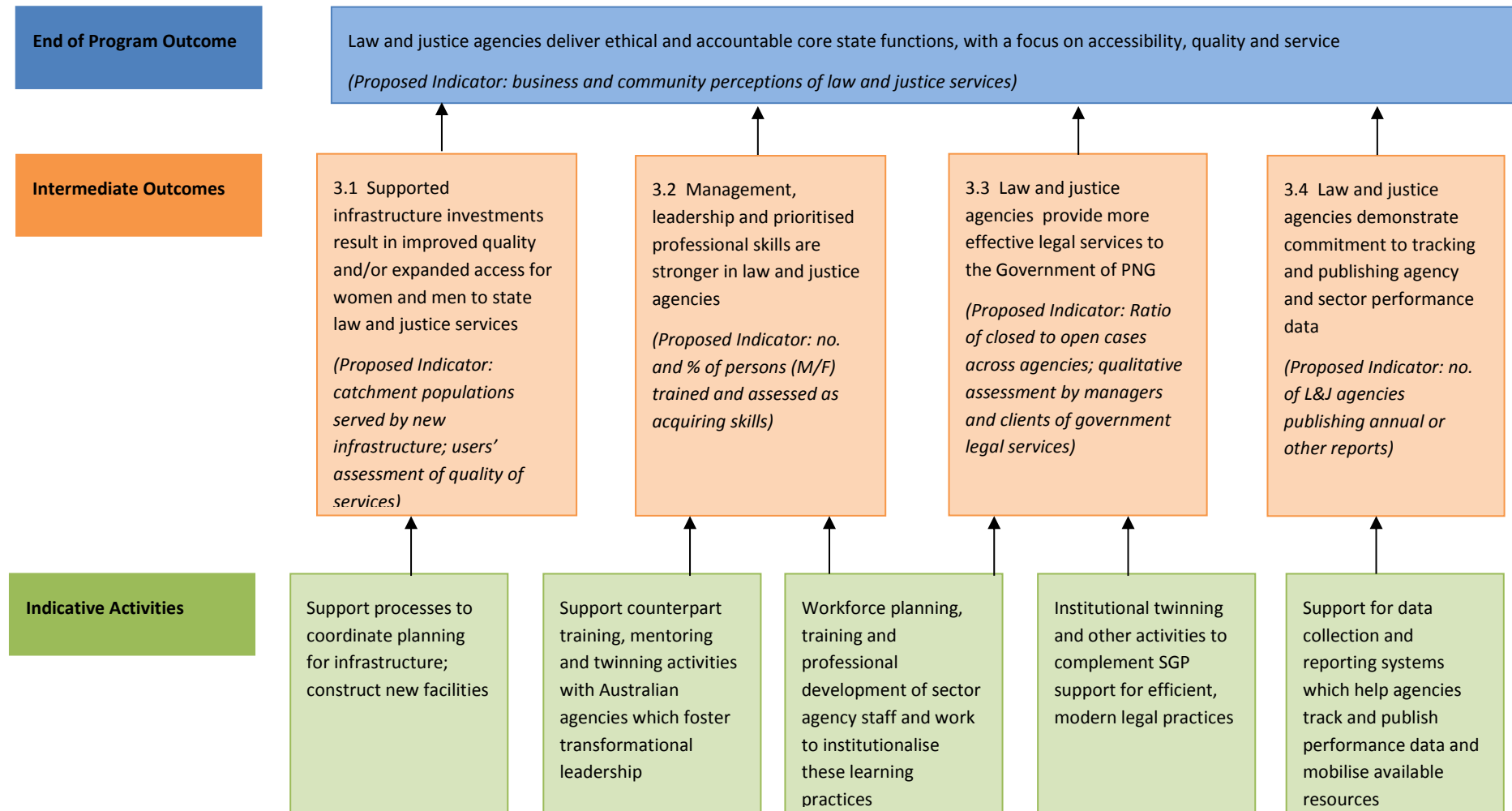
**Law and justice agencies deliver ethical and accountable core state functions, with a focus on accessibility, quality and service**

The theory of change is:

*If the PNG law and justice sector at national and sub-national levels is able to coordinate capital investments and expansion and targeted skills development is supported by agency and sector leaders to improve accountability and improve performance with a focus on the ultimate clients and is complemented by a knowledgeable and active civil society, the State's role, authority and presence will be strengthened and the people of PNG will enjoy more accessible and effective law and justice services.*

Law and justice agencies – such as police, courts and corrections - provide core functions of the state. Australia will continue to support PNG's efforts to build these institutions. This Outcome retains flexibility to respond to emerging policy priorities and anticipates that as the primary sector partner, Australia may need, for instance, to provide “surge” support for major national priorities (e.g. elections or other major events). A result-focus will be promoted, which is driven by the needs of the ‘end-user’ or clients in line with international research on how best to improve service delivery. Wherever possible, a collective, multi-agency approach will be adopted to improve performance and address common problems.

Figure 5: Outcome 3 – Effective law and justice services



### ***Outcome 3: Theory of Change Explanation and Assumptions***

This outcome assumes better state law and justice services will be provided if the national agencies' sectoral and strategic planning is enhanced. It also assumes more effective services will be delivered where infrastructure investments are coordinated and packaged with human resource capacity development to ensure sufficient leadership, skill development and a service-focused approach. Processes and approaches will seek to promote improved coordination both between agencies and with sub-national administrations.

**Supported infrastructure investments result in improved quality and/or expanded access for women and men to state law and justice services.** While access to law and justice services has increased, considerable investment in facilities is still required given the absence, or poor condition, of existing facilities and to meet the PNG Government's commitment to expand services to districts. The *PALJP Infrastructure Impact Evaluation* (2013) concluded that Australia's infrastructure investment in the sector had improved access to services but recommended greater focus on a broader sector-wide and service delivery planning. Australian support to infrastructure will be provided in accordance with the Evaluation recommendations including adopting a whole-of-life cost based approach to design (to promote sustainability) and, wherever possible, agreement to co-funding by GOPNG. Evaluations will need to be undertaken to ensure end-users are benefiting.

**Management, leadership and prioritised professional skills are stronger in L&J agencies.** This intermediate outcome reflects the importance of leadership from the top to drive organisational change in agencies: that strengthening the skills of mid-lower level staff on its own is not enough. Leaders are in a position to drive cultural and organisational change within their agencies. It is assumed that if the program helps strengthen leadership skills, combined with the technical skills of staff, through effective training and capacity development, then those officers will more effectively perform their jobs. An implicit difficulty in this is that training and advisory support can make only modest improvements on their own and the demand-side of better performance (incentives for staff to perform well in their jobs and demands from politicians for the agencies to deliver on their stated mandates) don't function well in many cases. It will be important for the program to look for means of targeting training, identifying cost-effective approaches that promote broader program and sectoral aims. A review of training conducted within PALJP (2014) provides a basis for ongoing approaches.

**L&J agencies provide more effective legal services to GOPNG.** This intermediate outcome assumes that technical legal support to state law and justice agencies will continue to be provided through the SGP and that 2015 increases in budgets will allow more adequate staffing levels. This program will provide complementary support as necessary, including support to institutional relationships with relevant Australian agencies.

**PNG agencies demonstrate commitment to planning, tracking and publishing agency and sector performance data.** This intermediate outcome assumes that improved tracking, use and publishing of agency performance data will improve accountability and service-orientation. However, in order for this to result in pressure to deliver better services, the public and those in management/leadership positions need to scrutinise and use this information. In order to be effective such reports need to be published in a timely way and be based upon good data. There is a need to try to foster demand for information – from the Australian High Commission and others and to be realistic about what is really driving decisions.

## **Outcome 4: Anti-corruption**

Outcome 4 is visualised in Figure 6 and further detail regarding indicative activities is provided in Annex 7. At the end of the program it is expected that:

**Target agencies and provinces demonstrate improved resistance to, detection, investigation and prosecution of corruption**

The theory of change for this Outcome is:

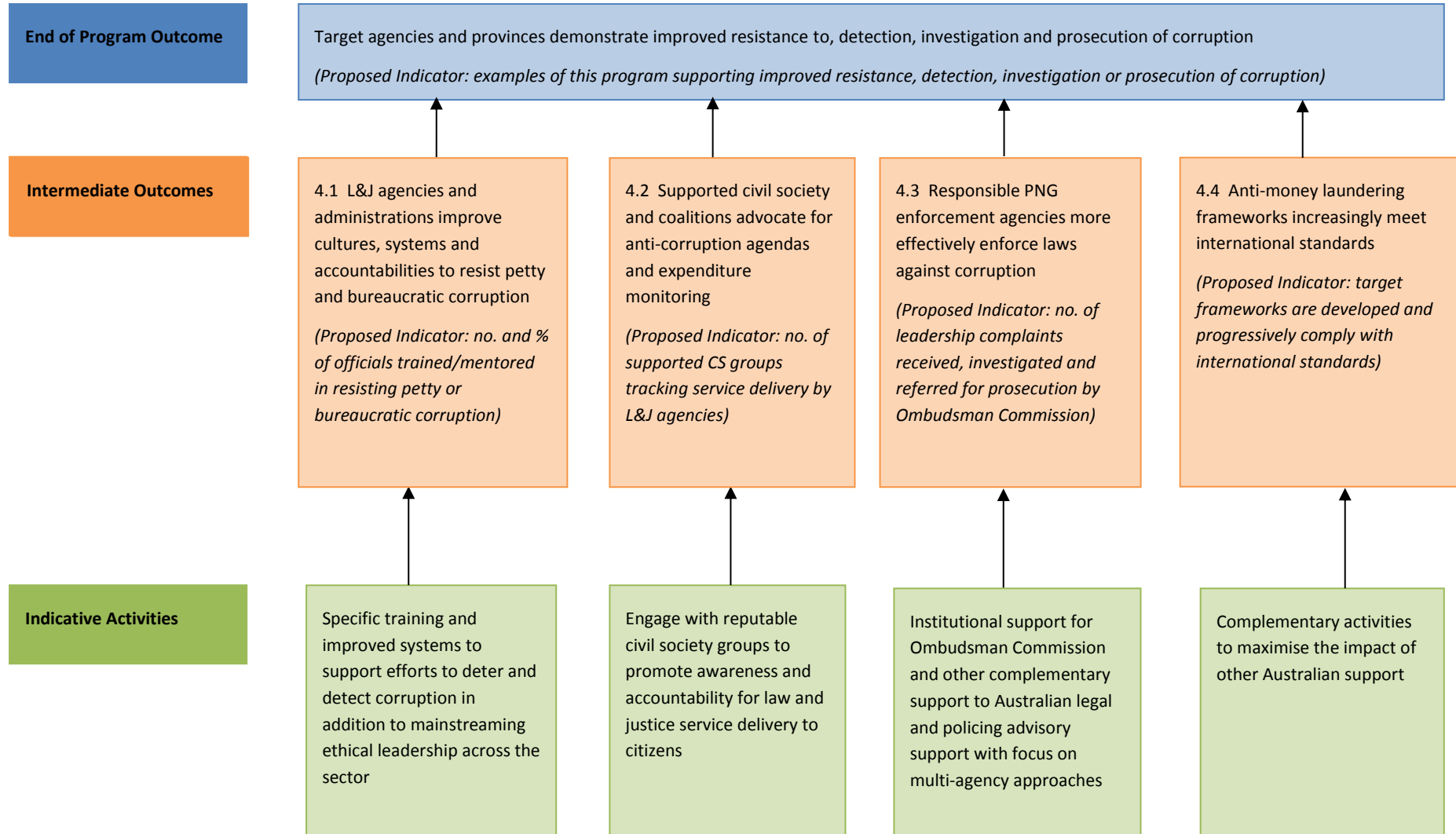
*If law and justice agencies are encouraged and provided support to be more transparent and accountable, to put in place leadership practices and create workplace cultures that are ethical then they can be important norm-creators in relation to combatting corruption. If opportunities from international attention and civil society advocacy for improved law enforcement can be supported then a contribution will have been made to increasing the resistance to and reducing impunity for corruption.*

As noted earlier, corruption is one of the factors undermining development impacts of strong economic growth in PNG. It also adds to the cost of doing business and is damaging to PNG's international reputation. While there have been three recent cases of sitting members found guilty of corruption, a general lack of law enforcement and apparent impunity contributes to culture of unethical behaviour. It undermines the trust in the state generally and in law and justice agencies in particular.

Corruption is an intractable law and justice and governance challenge. This program provides complementary support as part of Australia's broader assistance to the sector to help combat corruption. It assumes only modest improvements. The AFP and AGD advisers will provide the primary and technical support to improve investigation and prosecution results and to help meet relevant international standards. Complementary value-adding activities can be supported through this program to maximise these efforts. This program will provide assistance to the Ombudsman Commission primarily, but not exclusively, by continuing the mature twinning relationship with Australia's Commonwealth Ombudsman. This program will also work with willing agencies and administrations to address risks and reduce opportunities for corruption. Strategies to effectively identify and pursue opportunities to promote demand for improved services and less corruption will be supported.

It is intended that an explicit outcome and specific resource allocation will ensure attention to the problem and promote policy dialogue. While longer-term strategies can be developed, it will be possible in the short-term to take advantage of anti-corruption champions and opportunities as they arise. On a "funding follows performance" basis, if success is demonstrated, additional funding may be allocated.

**Figure 6: Outcome 4 – Anti-corruption**





#### ***Outcome 4: Theory of Change Explanation and Assumptions***

**Law and justice agencies and administrations improve cultures, systems and accountabilities to resist petty and bureaucratic corruption.** This intermediate outcome assumes continuing interest from law and justice agencies to help enhance anti-corruption efforts by tackling how corruption and service-delivery is viewed and dealt with in the workplace. This depends on leaders being willing and able to champion anti-corruption culture. There is scope for the program to work with agency and administrative leaders to build this leadership where opportunities present. It assumes that working through other Australian agencies, including through the institutional twinning relationships and exchange placements, agencies will see and support building their own strong internal systems for corruption detection and deterrence.

**Supported civil society and coalitions advocate for anti-corruption agendas and expenditure monitoring.** This intermediate outcome assumes continued and potentially growing attention to support accountability to citizens for public money spent and actions taken as an essential ingredient in building confidence in law and justice agencies. It assumes that if civil society groups can more actively track government expenditure and advocate for greater accountability, citizens and government will respond. As in the case of the FSV component, it will be important to leverage other Australian program-support, particularly the Governance Facility's anticipated engagement with organisations such as business councils and Transparency International, as both potential providers and advocates as well as with their knowledge and learning. An innovative and experimental approach may be adopted separately by both programs to identify and test social accountability and expenditure monitoring mechanisms.

**Responsible PNG enforcement agencies more effectively enforce laws against corruption.** This intermediate outcome assumes that public enforcement of anti-corruption laws will act as a deterrent and in the long-term help to reduce the incidence of corruption and acceptance of corruption. In order for laws against corruption to be more effectively enforced, multiple agencies - including the Ombudsman Commission, police and prosecutors - all need to work more effectively together. Coordination of support to police (through AFP advisers) and prosecutors (through AGD advisers) as well as the Ombudsman Commission (through this program) will be critical.

**Anti-money laundering frameworks increasingly meet international standards.** This intermediate outcome assumes that being seen internationally and by its own citizens as moving progressively on implementing aspects of the anti-money laundering and proceeds of crime frameworks, GOPNG will significantly build momentum for combating corruption. By 2016, it is expected that PNG will have been assessed on whether it has implemented the agreed Action Plan to address strategic deficiencies identified by the Financial Action Task Force. Even if PNG meets the minimum requirements of the Action Plan, it will not have implemented its broader FATF obligations and ongoing efforts will be required to improve compliance for the reforms to be effective. This program may be further assisted by working with other donors and whole-of-Australian Government providers.

## The Investment for Bougainville

Bougainville is transitioning from a complex, extended period of conflict. Australia is a witnessing signatory to the Bougainville Peace Agreement (BPA) and is committed to supporting the effective implementation of autonomy arrangements. Recognising the specific needs of Bougainville, including the potential during the term of this program for the people of Bougainville to participate in a referendum on their future political arrangements, this section provides a 'design within a design' for Australia's law and justice support to Bougainville 2016-2019.

### Sector Context and policy backdrop

The Bougainville Crisis (1989-1997) resulted in trauma, many deaths, dislocation of communities and destruction of infrastructure and private assets. There was also a massive loss of human capacity in the public and private sectors, including in the police. Mistrust exists in many sections of Bougainville society and suspicion of government and PNG security forces. A 'lost generation' of now young adults missed out on education during the conflict, limiting the pool of qualified Bougainvilleans.

While Bougainville has successfully restored basic services and has largely maintained the peace since the end of the crisis, there remain a significant number of unresolved crisis-related issues, including weapons disposal, occupation of government land/houses, crisis-related grievances and widespread trauma. Rape was used as a weapon of war and the incidence of sexual violence in the region continues to be one of the highest in the world. In a recent design process in Bougainville for *Pacific Women Shaping Pacific Development*, women identified fear of violence as the single biggest issue in their daily lives.

Fears of a relapse of violence generally and a loss of social capital persist. The limited number, capacity and authority of police limit the reach and authority of the Autonomous Bougainville Government (ABG). This has hindered the effective implementation of autonomy arrangements. Development has been uneven across Bougainville with Southern and Central Bougainville – where ABG's reach is weakest - having the greatest development needs.

Traditional means of local social control have been undermined, while formal justice and law enforcement institutions do not have the capacity to fill the gap. The prevalence of family and sexual violence is extreme in Bougainville and exacerbated by marijuana and alcohol abuse.

Police, corrections, judicial staff and public solicitors are all national law and justice agency staff and their operations are funded through their home agencies. Developments and planning in Bougainville must therefore involve the national law and justice agencies as well as ABG Departments.

The political and administrative context in Bougainville is dynamic. In October 2013, following a Joint Review of Bougainville's autonomy arrangements, Joint Resolutions identified "strengthening law and order (weapons, police and community justice)" as the "people's highest priority". In Resolution 16.3, both Governments agreed to "build the capacity of all aspects of the law and justice system in order to prepare the ABG to be able to enact its own laws to transfer related powers and functions when appropriate and affordable." ABG's priorities in the law and justice sector are the transfer of policing and corrections powers and functions – a part of this process is ensuring necessary capacity

ahead of the transfer of fiscal responsibility to the ABG. In September 2014 the ABG established the Department of Police and Corrections and a separate Department of Justice and the Principal Legal Adviser each with their own Minister. ABG is also in the process of re-defining community governance arrangements. These reforms are expected to impact the roles, responsibilities and accountabilities of village courts, Community Auxiliary Police (CAPs) and other local level dispute resolution mechanisms.

The New Zealand Police force has been actively engaged in Bougainville for over a decade. Until recently, their support was focused on establishing and developing the CAPs. The new phase of New Zealand's Bougainville Community Policing Program increases the New Zealand presence to approximately 12 advisers and shifts the focus to the development of the regular Bougainville Police Service (BPS). In 2015, it is expected that the AFP will also provide direct assistance to the BPS in support of the implementation of the BPS Development Action Plan.

### **ABG's vision and priorities for the sector:**

The ABG's continuing challenge is to consolidate authority and legitimacy - to deliver and be seen to be delivering services to the women and men of Bougainville. The ABG priorities for the sector are:

1. Re-establishment of law enforcement agencies in Bougainville and expansion of the location of these agencies so that more people in Bougainville have easier access.
2. Building the capacity – staffing, skills, infrastructure and logistical support to law and justice agencies to enable effective delivery of their services across Bougainville
3. Policy development to support the formation of Bougainville-appropriate structures and the transfer of law and justice powers and functions
4. Increasing the capacity of the Department of Justice and the Principal Legal Adviser to provide legal advice to the ABG.

### **Australia's interests in supporting law and justice sector in Bougainville**

A stable, prosperous and open Bougainville is in the interest of Australia, PNG, the people of Bougainville and the region as a whole. Australia's support is aligned to the provisions of the BPA and to the Joint Review of Autonomy Arrangements (2013), endorsed by the ABG and PNG National Governments. Australia has, along with New Zealand, been the predominant partner to Bougainville's law and justice sector. Australia's cumulative investment through law and justice sector programs since 2003 amounts to over \$30 million. This support has ensured the re-establishment of district and national courts, public solicitors and a nascent correctional and juvenile rehabilitation capacity. Substantial efforts have ensured that, while still weak and needing significant capacity-building, the Bougainville Police Service (BPS) is functioning and is building an internal training capacity. With Australia's help it is also expanding its physical presence beyond regional centres into districts and improving engagement with Community Auxiliary Police (CAP).

### **Lessons learned from working in Bougainville to date**

The World Development Report (2011) includes the finding that the fastest developing 'fragile' states took 20 years to reach a threshold level of bureaucratic quality 'that is consistent with good

enough governance’ and 41 years to reach the threshold levels of ‘rule of law’. Keeping this in mind, there are lessons relevant to new law and justice investments in Bougainville.

**ABG-lead:** Where Australia has had success in the law and justice sector in Bougainville it has been in support of the achievement of Bougainville-led policies. In the new investment, opportunities to leverage Australian and other resources while mobilising ABG resources will be actively pursued. Co-funding for infrastructure investments will become an increasing feature of the program.

**Working and being seen to be working:** Building law and justice institutions needs to be visible and progressively experienced by communities. Institutional strengthening needs to be focused on ‘user-needs’ addressing key safety and security concerns. Australia needs to support the Departments responsible for administering justice services to effectively communicate with relevant Ministers and with communities.

**Promoting effective ABG and National agency dialogue:** Funding for almost all law and justice personnel in Bougainville is from national agencies. Australia can usefully facilitate the visibility of Bougainville development and planning, by supporting coordination between ABG and national agencies. The Governance Improvement Facility (GIF) in Bougainville plays a key role in brokering national agency dialogue and will be an important partner for this program to ensure clear messaging.

**Policy implementation and change takes time:** It is necessary to combine short and long term engagement and to understand that, in addition to technical support, political advocacy is necessary. For example, in 2010 a BPS Restructure Plan was developed involving significant community and administrative consultation in Bougainville and with RPNGC. Though supported in principle by ABG and police officials, it received no funding and implementation was limited. However, in 2013, following the Joint Review of the Autonomy Arrangements which highlighted the need to prioritise the development of an autonomous police capacity, the 2010 plan provided a platform for the Bougainville Police Service Development Action Plan. This is now guiding support to the BPS from ABG, RPNGC, Australia and New Zealand.

## **Program Implementation Arrangements**

The investment in Bougainville through the Justice Services and Stability for Development program is adapted to the specific needs and context in Bougainville. The need to facilitate engagement with the national law and justice agencies means it is reasonable and efficient to manage law and justice sector support in Bougainville under the same contracting arrangements as the broader sector program. The opportunities to share lessons and resources and to deliver common training in a cost-effective manner will be actively sought across the program. The Governance arrangements for the program explicitly involve the Bougainville Law and Justice Working Group. (See Annex 1 for more detail).

Australian support to Bougainville includes efforts through the Governance and Gender programs. Opportunities to leverage support, relationships and knowledge will be actively pursued. For example, this program will have a particular focus on reducing family and sexual violence and increasing access to justice for survivors. It will need to work closely with FSV support provided to the Bougainville Women’s Federation and institutions such as the Nazareth Centre through the

Gender program. It will be critical to support the Department of Community Development to coordinate and monitor responses over time. Similarly, the Governance program will continue to provide support to the ABG on transfer of powers, legislative drafting and constitutional advice. This program will provide additional support as necessary for the delivery of credible, affordable and service-focused law and justice services.

## **What success looks like**

The ABG has ambitious plans and is experiencing major political and administrative transformation. If the Joint Resolutions are implemented, the transfer of law and justice powers and functions from the national government to the ABG is expected to be well-advanced by 2019. Support for the law and justice sector is expected to continue beyond the term of this program. Within the program's four year term it is anticipated that Australia will contribute to the following:

1. Local level dispute resolution mechanisms are linked to, and reinforced by, policing and justice services and community governance accountabilities
2. Improved law and justice sector response to, and protection from, family and sexual violence, in more locations
3. Law and justice functions re-established and available in Northern, Central and Southern Bougainville, including courts, legal aid, corrections and rehabilitative services
4. Regular policing has expanded reach into more districts, including through effective use of Community Auxiliary Police, and is perceived by the community as capable of dealing with crime and providing security in the lead up to and following the referendum.

## **Bougainville Investment Description**

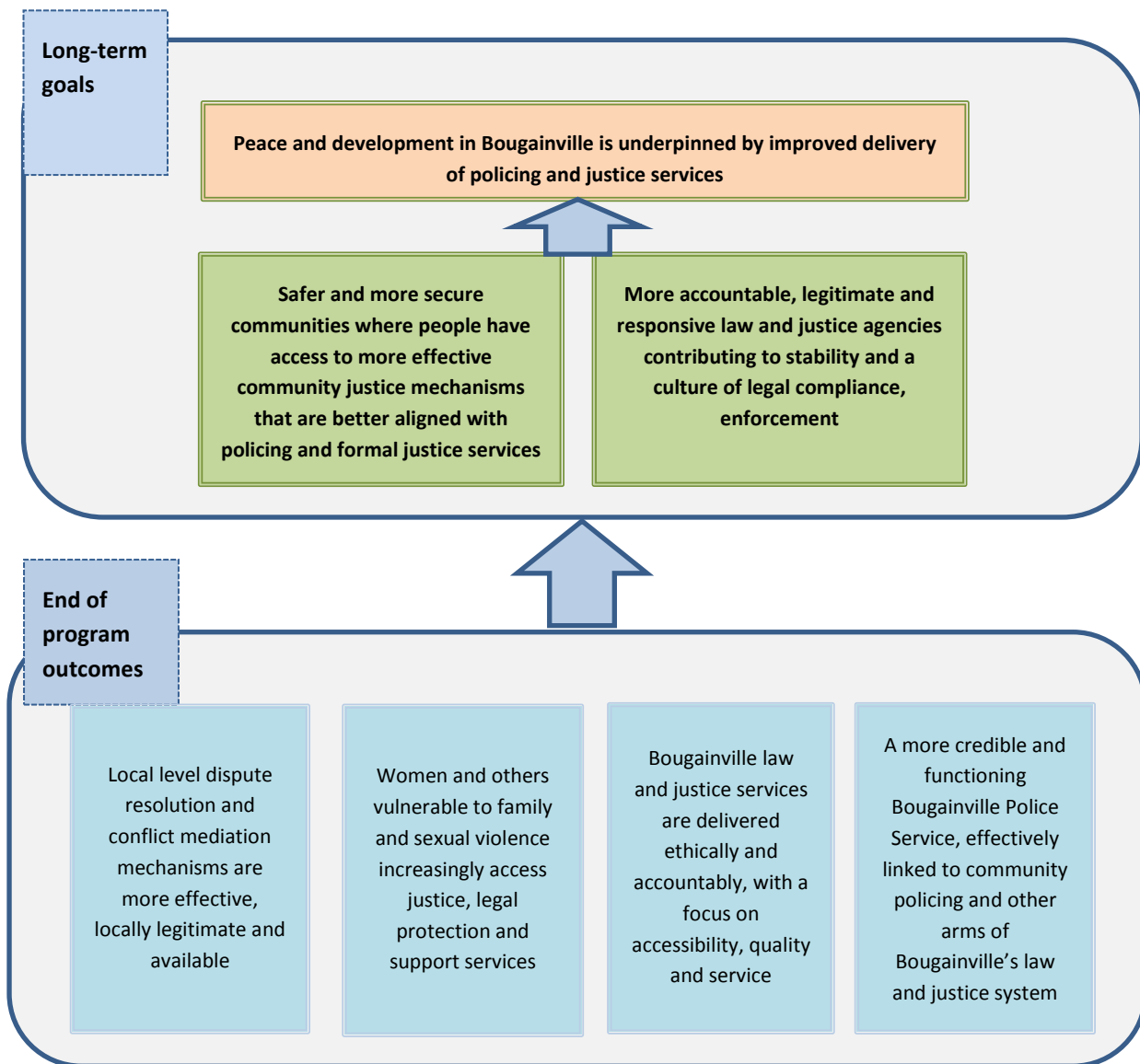
### ***Long-term goals***

This program aims to support the ARB Government in its long-term goal of **Peace and development in Bougainville is underpinned by improved delivery of policing and justice services** (also shown in Figure 7). This is consistent with the Joint Resolutions (2013) endorsed by the Joint Supervisory Body in 2013 on the priority need to strengthen law and order to give effect to the Bougainville Peace Agreement.

The theory of change at the outcome level is:

*More effective and accessible policing and justice services, including local level dispute resolution, will help to foster trust and confidence in the ABG and help re-build social capital which is a necessary pre-condition for peace and development*

Figure 7: Bougainville Overall



### **Outcome B1: Community peace and stability**

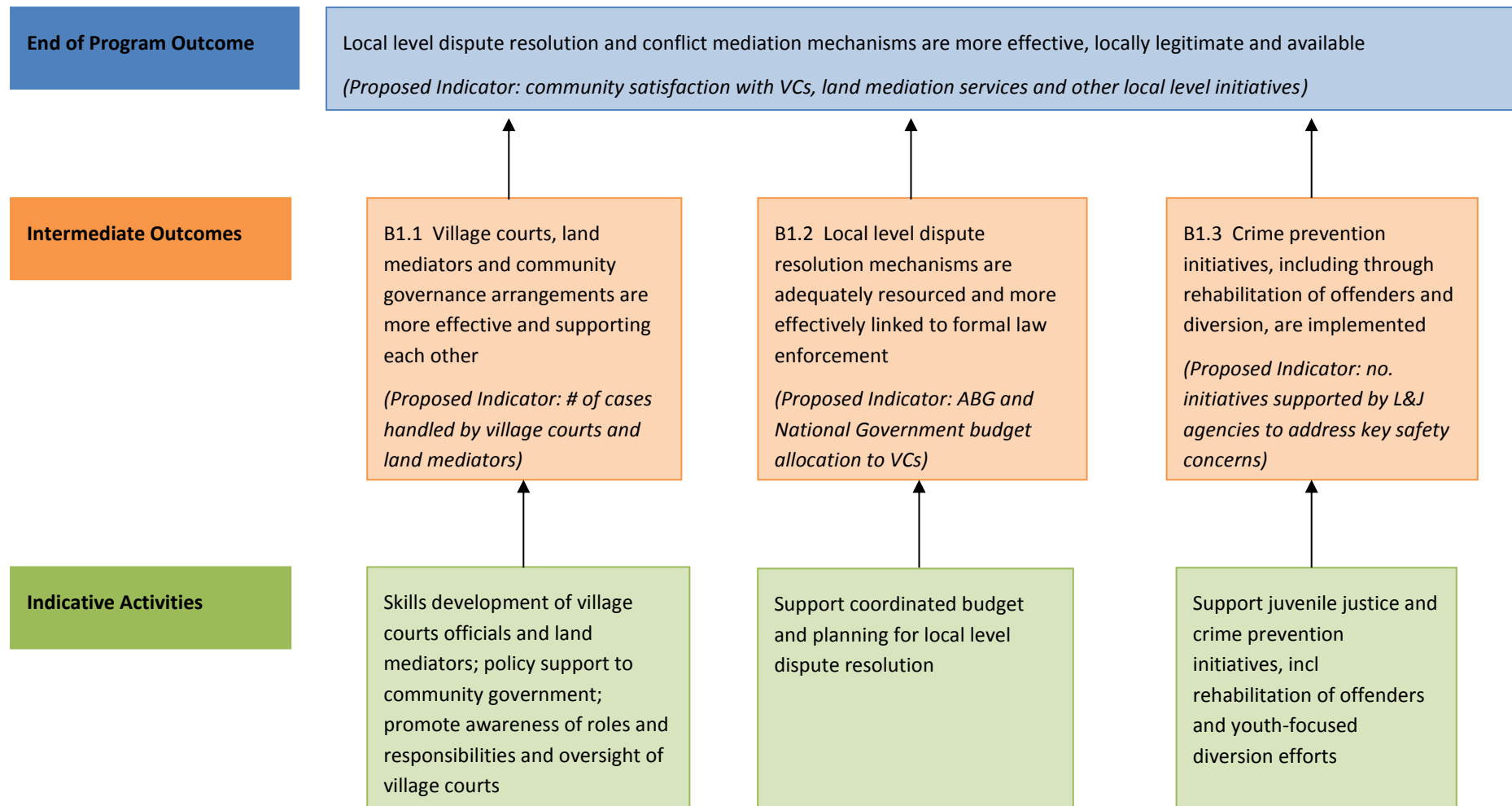
The Outcome is visualised in Figure 8. At the end of the program it is expected that:

**Local level dispute resolution and conflict mediation mechanisms are more effective, locally legitimate and available**

The achievement of this outcome area is premised on attainment of complementary intermediate outcome that will contribute to community peace and stability. The theory of change for this outcome is:

*If local level disputes can be resolved more effectively, offenders reintegrated and/or rehabilitated (including referred to the formal justice sector when appropriate) and communities supported to deal with specific safety concerns, linked to formal law enforcement, the economic and social impacts of conflict will be mitigated*

**Figure 8: Outcome B1 - Community peace and stability**



### ***Outcome B1: Theory of Change Explanation and Potential Activities***

The Bougainville Constitution places a strong emphasis on the role of community. Under this program Australia will support the implementation of new local community governance policies, as those policies relate to dispute resolution mechanisms, law enforcement and community safety.

The intermediate outcomes and associated indicative activities are intended to provide a focus for Australian-funding and resources.

**Village courts, land mediators and community governance arrangements are more effective and supporting each other.** Following reviews of the effectiveness of village courts and in anticipation of the implementation of increasing allowances, the ABG in 2014 sought to rationalise the number of Village Courts, to better align them with community governance arrangements. The implementation of new pay allowances for village court officials in Bougainville has also highlighted the need to clarify the roles of village court peace officers and those of CAPs (who will be paid differently). ABG is currently considering re-structuring community governance arrangements to increase their capacity and to build local decision-making and accountability. It is expected that the responsibilities and accountabilities of village courts, land mediators and CAPs will also be considered as part of this re-structuring. This program will support the Department of Police and Corrections and the Department of Justice and the Principal Legal Adviser to help implement approved arrangements from 2016.

**Local level dispute resolution mechanisms are adequately resourced and more effectively linked to formal law enforcement.** Australia supported ABG efforts in 2014 to implement the village courts rationalisation and new pay allowances. From 2016, Australia will continue to support efforts to strengthen the competencies, knowledge and skills of village courts officials. It will also expand links with the police (CAP and BPS), community governance arrangements and District Courts (which provide oversight). Promoting positive reinforcement between these institutions will increase the enforcement of decisions. Improving social order mechanisms at a local level will boost stability while reducing crime and the impacts of conflict and violence. Activities to develop and embed appropriate coordinated budget and planning mechanisms for local level dispute resolution will be supported.

Under the PALJP-Transition Program, law and justice agencies in Bougainville will be supported to positively engage with communities in the districts. If successful, it could be continued with the aim of promoting awareness of laws and legal rights and the roles and responsibilities of different law and justice agencies. Encouraging women's leadership within communities to collaborate to address social order challenges will also be a priority. Alcohol and marijuana consumption by men are regularly cited causes of disharmony and violence. Support from law and justice agencies for community-led initiatives to address key safety concerns may be pursued.

**Crime prevention initiatives, including through rehabilitation of offenders and diversion, are implemented.** In Bougainville's community-orientated and post-conflict context, offender rehabilitation and specific support to juveniles in trouble with the law has been prioritised by sector representatives. This avoids adding to trauma and improves respect for human rights. Australian assistance and the (then) Department of Justice and Attorney General staffing enabled the re-establishment of Community Based Corrections (CBC) capacity in Bougainville in 2007. CBC is responsible for attending court, preparing pre-sentencing and parole reports, monitoring offenders placed on probation and implementing the Juvenile Justice Act. By the end of 2014, CBC officers will



have a permanent presence in both Buka and Arawa, the first Bougainville male juvenile rehabilitation centre is expected to be gazetted and a number of volunteers will have the skills to support juvenile and other offenders. The effective delivery of CBC and juvenile justice rehabilitation will continue to receive Australian support. This will likely take the form of skills training and targeted infrastructure investments including the potential expansion of the Mabiri juvenile rehabilitation centre. Specific attention to rehabilitating sexual and domestic violence offenders needs to be included in this work.

## **Outcome B2:       Addressing family and sexual violence**

The Outcome is visualised in Figure 9. At the end of the program it is expected that:

**Women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services**

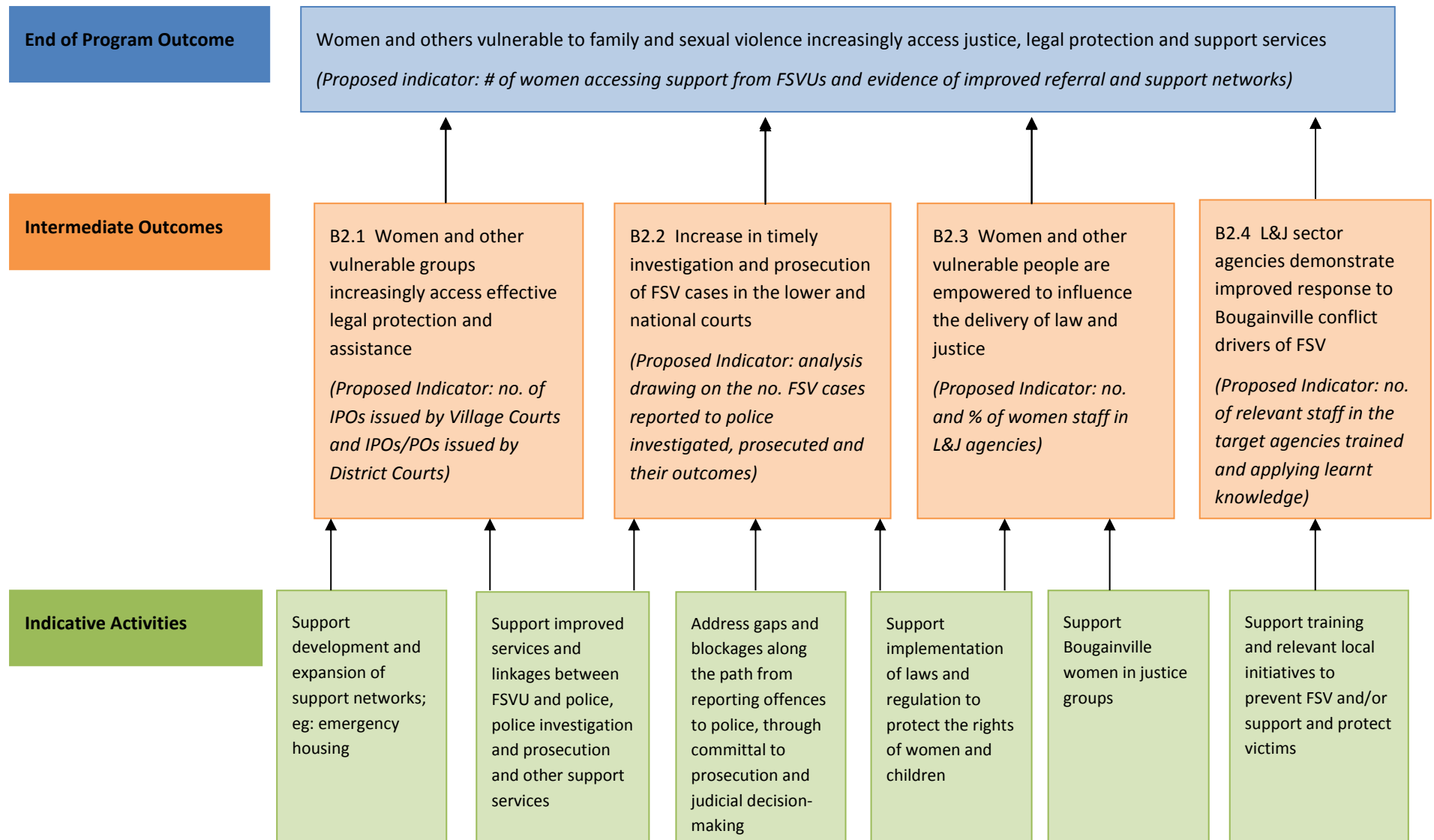
The theory of change is:

*If women and others vulnerable to FSV in Bougainville have the confidence to increasingly access effective legal protection through the formal system (and other informal protections) and are supported through referral pathways to medical and other support services; and if women's participation and collective voice is supported in law and justice agencies and community leadership; then in the long-term the incidence of FSV will reduce.*

A 2013 United Nations study on men and violence in the Asia-Pacific Region found very high incidences of Bougainvillean men (double any of the other five countries included in the research) reporting they had perpetrated physical and sexual violence against their partners. Child abuse was correlated closely with men's perpetration of violence. A large majority of both women and men surveyed reported experiences of childhood emotional abuse or neglect, with about two thirds of men reporting physical abuse as children. Seven percent of men and over 62 per cent of women reported being raped by men. Just under half the men reported serious depressive symptoms, a third reported problems with alcohol and just under a fifth reported recent illicit drug use. These symptoms are commonly reported for women and children survivors as well. Women extensively report that they and their children continue to be targets of violence and that it devastates their lives, restricts rights to economic activity and access to social services.

An active network of committed (mostly women-headed) organisations and individuals in Bougainville are attempting to increase the protection for victims of family, sexual and sorcery-related violence. Their activities include connecting women to police, judicial remedies and the limited support services available. The program will help to develop and maintain these linkages and provide support as appropriate, particularly for organisations providing victim referral services. There is a police Family and Sexual Violence Unit in Buka and additional support is planned through the Gender program.

Figure 9: Outcome B2 – Addressing family and sexual violence



## ***Outcome B2: Theory of Change Explanation and Potential Activities***

### **Women and other vulnerable groups increasingly access effective legal protection and assistance.**

Assistance will be provided to improve the policing initial response to FSV complaints and to linking those seeking help with appropriate support services – health, protection orders, emergency housing, counselling. Australia has built a safe house in Buin and another in Buka is planned in 2015. This intermediate outcome is expected to work on multiple levels, improving awareness of the protection and support available, improving the skills, attitudes and responses of police (regular and CAPS), village courts and Magisterial Services to FSV reports and to improving the access to and compliance with protection orders.

**Increase in timely investigation and prosecution of FSV cases in lower and national courts.** Police and prosecutors will be assisted to ensure that more cases of family and sexual violence are adequately investigated, witnesses are supported and cases are prosecuted, thus assuring women and others vulnerable to FSV that the State is becoming more effective in addressing FSV. Over the long-term activities monitoring shifts in norms relating to the acceptance of such violence will be a measure of success. The program will take opportunities to work with interested parties to continue the process of removing bottlenecks to women receiving justice. Work will be implemented in close coordination with AFP and New Zealand police advisers. It will seek opportunities to draw on the knowledge and case management processes developed through AGD support to the Office of Public Prosecutor.

### **Women and other vulnerable people are empowered to influence the delivery of law and justice.**

More women and other vulnerable people, including those with disabilities or living with HIV/AIDs, will be assisted to participate in the law and justice sector. During the PALJP-Transition Program it is anticipated that support will be provided to the development of an association for women working in the law and justice sector. Active engagement with the Bougainville Women's Federation is also underway. Activities under this intermediate outcome will promote respect for women rights, empowering of women's voices, experience and needs and build coalitions of support among women and men to gender equality and social inclusion. Targeted initiatives will be pursued to increase the numbers of female police and village court magistrates as well mainstreaming key messages and awareness in broader training opportunities.

**Legislation:** The Family Protection and Juvenile Justice Acts and associated legislation are now in place. The program will assist stakeholders to implement the protections that these laws provide. This will include training and capacity building on FSV protections in government agencies. Other laws with significant impacts on women and the family are ripe for review and updating.

**Law and justice sector agencies demonstrate improved response to Bougainville conflict drivers of FSV.** Assisting the law and justice sector to address the locally specific drivers of family and sexual violence (unequal power relations between men and women, exacerbated by conflict, trauma, lost generation etc.) or specific instances of violence, such as sorcery-related violence, will help to raise capacity to deal with and reduce FSV in Bougainville. Activities under this intermediate outcome will be delivered in concert with the *Pacific Women Shaping Pacific Development* program.

### **Outcome B3:        *Effective law and justice services***

The Outcome is visualised in Figure 10. At the end of the program it is expected that:

**Bougainville law and justice services are delivered ethically and accountably with a focus on accessibility, quality and service**

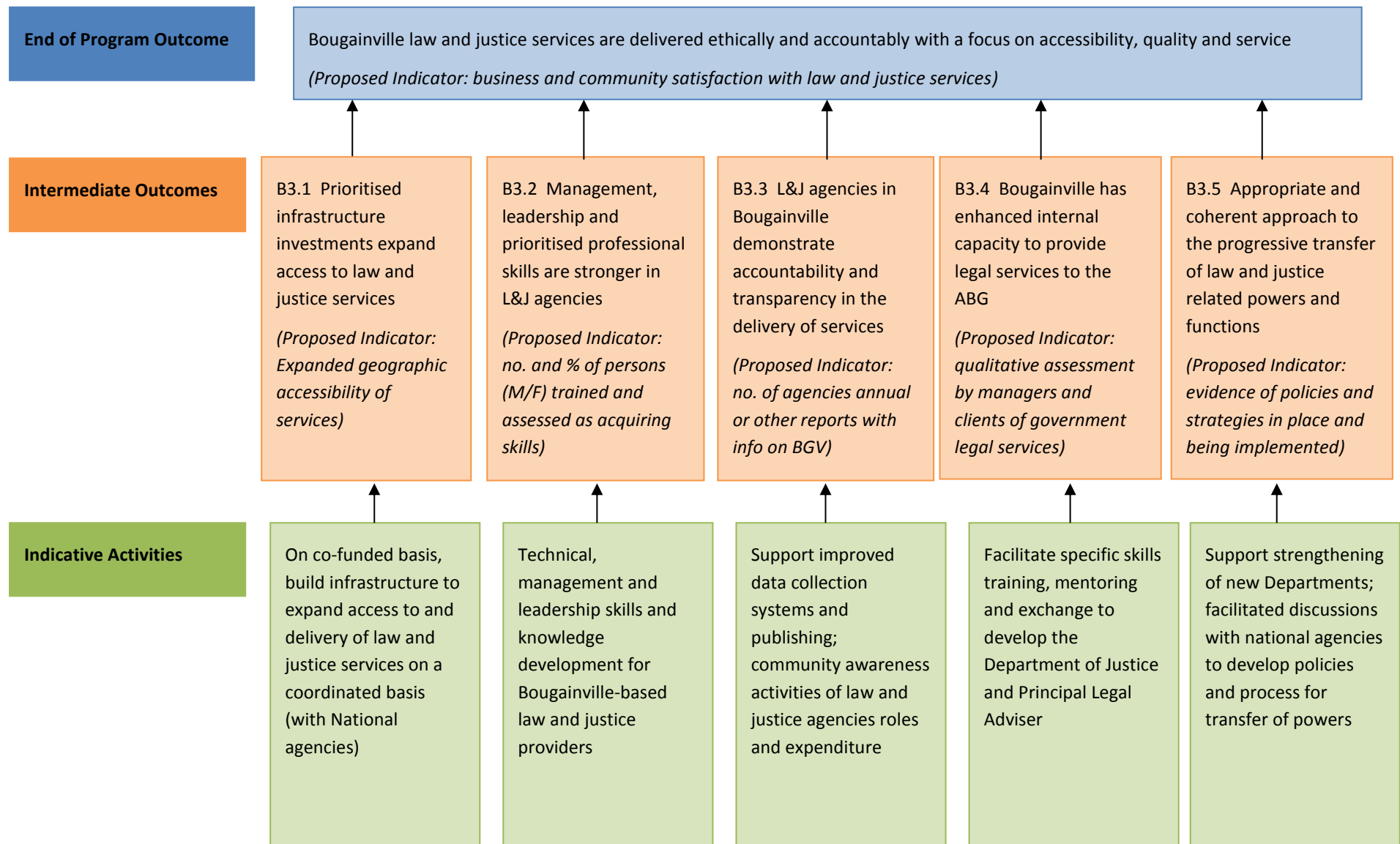
The theory of change is:

*If the ABG is assisted to work with National Agencies to adopt and implement good policies with the aim of improving access to Bougainville-appropriate law and justice services; if skills and infrastructure are built to support these needs, then Bougainville's law and justice services will be delivered in a manner that is accessible, effective, accountable and service-focused.*

The program will support the capacity development of both new ABG Departments of: Justice and the Principal Legal Adviser; and Police and Corrections. The program will respond to priorities expressed by the ABG and national agencies. Agencies currently present are the National Courts and Judicial Services, District Courts and Magisterial Services, the Office of the Public Prosecutor, the Public Solicitor's Office, the Royal PNG Constabulary (BPS) and the Department of Justice and Attorney General (juvenile justice and community-based corrections). The Ombudsman Commission is currently considering how it can best support operations in Bougainville.

While policing and correctional services are early priorities for ABG transfer of powers, support will be given to delivering the full spectrum of law and justice services in line with ABG's own emerging policies and strategies and its ability to absorb support. A critical constraint to improving law and justice services is the chronic shortfall in correctional facilities – resulting in high numbers of prisoners held in police cells. Better policing and prosecutions will exacerbate this shortfall. Another critical constraint is infrastructure shortfalls which hamper expansion of law and justice staff deployment, particularly of police into districts. The program will seek to strengthen the law and justice institutions with enhanced community involvement.

**Figure 10: Outcome B3 – Effective law and justice services**



### ***Outcome B3: Theory of Change Explanation and Potential Activities***

**Prioritised infrastructure investments expand access to law and justice services:** Australia will, on an agreed priority basis, invest in infrastructure with an initial priority on policing and corrections. Australian investments will comply with recommendations of the *PALIP Infrastructure Impact Evaluation* (2013). It is expected that infrastructure investments will be on a co-funded basis with ABG and delivered on a coordinated basis (with National agencies). They will be designed to ensure a focus on expanding access to critical services, improving their quality. These measures will be supported by capacity building and other efforts such as planning and budgeting for maintenance.

**Management, leadership and prioritised professional skills are stronger in law and justice agencies.** Australia has had some success in building the knowledge, skills and competencies of law and justice officials working in Bougainville. With two newly established Departments with new staff, this will continue to be a focus. Delivery of this support will be primarily through Bougainville-specific interventions and will address identified constraints, gaps and problems experienced in Bougainville and common weaknesses. It will be supplemented by the involvement of Bougainville officials in broader program initiatives particularly at the agency level.

**Law and justice agencies in Bougainville demonstrate accountability and transparency in the delivery of services to the women and men of Bougainville.** This intermediate outcome will assist law and justice agencies operating in Bougainville to be accountable and transparent with the people of Bougainville, National agencies and ABG ministers. It is intended to build greater trust and confidence in those agencies. Support in this area may include support to the establishment of an Ombudsman function and specific initiatives to combat fraud and corruption. It is also expected to include support for improved data collection systems and community awareness activities.

**Bougainville has enhanced internal capacity to provide legal services to the ABG:** The ABG is an important 'client' of legal services. The new Department of Justice and the Principal Legal Adviser currently has limited capacity to provide these services. Activities to facilitate specific skills training, mentoring and exchange may be supported. The Governance program will continue to provide the lead in relation to transfer of powers and advisory support to legislative drafting. This program will create opportunities for linkages with the National Department of Justice and Attorney General (DJAG), the AGD and with other Australian Government support.

**Appropriate and coherent approach to the progressive transfer of law and justice related powers and functions.** Australia's Governance program will continue to lead Australia's overarching support to ABG on the transfer of powers and functions. This program will provide complementary assistance, focusing on supporting national agencies and the ABG Department of Justice and the Principal Legal Adviser; and the Departments of Police and Corrections, to implement the measured transfer of law and justice powers and functions appropriate to Bougainville's needs, capacities and readiness. The program will support ABG's policy dialogue with national agencies to advocate for appropriate and timely resources. The program will actively support communication and accountabilities between public servants and parliamentary members.

## **Outcome B4: Police**

The Outcome is visualised in Figure 11. At the end of the program it is expected that:

**There will be a more credible and functioning Bougainville Police Service, effectively linked to community policing and other arms of Bougainville's law and justice system**

The theory of change is:

*If the BPS can be supported to address key constraints to its growth and to improve access to policing for the community and responsiveness to key offences it will become a credible and operational police force able to link to other law and justice agencies in the region and maintain security.*

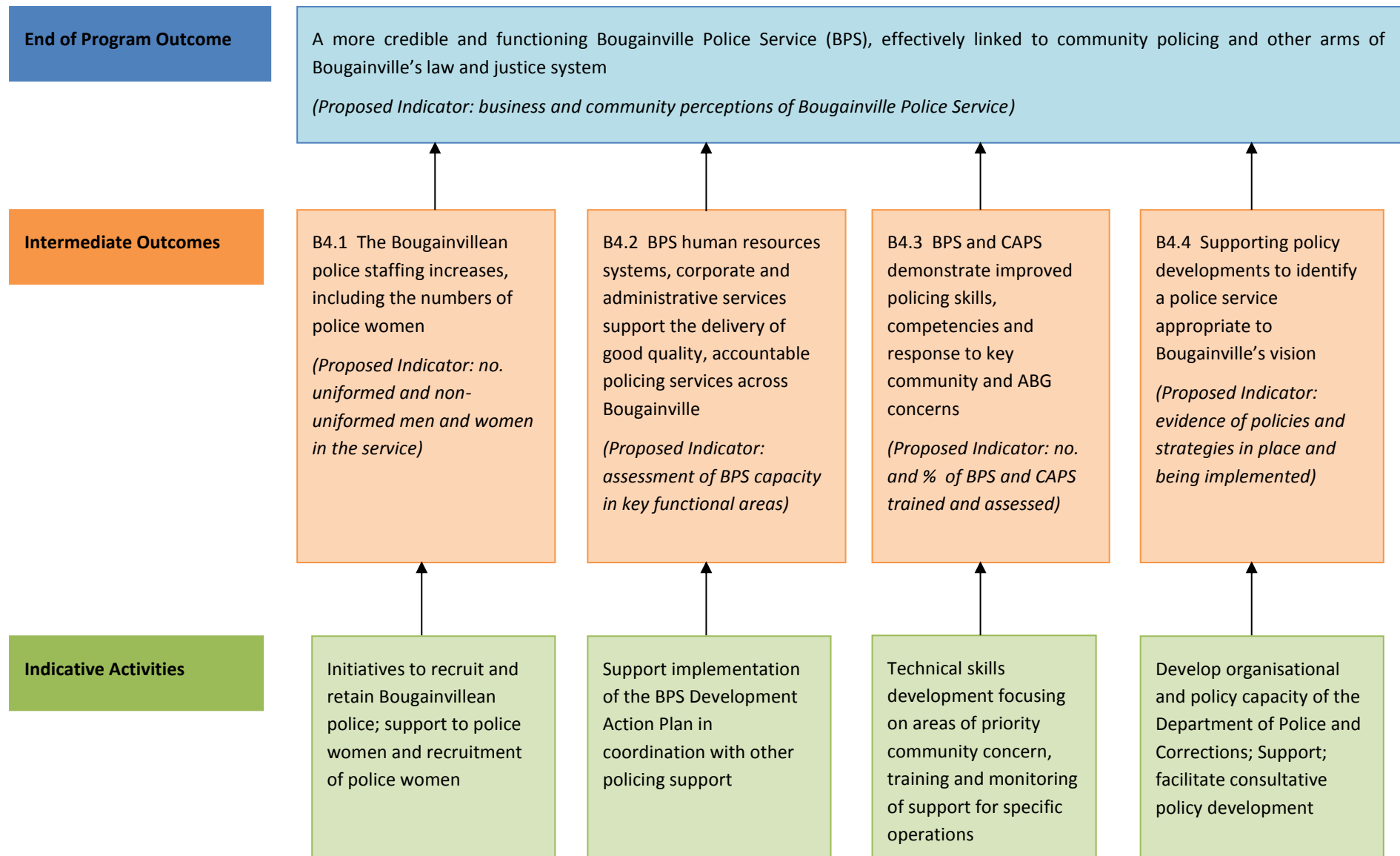
Of particular urgency, is the building of police capacity including staffing to pre-crisis levels and the transfer of powers and functions that remain with the RPNGC to the Bougainville Police Service (BPS). A BPS Development Action Plan 2014 - 2015 was developed and has been endorsed by RPNGC and ABG. It is guiding immediate prioritisation of needs for the BPS. The seven priority areas are expected to continue to guide support to the BPS into 2016. They are:

1. Develop leadership, management and supervision within the BPS
2. Develop capacity of HR/recruitment / deployment and police skills training
3. Strengthen BPS corporate services and administrative support
4. Develop community policing and service delivery capacity within the BPS
5. Build ethics and professional standards capacity within the BPS
6. Seek drawdown of police powers for BPS
7. Build BPS infrastructure / IT communications and transport

The BPS is moving towards becoming a fully-fledged autonomous service. It urgently needs more support to gain credibility with local stakeholders and human resource and logistics capacity, to enable it to provide a secure environment for a credible referendum to be conducted. The program includes a specific policing outcome while recognising that policing support will be necessary to achieve each of the other outcomes. This program will continue to work alongside dedicated support from the New Zealand (NZ) Police and will be closely coordinated with the dedicated support provided by the AFP.

This program will provide support that complements the on-the-job mentoring and technical policing support provided by NZPOL and AFP. It will focus on building the numbers of Bougainvillean police, including the achievement of BPS's (ambitious but admirable) goal of increasing the number of female police officers to 30 per cent. It will also assist in addressing critical infrastructure and other constraints to expanding effective policing into the districts and is anticipated to provide continued support for training. The achievement of this outcome will be supported by infrastructure investments already covered.

**Figure 11: Outcome B4 - Police**





#### ***Outcome B4: Theory of Change Explanation and Potential Activities***

**The Bougainvillean police staffing increases, including the numbers of police women.** Prior to the Crisis, the Bougainville police numbered approximately 300. At the end of 2013, there were fewer than 150 regular police for a population estimated at 250,000 and their capacity and capability was generally assessed as weak. The number of regular police needs to be significantly increased to deliver credible policing and security services. Program support will focus on increasing the numbers of Bougainvilleans and, in particular, women in the police service and supporting them to respond to key community concerns such as family and sexual violence and to more closely reflect the community and therefore BPS' legitimacy with local stakeholders. Subject to an evaluation of the effectiveness and continuing need, additional pre-recruit education program (PREP) courses may be funded to develop Bougainvilleans, particularly Bougainvillean women, eligible to become police recruits.

**BPS human resources systems, corporate and administrative services support the delivery of good quality, accountable policing services across Bougainville.** Addressing significant corporate challenges - including personnel and performance management, logistics, communications, budget planning and financial management - will support the ability of the BPS to deploy and delivery policing services effectively across Bougainville in line with the BPS Development Action Plan.

**BPS and CAPS demonstrate improved policing skills, competencies and response to key community and ABG concerns:** Investing in management and improvements in specialist policing skill levels of the BPS and CAPs improves their ability to address key offences that continue to undermine community safety and the authority of the BPS (including substance abuse, fraud and family and sexual violence). Activities may include technical skills development, training and monitoring of support for specific operations. Any support provided by the program will complement that provided by NZ Police and any AFP policing advisory support.

**Supporting policy developments to identify a police service appropriate to Bougainville's vision.** It is expected that between 2016 and 2019, the Department of Police and Corrections, the ABG and people of Bougainville will want to further define their vision for policing services in Bougainville. This program will provide support if requested.

Australia's support to the BPS under this program will be delivered in close coordination with New Zealand's Bougainville Community Policing Programme and may be delivered in part through advisory assistance by the Australian Federal Police.

## D. Implementation Arrangements

### Program Delivery

This program is a bilateral investment and will be implemented in accordance with the Australian Government's development policy *Australian Aid: promoting prosperity, reducing poverty, enhancing stability* and the new performance framework, *Making Performance Count: enhancing the accountability and effectiveness of Australian aid (2014)*. The Australian and PNG Governments are jointly committed to maximising the results and value for money of aid investments.

The program delivery approach has been designed to improve the efficiency and results-focus of Australian support, following analysis of the PNG-Australia Law and Justice Partnership (2009-2014), the new development policy requirements and PNG's budgetary and policy contexts.

A budget support approach to program delivery was considered but ruled out. PALJP utilised a 'pooled sectoral development budget' process with PNG agencies as a sector making the key decisions about what was funded. While ensuring PNG ownership and flexibility, the use of PNG planning, budgeting and implementation systems did not result in improved sectoral planning. The approach was resource-intensive, led to ineffective proliferation of activities, limited the ability to respond to Australian Government priorities including improving monitoring and evaluation efforts and restricted the ability to invest strategically. However, in the 2015 budget process, the PNG Government introduced sector-based budgeting with the law and justice sector as a pilot sector. While a pooled sectoral budget approach will not be re-adopted by the program, the planning and progress reporting processes will continue to support strengthened, strategic coordination of sector budgeting processes as they continue to evolve and to maximise the impact of respective Government investments.

Program delivery will build on PALJP successes, particularly the strong PNG-ownership, taking a more deliberately strategic and results-based focus on specific outcomes. The program will be delivered through an Implementing Service Provider (ISP), contracted to the Australian Government. The ISP will provide strategic, technical, operational and advocacy support to both the Australian Government and PNG partners. The ISP will be responsible for supporting PNG agencies, sub-national and non-Governmental stakeholders to develop, implement, monitor and report on strategies and activities contributing to the achievement of program outcomes. The ISP will model ethical, transparent behaviour at all times. The ISP will respect the mandated role of the NCM and the intention to build PNG capacities to deliver law and justice services to the men and women of PNG. The ISP will be responsible to the Australian Government for the financial management and monitoring of all Australian financial contributions to improve the efficacy of Australia's investments.

The types of aid will be chosen to maximise the impact of investments and on the basis of what other resources (e.g. skills, relationships, funding and technical expertise) already exist. It is anticipated that this program will involve a mix of different modalities and include:

- targeted long and short-term **technical advisory** support– focused on specific gaps or problems, with clear deliverables and a default preference for building the capacity of PNG providers;
- targeted **training** with a preference for accredited courses, sustainable delivery modes and ensuring that the content of the training is targeted to specific outcomes and application of

new skills will be supported by management and preferably with on-the-job mentoring and/or follow up monitoring on completion;

- building or drawing on **institutional (including twinning) relationships with Australian agencies** and placement programs;
- funding for **goods and services including infrastructure investments**, which may include management of the procurement and oversight of the delivery of construction;
- **co-funding** of activities or advisers with other partners -PNG, ABG or private sector;
- ongoing and/or independent **research and evaluative** activities.

A small **flexible funding mechanism** may be considered (see below).

## Resources

The budget envelope for this program is anticipated as \$90 million over the four years 2016-2019, to be managed by the Implementing Service Provider. (See Annex 8 for more detail).

| Cost Category   | Nominal proportion |
|---|--------------------|
| Program Activity Costs - Goods and services required to deliver the program | 45 %               |
| Personnel Fees and Support Costs  | 40 %               |
| Management Fee and Operational Costs  | 15 %               |
| <b>Total program budget</b>   | <b>100 %</b>       |

These figures are broadly consistent with the experience over the life of the last 10 years of support to the law and justice sector, taking into account the intention to encourage innovative ways of working and the fact that the program's focus on community safety outcomes and improved justice services in six provinces plus Bougainville incurs travel and security costs.

Across the program (inclusive of program activity costs and personnel fees and support costs), the following broad resource allocations have been set.

**Table 1: Broad allocation parameters**

| Outcomes   | Notional proportional allocation |
|--|----------------------------------|
| Community safety and security  | 35%                              |
| Addressing family and sexual violence  | 15%                              |
| Effective law and justice services (incl. of police outcome in Bougainville) | 45%                              |
| Anti-corruption outcome  | 5%                               |
| <b>Bougainville Component across all four outcomes</b>                       | <b>20%</b>                       |

To ensure that sufficient resources are invested in monitoring, research and evaluation, up to 10 per cent is nominally allocated for monitoring, evaluation and research activities. In response to the Government of PNG's strong indication of their priority for the Australian aid program to invest in infrastructure, the program will nominally allocate 30 per cent of its budget to infrastructure investments. It may be further possible for the program to leverage additional funds from the newly established Innovation Fund.

The broad allocations above are intended to provide an indication of the relative focus for each outcome and to provide the necessary resources to support multi-agency and multi-stakeholder approaches. Resource allocations will be assessed on an annual basis against the nominal allocations in Table 1. There should be strong links between performance and funding in accordance with Australian development policy and an explicit explanation will be required for shifts of greater than five percent in the Annual Plan and Annual Report. Promoting gender equality and efforts to incorporate anti-corruption initiatives will be incorporated across the entire program.

The Anti-Corruption outcome nominal allocation of five per cent recognises that Australian support to achieving this outcome is predominantly focused on niche areas seeking to improve accountabilities and resistance to corruption. Support to detection, investigation and prosecution is largely provided by other Australian Government agencies. In the event that PNG establishes an independent anti-corruption body and Australia is asked and agrees to provide support for its establishment and functioning through this program, the nominal allocations above may need to be revisited.

This program is one of several Australian investments to support PNG's law and justice sector. The Australian High Commission law and justice team will include a Counsellor responsible for strategic coordination and reporting on Australia's investment and overall program and policy coordination. A First Secretary and senior locally-engaged Program Manager will be responsible for the day-to-day strategic and operational level program and contract management and will be supported by a Second Secretary and small number of other locally engaged staff to help promote coordination between the other law and justice advisers and the Governance and Gender programs in particular. Over the program duration the Australian High Commission staffing profile may change.

The ISP will be required to work with other Australian agencies, other Australian-funded programs and PNG partners to recommend the most effective delivery modalities to achieve intermediate outcomes and the outcomes within the above proportionate allocation and the following implementation parameters:

## **Management and Governance Arrangements and Structure**

### ***Bilateral Sectoral Governance Arrangements***

All bilateral Australian investments in the law and justice sector will contribute to shared outcomes agreed with GOPNG. These will be outlined, with associated performance benchmarks, in an updated law and justice partnership schedule to be agreed with the Government of PNG in 2015. Review of performance at the sector level will be subject to annual dialogue involving Ministers and senior officials. The Australian High Commission in Port Moresby will be the lead Australian agency coordinating reporting for these annual dialogues, ensuring that a coherent understanding of sectoral support is communicated.

### ***PNG Sectoral Governance Arrangements***

Independent of Australia's support to the sector, the Government of PNG has a number of structures and processes in place to support and monitor improved service delivery within the law and justice sector. Cross-government oversight of the sector is undertaken at the political level by the Ministerial Law and Justice Committee and at the bureaucratic level by the **National**

**Coordinating Mechanism (NCM).** Established by the National Executive Council in 2003 the NCM includes the heads of associated agencies critical to the delivery of law and justice services and is PNG's key decision-making body for the sector. It will remain the key coordinating partner for this program. The Australian High Commission is an invited observer to NCM meetings. See Annex 1 for more detail.

In the Autonomous Region of Bougainville, a **Bougainville Law and Justice Working Group (BLJWG)**, is chaired by the Secretary for the Department of Justice and the Principal Legal Adviser. It includes senior operational officials from each law and justice agency present in Bougainville as well as key non-government agencies, such as the Nazareth Centre for Rehabilitation which delivers associated services. It has been meeting regularly and promotes coherent identification of priorities and planning for the sector. There are plans to formalise the role of the BLJWG in 2015 with the aim of improving its role in communicating overall performance and results. Australian law and justice advisers are anticipated to continue to support the BLJWG and to participate as observers in meetings.

At the political level, the **Joint Supervisory Body** is a Ministerial level National and Bougainville Government coordination body which is chaired by the Prime Minister of PNG and the President of Autonomous Region of Bougainville or their delegates. The Joint Supervisory Body meets on a six monthly basis to monitor the implementation of the Bougainville Peace Agreement. It is anticipated that the program will facilitate awareness of initiatives relevant to these discussions.

PNG's **sub-national governance arrangements** are in the process of being re-defined. The implications of these processes are still being identified and understood. Australia's support at the provincial level is expected to continue to promote improved horizontal coordination and planning. This will improve the delivery of law and justice functions provincially and develop local coalitions to address specific local challenges. It will also promote vertical dialogue between provincial administrations and national law and justice agencies (individually and as a sector) and more broadly with the PNG Government.

The **Consultative Implementation and Monitoring Council (CIMC)** is an independent organisation bringing together civil society, private sector and government partners to develop policy and directly influence and monitor government decision making. CIMC typically convenes a law and justice committee twice a year.

### ***Program governance arrangements***

In accordance with the relevant bilateral treaty arrangements governing the delivery of development cooperation, a program subsidiary arrangement will be negotiated between the Australian and PNG Governments for the delivery of this program per this investment design.

The National Coordinating Mechanism (NCM) along with the Australian High Commission will have the overall authority for strategic direction setting and decision making in the program. This will be on a consensus basis and designed to ensure a focus on results in each of the outcomes and to promote collaboration between the PNG and Australian Government to maximise the impact of these investments.

The NCM and Australian High Commission will meet three times a year for Strategic Program Governance purposes. The Strategic Program Governance meetings are expected to take place to

endorse the Annual Plan (in December); to discuss progress and performance ahead of bilateral Government performance dialogues (in April); and assess progress mid-year to endorse Annual Plan adjustments if necessary and to support the identification of sector priorities for the following year's PNG budget and program annual planning (August).

Reflecting the anticipated progressive transfer of powers and functions, the ABG will also share in the strategic direction setting and decision-making for activities in Bougainville. Any changes to proposed Bougainville program annual plans will require the endorsement of the relevant ABG Secretary. It is anticipated that during the course of the program, the Secretaries of the ABG relevant Departments may formally join the NCM and Australian High Commission program-focused governance meetings.

To support the aims of ensuring broader stakeholder engagement and to promote coherence across the program a Program Coordination Group (PCG) will be established. Australia's Counsellor Law and Justice and the Deputy Secretary DJAG (or DNPM at GOPNG discretion) will co-chair the Program Coordination Group. Its membership will include the nominated Deputies of agencies represented on the NCM, senior representatives from the relevant ABG Justice and Police Departments, senior representatives from each of the participating provinces (involved in the community safety and security outcome), the Deputy Secretary of the Department of Provincial and Local Level Government and senior representatives from the *PNG-Australia Police Partnership* and the *Strongim Gavman Program*. The PCG will:

- Review program annual plans and allocations and make recommendations to the NCM and Australian High Commission for final approval;
- Ensure more beneficiaries have visibility of, and are involved in, the review of progress and relevance of strategies to meet outcomes;
- Promote sector coordination and learning, policies and linkages between elements of the program; and
- Review expenditure and endorse recommendations for reallocation of funds if necessary; to the NCM and Australian High Commission.

The PCG is expected to meet two or three times a year. Additional briefings on progress and results will be provided to the NCM, provincial and national law and justice sector committees and the ABG more regularly as requested.

Representatives from the PNG Governance Facility, the Pacific Women Shaping Pacific Development program, UNICEF and the New Zealand High Commission will be invited to participate as observers to PCG meetings and the co-chairs may invite other observers. These may include participating civil society organisations, interested private sector organisations, PNG research agencies or relevant donor partners.

See Annex 6 for a summary of the program governance arrangements.

The ISP will provide secretariat support to the PCG and, working closely with the Law and Justice Sector Secretariat, to the joint Australian High Commission and NCM thrice yearly strategic program governance meetings. The agenda for PCG and strategic program governance meetings will be agreed ahead of time by the co-chairs.

## Implementation Plan

The implementation of the Justice Services and Stability for Development program will begin in January 2016 with a first Annual Plan approved by the end of 2015. It is intended that the ISP will be selected and mobilised in the second half of 2015. A PALJP-Transition Program for July 2014-December 2015 has been developed in parallel with this design. It shares the same outcomes and very similar intermediate outcomes (called 'key result areas'). The PALJP-Transition Program period provides an opportunity to test and, if necessary, develop new review processes.

The intention is that the ISP for this program will mobilised in the second half of 2015 while the existing service provider continues to deliver the PALJP-Transition Program until 31 December 2015. This period will be a 'transition phase' where the ISP will develop, in a consultative manner the first Annual Plan for the Justice Services and Stability for Development program. Tenderers will be required to propose implementation arrangements during tender (as defined in the request for tender) and in discussions with the Australian High Commission in the transition/handover period.

There may be a requirement to novate some contracts from the PALJP-Transition Program service provider to the new ISP. This requirement will be actively minimised but may be anticipated for the Manus Police Station construction and separate but associated design and supervision contracts. The broad planning, governance and review timeframe for the program is in Table 2.

**Table 2: Program implementation timetable**

|   | 2014   | 2015 |     | 2016 |     | 2017 |     | 2018 |     | 2019 |     |
|---|--------|------|-----|------|-----|------|-----|------|-----|------|-----|
|   | Qtr3/4 | 1/2  | 3/4 | 1/2  | 3/4 | 1/2  | 3/4 | 1/2  | 3/4 | 1/2  | 3/4 |
| PALJP-Transition Program                      | X      | X    | X   |      |     |      |     |      |     |      |     |
| Mobilisation & Handover                       |        |      | X   |      |     |      |     |      |     |      |     |
| Annual planning period                        |        |      | X   |      | X   |      | X   |      | X   |      |     |
| Program-focused strategic governance meetings |        |      |     | X    | XX  | X    | XX  | X    | XX  | X    | XX  |
| Independent Mid-term evaluation (est)         |        |      |     |      |     |      | X   |      |     |      |     |
| Activity Completion report                    |        |      |     |      |     |      |     |      |     | X    |     |
| Final Independent evaluation                  |        |      |     |      |     |      |     |      |     | X    |     |
| Program demobilisation                        |        |      |     |      |     |      |     |      |     |      | X   |

The **Annual Planning Process** will be led by the ISP and conducted in a participatory manner designed to involve PNG coordination mechanisms, agencies and broader stakeholders. It will be undertaken in a manner that promotes PNG-ownership; sectoral responses; an end-user and results-focus; and improved visibility between agencies, provinces and the relevant management levels. Outcome 1 target areas and Bougainville workplans will be developed in close consultation with local law and justice committees and relevant national law and justice agencies and it is expected that national level agency heads will vet proposed activities led by their agencies. Draft Annual Plans

will be presented to and discussed with the PCG ahead of its presentation for endorsement by the joint NCM and Australian High Commission meeting. Keeping in mind the need to maintain the ability to respond to emerging priorities, Annual Plans will allow sensible multi-year commitments—especially for infrastructure—to ensure efficient annual planning and budgeting.

Progress against outcomes will be assessed on a **quarterly basis** for the Australian High Commission and shared with NCM, ABG and PCG members. On a **six monthly basis**, led by the ISP, an analysis of performance (including constraints) will be prepared for review and consideration by the joint NCM and Australian High Commission meeting. Opportunities for new or emerging activities may be identified as part of this process. It is expected that this analysis will also support PNG budget planning prioritisation processes.

An **Annual Report** will need to be prepared by the ISP by mid-February to contribute to DFAT quality reporting timeframes and will be discussed in a joint meeting of the NCM and Australian High Commission ahead of the bilateral review of the aid performance assessments each year (by April). Subject to available funding, The Australian High Commission may, in consultation with relevant PNG partners agree to additional activities to those approved in the Annual Plan via Tasking Notes to the ISP. Subsequently such activities will be reported on by the ISP in regular program reporting.

## Procurement Arrangements

The Australian Government is interested in innovative and cost-effective responses to implementing this design and has appreciated the engagement of the industry as part of the design consultations.

The ISP will be unequivocally responsible for the financial management of all Australian investments. Processes will need to be put in place to enable potential management of co-funding from private sector, PNG and Bougainville Government resources. This will include reporting responsibility and risk management. The ISP will be responsible for ensuring all procurement processes and outcomes represent value for money. As requested by the NCM, where Australia is contributing funding, the ISP may conduct procurement on behalf of PNG agencies. If this is the case, relevant PNG agencies will be involved in the tender evaluations and, where relevant, performance management (especially for advisers). The ISP is expected to be the contracting party for all infrastructure investments – unless explicitly agreed by the Australian High Commission and the relevant PNG partner. Initially PNG Trust Funds and imprest accounts will not be used. The program will seek to learn from and/or use processes developed through other Australian programs especially where it involves new, provincial or community level engagement.

The ISP is expected to be paid on a monthly in-arrears reimbursable basis. The Australian High Commission may consider the cost effectiveness of more regular invoicing to limit the ISP financial exposure to \$1 million in any given month. Annual independent audits of Australian and any co-funded investments will be required.

Non-government organisations are expected to be involved in the delivery of this program via activities and strategies identified through consultative annual planning processes. Increased involvement of private enterprise in transparent and appropriate select services within the sector such as infrastructure and vehicles/resources will also be pursued. There are initially no plans for flexible funding arrangements. However, they may be considered during the program in recognition that working with broader stakeholders may require different ways of doing business. If so, clear benefits must be demonstrated and the proposed governance arrangements negotiated with PNG



partners and approved by the Australian High Commission. The program must also encourage and contribute to a high level of cooperation and coherence of approach with other relevant internationally funded support for civil society in PNG.

In relation to research supported through this investment, the Australian High Commission is interested in approaches that encourage strong partnerships with quality PNG research organisations and that link them into wider international research networks.

The ISP will provide strategic, operational and technical advice to the Australian High Commission and PNG partners to manage Australia's investments to achieve results. Services to be provided include: financial and risk management; administrative support; innovative recruitment; deployment and management of appropriate technical advisory support; and monitoring, evaluation and reporting on program performance. Under the direction of the Australian High Commission, the ISP will be required to liaise and work closely with other services providers working in the same locations or on related issues.

## **Monitoring and Evaluation (M&E)**

The following provides an overview of the monitoring, research and evaluation requirements. Further details on monitoring and evaluation are provided for consideration and discussion purposes in Annex 9, which includes indicative M&E activities of agencies and organisations in the sector; and a draft M&E framework. Annex 9 is indicative for design purposes.

A comprehensive M&E framework (MEF) will be developed by the ISP as part of the first Annual Plan, building upon these key performance indicators and taking into account the experience gained during the PALJP-Transition Program. The comprehensive MEF will be developed in close consultation with key stakeholders, including the Australian High Commission and the PNG partners to promote ownership and joint use of information generated and improve long-term sustainability of program efforts.

The indicators provided in this design and Annex 9 seek where possible to utilise existing sources of information and support the sector's own Performance Monitoring Framework (PMF). As a general principle, this program will use indicators in common with other Australian investments in the sector and with the PALJP-Transition Program. In some cases additional indicators and more reliable means of information collection will be required. These will include indicators and M&E methods beyond those routinely collected by law and justice agencies and provincial administrations. A number of specific studies are outlined in Annex 9 and possible evaluation and research activities for each outcome area.

The MEF will address not only indicators of expected outcomes and achievement in each key performance area but will also:

- address critical questions generally associated with assumptions implicit within the theory of change and generate evidence that the program logic holds true;
- collect contextual information on key themes (e.g. FSV and community safety initiatives) to further knowledge of key factors and influences beyond this program that may influence outcomes and understand any unintended consequences of program support; and
- monitor program risks (as identified below).

The MEF will assess performance at a number of levels:

- the law and justice sector overall (including against the Sector Strategy);
- against program outcomes;
- law and justice agency activities (both at national and sub-national level) contributing to the program;
- activities of provincial and district administrations, or other implementing partners; and
- the performance of the ISP.

It will be important to fund ongoing research and evaluation activities in order to understand emerging issues and learn from new program interventions and pilot activities. Table 3 in Annex 9 lists key assumptions, critical questions and proposed research and evaluation activities associated with program outcomes. Additional areas for research and evaluation may arise during implementation for which other studies may be designed and contracted – either by ISP or independently by the Australian or PNG Governments.

## **Sustainability**

Australian assistance to date has supported improvements in the core institutional functions of various agencies as well as strengthening specific technical areas. Australia's assistance has unquestionably expanded access to particular law and justice services and in Bougainville has been critical in restoring basic law and justice services. A number of Australian-funded initiatives, once proved, have been subsequently funded through PNG agencies' recurrent budgets. But the needs of the sector, particularly to lift perceptions of its ability to handle crime and to improve service delivery, are vast and complex. Support beyond the term of this investment is expected.

In 2013, the cumulative value of Australia's support to the sector was estimated to be approximately equivalent to 13 per cent of the PNG Government's direct allocation. This program's contribution is expected to be less than 10 per cent (reflecting continuing growth in PNG's own investments in its law and justice agencies). It is therefore important that investments under this program promote sustainability by supporting and reinforcing effective PNG Government initiatives, focusing on specific outcomes and are chosen via planning processes that encourage cross-agency involvement. Improved strategic linkages between initiatives will promote sustainable impacts.

## **Gender Equality**

Gender equality is one of six outcome areas contributing to economic and social development in the Australian Aid Policy. This program will ensure that it is meeting the needs of women and girls. Gender outcomes are both a specific focus of the program through emphasis on the family and sexual violence specific outcome. In addition, activities to promote gender equality will be integrated throughout the program.

Violence is a major inhibitor to achieving gender equality and a consequence of deeply embedded inequalities. The ISP will lead the development, within the first year, of an updated Sector Gender and FSV Strategy to guide strategic engagement and key strategies under the FSV Outcome.

## **Inclusiveness**

The program will be guided by the principles espoused in Australia's *Disability-Inclusive Development Strategy 2015-2020* (2014). This includes ensuring activities promote the dignity, wellbeing and participation of disabled people and an acknowledgement of the interaction between gender and disability. The program should also ensure equal employment opportunities and strengthen

partnerships involving disabled people. This will be reflected in the provision of infrastructure and in programming community safety and family and sexual violence outcomes.

Conflict prevention is a strategic issue in PNG and an underlying theme for the law and justice sector. The program will seek to address peace and conflict by adopting a conflict sensitive approach to selection, design and M&E processes for activities.

Program planning processes will incorporate both a minimalist do-no-harm analyses as well as an active analysis leading to the provision of support to the most marginalised populations where possible. This will include identifying the likely impact of resource transfers, balancing the selection of target areas between areas of established demand/interest and those areas that receive little development assistance, proactively addressing issues of inclusion and exclusion and ensuring parity in terms of gender, ethnicity and other potential biases.

## **Risk Management Plan**

This program is assessed as having an overall risk rating of “high” in relation to its value and PNG’s context. The most significant risks identified are:

**The Operating Environment** –the physical security environment, limited human resources and changing political and administrative governance arrangements will increase the costs of delivering the program particularly sub-nationally and means that expectations for change should be modest.

**Results** –improving the experience of justice, providing a sense of security and building effective institutions requires time and constant effort. Improving community confidence and trust in law and justice agencies is likely to be an incremental process. It is also a volatile measure. If PNG does not increase resources to sector agencies such as the police, or if Australia’s combined support to the sector is not sufficiently coordinated or politically supported, the impacts of broader support to the sector will be more difficult to measure and influence.

**Fraud/fiduciary** –fiduciary risks associated with using PNG public financial management systems are rated as ‘Very High’ and major weaknesses continue in procurement, accounting, reporting and sanctions for non-compliance. The ISP will be contractually and unequivocally responsible for financial management and procurement outcomes. PNG’s financial and procurement systems will not initially be used and would only later be considered on the recommendation of the ISP and after considering other assessments of PNG’s public financial management systems available to the Australian High Commission.

**Partner relations** –this program includes allocating resources to the achievement of specific outcomes; broadening stakeholders involved in planning, delivery and oversight of the program; improving linkages with the Gender and Governance Programs; and reducing the use of PNG financial and procurement systems. Although endorsed by the NCM, these shifts, combined with personnel changes, might result in competing visions for implementation and potentially affect Partner relations. These risks are being managed through policy dialogue, highlighting results in relation to decision-making and planning for Australian High Commission personnel changes.

A Transition Program risk register is updated on a quarterly basis and is informed by individual project risks. It is assessed and updated by project managers and the ISP on a quarterly basis. An internal risk register for Australia’s law and justice sector support is maintained by the Australian High Commission’s Law and Justice team. It is also updated on a quarterly basis. Tenderers will be

asked to identify any additional risks as part of their tender and the risk register will be updated regularly. See Annex 11 for the current Risk Register for the transition program.

## **Safeguards**

### **Child Protection**

DFAT's Child Protection Policy (2009) is specific in its directions and guidelines for the whole of Australia's aid program and applies to all contractors and agencies funded by the Australian Government aid program, who are held accountable for adherence to the policy. The overall policy goal is to protect children from abuse of all kinds in the delivery of Australia's aid program. It contains four guiding principles:

- zero tolerance of child abuse;
- recognition of children's interests;
- sharing responsibility for child protection; and
- use of a risk management approach.

Child protection, like gender, is an overarching issue that requires special analysis based on "Do No Harm" and international child protection principles. The program will lead by example. To promote the mainstreaming of child protection consideration, an Australian-funded UNICEF Justice for children specialist will be a de-facto member of the program advisory team with a focus on outcomes 1 and 2 (the position is initially planned for 2015-2017). The ISP, sub-contractors and funded-partners will take a shared responsibility for child protection wherever they are working directly with communities, families, children and young people. This is likely to apply in the delivery of community safety and security and FSV outcomes but must also be applied throughout the program.

### **Environment**

All Australian Government aid programs and activities must comply with the Environment Protection and Biodiversity Conservation Act 1999 and should be informed by DFAT Environment Guidelines. Environment and climate change are key crosscutting issues in the Pacific region.

The program will support good practice in this area through ensuring that:

- partners have a shared understanding of how environmental and climate change factors impact upon development;
- environmental analysis is undertaken and represents a key consideration within the design and implementation of partner activities especially where infrastructure support is being provided; and
- clear strategies are in place to operate in environmentally sustainable ways by encouraging careful use of resources, reducing waste and providing a healthy working environment.

### **Displacement and resettlement**

Safeguarding the interests of vulnerable people is a key outcome for Australia's aid investments. This recognises that, where displacement and population resettlement occur as a result of development activity, there is significant risk that vulnerable groups may be materially and socially impoverished unless appropriate measures are carefully considered and carried out. Key principles that underpin the approach to displacement and resettlement in Australian Government aid programs include:

avoiding resettlement where feasible; minimising resettlement where population displacement is unavoidable; and ensuring displaced people receive assistance so that they would be at least as well off as they would have been in the absence of the project.

It is most unlikely that this program will itself cause displacement and resettlement. However if such issues become pertinent these principles must be borne in mind.

# **Annex 1: PNG Sector Coordination Mechanisms**

## ***National Coordinating Mechanism (NCM)***

Established in early 2003 with National Executive Council (Cabinet) approval and in accordance with the National Law and Justice Policy, the NCM links the law and justice sector with the Ministerial Law and Justice Committee. It oversees implementation of the National Law and Justice Policy, the Sector Strategic Framework and PNG White Paper on behalf of Government. The NCM is comprised of the law and justice agency heads. As of September 2014 this includes 11 agencies: Chief Justice / Secretary of National Judiciary Staff Services, Chief Magistrate, Chief Ombudsman, Attorney-General/Secretary of the Department of Justice, Police Commissioner, Correctional Services Commissioner the Public Prosecutor, Public Solicitor, the Director of the Legal Training Institute, Secretary of the Constitutional Law Reform Commission and the Head of the National Narcotic Bureau. The Chair of the NCM is the Secretary of the Department of National Planning and Monitoring (DNPM) with the Secretary of DJAG as Co-Chair. The NCM meets regularly and has a mandate to provide strategic guidance across the sector in relation to policy development and implementation issues.

## ***Law and Justice Sector Working Group (LJSWG)***

The Law and Justice Sector Working Group is a committee comprising senior operational and planning officials from the sector agencies, as well as senior representatives from DNPM and the Law and Justice Sector Secretariat (see below). The LJSWG is intended to meet regularly. Attendance and effectiveness in advising the NCM on policy development, sector performance and resource issues to drive the implementation of PNG's reform agenda at the operational level is in decline.

## ***Law and Justice Sector Secretariat (LJSS)***

The Law and Justice Sector Secretariat was established by the NCM in 2005 to provide support to the NCM, LJSWG and individual law and justice agencies. Following a review in 2010 and NCM decisions in 2014, the LJSS is now a semi-autonomous body attached to the Department of Justice and Attorney General. Initially funded by Australia, it has been funded by PNG since May 2012.

## **Other relevant Provincial-orientated coordination mechanisms**

### ***Provincial and Local Level Service Monitoring Agency (PLLSMA)***

The Provincial and Local Level Service Monitoring Agency was established under the Organic Law on Provincial and Local Level Government and has a number of key functions. They include: coordinating and monitoring implementation of national policies at a provincial level; establishing and monitoring minimum service standards in the provinces; assisting with national audit functions; developing, coordinating and monitoring the training and professional needs of national officers assigned to the provinces; increasing the effectiveness and efficiency of sub-national governments; and recommending on decentralisation matters.

### ***Provincial Coordination and Monitoring Committee (PCMC)***

Provincial Coordination and Monitoring Committees are set up under the Organic Law on Provincial and Local Level Government and legally vested with service delivery coordination in the provinces. They work with law and justice national representatives, provincial administrators and civil society to plan, budget and deliver services. PCMCs, where they exist, function largely as information sharing, reporting and policy/problem discussion forums between provincial administrations, national agency

managers situated in the province and other stakeholders. PCMCs have only recently been rolled out and they are not functioning in all parts of PNG. District administrators are members of the PCMC but their involvement varies.

### ***Law and Justice Committee (or Peace and Good Order Committee)***

Known under different names throughout the country, these are administrative committees of representatives of the law and justice sector including national and provincial actors. They aim to provide a coordinated approach to law and justice. PLLSMA considers these committees as the law and justice sector coordination sub-committee of the PCMC. They are set up under the Organic Law on Provincial and Local Level Government.

### ***Bougainville Law and Justice Working Group (BLJWG)***

In the Autonomous Region of Bougainville, a Bougainville Law and Justice Working Group (BLJWG), is chaired by the Secretary for the Department of Justice and the Principal Legal Adviser and the deputy chair is the Secretary for the Department of Police and Corrections. It includes senior operational officials from each national law and justice agency present in Bougainville as well as the Village Courts officers and key non-government agencies, such as the Nazareth Centre for Rehabilitation which delivers associated services. It meets regularly and is helping to promote the coherent identification of sector priorities and planning. There are plans to formalise the role of the BLJWG in 2015 along with the development of a Medium Term Development Plan for the sector. The intention is that the BLJWG will also assist in improving communication overall of performance and results both to national 'home' agencies and to the Bougainville Ministers and Executive Council.

## Annex 2: Analysis of PNG's Law and Justice Sector

### Crime and violence

The World Bank conducted a broad study of the socioeconomic costs of crime and violence in PNG between 2011 and 2013 and published a series of briefing papers in 2014. The study draws on available data including community crime surveys, business environment surveys, the Household Income and Expenditure Survey, other agency statistics and focus group discussions. It concluded that the incidence of crime and violence (including against women and children) in PNG is high by international standards.

The recent Australian Strategic Policy Institute (ASPI) Special Report (2014) "Shared interests, enduring cooperation" summarises the major crime types facing PNG as:

- high rates of petty crimes against the person and property;
- violence against women as a specific and very damaging crime against the person;
- pervasive levels of corruption;
- transnational crime, including money laundering; and
- public order challenges including tribal and other 'large' fights, often over land or resources.

Of 135 businesses surveyed in 2012, 84 per cent report that they pay for security in the form of guards and/or hardware. Comparable figures in the East Asia and Pacific are 52 percent. Businesses reported on average that costs amounted to five per cent of their annual costs but for some businesses this was more than 10 per cent. Two-thirds reported crime as a major constraint on their business and the overall investment climate. High levels of concern were voiced in the building and construction, retail and wholesale and transportation and communications sectors. The level of concern expressed is four times that in the East Asia and Pacific region. Only three per cent of businesses reported that crime and violence did not affect their decisions about expansion and investment.

Examining the impact of crime and violence on the trucking industry along the Highlands Highway, the authors note that costs include: security, community liaison officers and high insurance rates. All of these are passed on to customers and increase costs of living. The paper notes that such high costs constrain competition and the development of new entrants into the trucking business.

The direct costs attributable to crime and violence can be calculated and are high. However, businesses report that it is the longer-term indirect social costs that limit them from operating at their full potential. Fear constrains the mobility of staff and clients alike. It erodes trust and social cohesion and reinforces stigma toward groups perceived to be dangerous, particularly youth. Business owners reported domestic violence intruded into their workplace in many ways. In the 2009/2010 Household Income and Expenditure Survey more than half of the women reported their movements were affected by fear of crime and violence.

Managed conflict – often violent conflict – has a historical role in maintaining social relationships and distributing wealth within PNG. But the range and type of current stressors in PNG, including introduction of large scale resource projects, rural-urban migration and growing use of firearms, are less amenable to traditional forms of conflict management. Violent conflict retards economic development. It is necessary to improve the capacity of local and traditional forms of justice, as well



as formal law and justice institutions, to fairly and expeditiously manage disputes to minimise violence. It is also important to try to support communities to address the stressors of conflict.

The following is a list of PNG-specific internal stressors included in the World Bank *Drivers of Crime and Violence* paper, p.9, which was adapted from the list of stressors to conflict, included in the 2011 World Development Report, p.7.

| Stresses                   | Internal   |
|----------------------------|--|
| <b>Security</b>            | <ul style="list-style-type: none"> <li>• Inaccessibility/remoteness of many rural areas, lack of presence of formal state institutions, including the police</li> <li>• Porous border and extended coastline that facilitates illegal importing/exporting of firearms</li> <li>• Increased availability and use of illegal firearms</li> <li>• Growing private security sector that is largely unregulated by the state</li> <li>• Central role of conflict in the life of clans</li> <li>• Communal land tenure system under stress</li> </ul>  |
| <b>Social and cultural</b> | <ul style="list-style-type: none"> <li>• Gender inequalities in power and constructions of masculinity that emphasize 'aggression'</li> <li>• Rapidly transforming social norms</li> <li>• Large youth population</li> <li>• Distrust and lack of cultural relevancy of modern state institutions</li> <li>• Substance misuse (alcohol, marijuana)</li> </ul>  |
| <b>Economic</b>            | <ul style="list-style-type: none"> <li>• Large-scale rural-urban migration</li> <li>• High rates of poverty and growing inequality, especially in urban areas</li> <li>• Growth of the cash economy and increases in the cost of living, coupled with few income generation opportunities for the majority of the population</li> <li>• High levels of unemployment, especially among young people</li> <li>• Domination of the economy by several large resource-projects, creating enclave economies</li> <li>• Pressures on land (and housing) that are inflating prices</li> <li>• Perception of unequal benefits of resource projects accrued to communities</li> </ul> |
| <b>Justice</b>             | <ul style="list-style-type: none"> <li>• Lack of cultural relevance of, and confidence in, the formal justice institutions</li> <li>• Under-resourcing of the justice sector</li> <li>• Inability of customary forms of conflict-management to handle modern-day violent conflict and crime</li> </ul>   |
| <b>Political</b>           | <ul style="list-style-type: none"> <li>• Strong patronage politics within decentralized and central state structures</li> <li>• Incitement of violence by local politicians</li> <li>• Strong economic incentives and opportunities for elected representatives</li> <li>• Weak accountability mechanisms between citizens and the formal state</li> </ul>   |

## Gender inequality and Family and Sexual Violence (FSV)

Gender discrimination and family and sexual violence are major fault-lines in PNG society. Supporting women to actively participate in the economy by promoting gender equality and empowering women and girls is an Australian aid program priority. In PNG's context it is necessary to explicitly invest in efforts to reduce violence against women and to increase access to support services and to justice for survivors. While this is an issue that cannot be addressed by the law and

justice sector alone, its response is an important element over the long-term in changing norms. It is important to note that improved response to high levels of sexual abuse of children is very much a part of this.

Contemporary Melanesian concepts or assertions of gender relations and family and sexual violence pose a fundamental challenge to the democratic notion of equal participation. This plays out in a host of inequitable outcomes for women such as under representation in politics and political processes, limited freedom of movement and poor health. Indeed while women account for 20 per cent of elected leaders worldwide they account for only three per cent of elected leaders in the sovereign states of the Pacific, including PNG. Moreover they account for only 25 per cent of PNG's 76,000 public servants and are significantly under-represented at senior levels. Likewise women hold few executive positions in the private sector.

Solutions to problems such as FSV need to ensure that the voices of women are heard within the law and justice sector. One tangible outcome of long-term Australian assistance to gender equality through the law and justice sector is the steady increase in the number of female staff in the sector's agencies. For example, in 2013, 55 per cent of lawyers in the Department of Justice and Attorney General were women and there is an increasing number of women in senior roles. The leadership of the Secretary of DJAG and the Executive Director of the Village Courts Secretariat has resulted in the inclusion of a requirement for female village court magistrates in the amended Village Court Act.

The full extent of the FSV problem is difficult to gauge as no nationwide general research has been undertaken since the Constitutional and Law Reform Commission's landmark study in 1982. What is known, through smaller studies and statistics collected through health centres, is that gender-based violence occurs at very high levels. In a high percentage of incidences the perpetrators are known to the victim and there is a very high incidence of sexual violence and interference with children. Attacks are largely under-reported, while violence generally and against women and children in particular, is often culturally sanctioned and tacitly accepted within the community. Violence has a devastating impact on individuals, families and communities and is a brake on the development of the country as a whole.

Institutions, formal and informal, have excluded women's participation, reinforced the unequal status of women and contributed to high levels of violence against women and families. While efforts have improved since Amnesty International concluded in 2006 that PNG is "doing very little to promote and fulfil the realisation of women's rights or protect women from human rights abuses", it remains the case that much more work is required to make the formal justice promise of equality and protection and redress a reality for the majority of women in PNG.

It also needs to be recognised that communities themselves have social constraints to accessing formal justice responses, where family considerations or local stigma might prevent reporting of FSV cases and following them through in the formal justice system. The historical role of compensation to reaffirm community ties plays out in FSV cases and often, in these and other cases, reports to police are withdrawn or used as leverage to obtain financial redress. This exacerbates the difficulties in improving the working of the criminal justice systems. There is clearly a need to take a multi-layered approach, recognising FSV is both a political and personal area where data collection is weak and state responsibility fragmented and non-state providers play an important role.

Family and sexual violence, including sorcery-related violence, present serious justice challenges. This is particularly the case in rural areas where the presence of police and access to court is limited and cultural norms are the only 'rules'. In these cases, village courts are the only accessible formal justice providers. This denies women's access to more direct justice and overlooks their experience of violence. For example, rape and sexual assault are typically treated as offences against a woman's male relatives with compensation paid to them to restore community harmony. Women who lay complaints with the police against their attackers are often pressured to withdraw their complaints once compensation has been paid. Initiatives are required to reduce the incidence of FSV and improve responses to it. This includes research into what is working, or piloting initiatives particularly for women in rural areas. The first competency based training package for village courts, currently being rolled out in target provinces, includes gender awareness and knowledge of magistrates' responsibilities under the law. It will be necessary to evaluate whether the training is changing behaviour.

With Australian support and PNG leadership, more women have been recruited and trained as village court magistrates. In 2013, (before the introduction of new pay allowances) women accounted for approximately 12 per cent of the 8,000-plus magistrates. Over time it is hoped that this should contribute to more equitable judgements for the approximately 40 per cent women complainants. Research is required to assess whether or not female magistrates are shifting cultural norms, bearing in mind these cultural norms are often shared by men and women.

There remain serious challenges to ensure that communities better understand the rights and responsibilities of women and children under the law. This includes knowing when the village court should not be dealing with serious crimes. Village court officials and communities should be assisted to ensure that they are providing fair and legitimate access to justice for victims, that they are adhering to their jurisdictions in referring cases to higher courts, that victims are protected and supported and that prosecutors are pursuing cases effectively and gaining convictions. There is also a need to ensure that referral pathways for survivors are better developed and understood, both within the law and justice sector and with health and community service providers.

Finally, no analysis of gender and FSV issues should ignore discussion of men's issues. PNG needs to better address the problems of its young men. This is a problem for the law and justice sector and one that the sector alone cannot address. PNG has a rapidly expanding and young population. Land pressures and internal migration often deny young men status and legitimacy in traditional settings. Despite exposure to formal education and modernity, many are unable to participate in mainstream society due to limited formal job opportunities. The inability of many young men to find a personal status and a valued role in society is a key driver of crime and violence and feeds into gender and FSV problems. Men need to be involved in shifting cultural norms that perpetuate gender roles and acceptance of FSV. This program will continue to support the development of male advocates and leaders to promote gender equality.

### **Constraints in delivering formal law and justice services**

All formal law and justice agencies have expanded in the past five years. This includes staff numbers and facilities, boosting the capacity of courts, correctional facilities and the provision of legal advice across the country. Despite these efforts, formal law and justice services are still not available across the entire country on a permanent basis and staff numbers are very low. For example, there are only

74 uniformed police per 100,000 people in PNG while there are 277 police per 100,000 people in Vanuatu. Only Zimbabwe has fewer judicial officers per 100,000. National budget allocations for the sector have not kept up with rising population and caseloads. Continued support to improve institutions and processes is necessary to meet the challenges PNG faces. In order to improve the impact of expansion, greater coordination and targeting of resources needs to be promoted to address existing and anticipated justice and security concerns. Support to transparently and effectively mobilise additional resources, including from the private sector and members of parliament, is also needed.

Reviews of the criminal justice process by a sector working committee under the leadership of the Chief Justice in 2013 identified a number of critical constraints, requiring institutional improvement. The drop in the number of cases committed to the national court (and therefore getting to the Office of Public Prosecutor) has been identified as a priority which Australia is providing assistance to address. This includes AFP prosecutor and investigations advisory support, AGD prosecutor adviser support and the Transition Program. As has been recognised in multiple reviews of governance support, technical fixes will be insufficient.

A lack of awareness of legal rights, as well as limited confidence in the state, constrains the use of the criminal justice processes. Promoting improved awareness is therefore necessary. It will be important to match increasing demand for services with supply if the objective is to increase trust and confidence in the law and justice institutions and state.

At the local level, the village court system, introduced in 1974 is the most visible and accessible justice mechanism. It is a 'hybrid' justice mechanism, serving as a customary conflict management system oversighted (in law if not always in reality) by the district courts through appeal and review processes. Accessible to large parts of the population (an estimated 650,000 cases are heard annually), up to 18,000 Village Court officials across PNG are engaged in front-line service delivery. However, Village Court officials have not received regular training or operational support. They have been irregularly and poorly paid as 'volunteers'.

The 2013 NEC decision to substantially increase the allowances paid to Village Court officials is potentially transformational but significant work is required to ensure successful implementation and to strengthen the functioning of the courts. This will include not only work with the village court officials but also with the national Village Courts and Land Mediation Secretariat to improve the timely administration of gazettal and revocation of magistrates and the administration of the allowance payments. Significant change is occurring but major challenges remain.

As noted above, disputes over land and resources are common causes of conflict and a significant obstacle to economic development. Additional large-scale extractive projects and the cancellation of Special Agricultural Business Leases are anticipated to create more acute conflicts. Customary land ownership in PNG is complex and varies across provinces. Land can be owned by individuals, families or clans, with females owning land in matriarchal societies and males in patrilineal societies. The way in which disputes over land and resources are managed is also complex. Responsibilities are fragmented. There are institutional ambiguities surrounding the devolution of functions to the provinces and subsequent reforms to national departments and agencies and funding is inadequate. Legally mandated land mediation services have limped along at provincial level, often replaced by informal and tenuous mechanisms provided by provincial governments and in some resource-rich areas, by services provided by resources companies and parties to disputes.

## **Public sector governance challenges**

Broadly there are three related public sector governance challenges which need to be recognised in the implementation of this program. They are: significant changes to PNG's decentralisation arrangements; public finance management; and corruption in its various forms.

### ***Decentralisation and districts***

Under PNG's decentralisation arrangements, primary responsibility for financing, delivering and managing services rests with provincial governments (and the Autonomous Bougainville Government). The law and justice sector is a notable exception because national law and justice agencies have responsibilities under a "de-concentrated model" across all of PNG (including shared responsibilities with provinces for village courts and land mediation) but they don't have consistent geographical coverage and rely on support of sub-national governments.

'Decentralisation' also encapsulates the informal arrangements of PNG's highly fragmented society, where localised factors dominate the behaviour of local leaders and coalitions, rather than rules and directions from Port Moresby.

For all these reasons, improving local law and justice requires an increased and special focus on sub-national governance. Past support delivered primarily through Port Moresby-based agencies has struggled to make a local impact.

With a large number of diverse stakeholders, law and justice outcomes are especially dependent on sector-wide coordination in each local area. Each provincial capital is a logical focal point for this given it is the headquarters of each Provincial Government and commonly the base for provincial and regional offices of national law and justice agencies. Indeed, Provincial Coordination and Monitoring Committees and Peace and Good Order Committees are intended to be chaired by provincial governments precisely to facilitate such coordination.

However, the ability to coordinate, spend and manage for law and justice outcomes sub-nationally is weak and has been complicated by new District Development Authorities (DDAs) and K10m discretionary funds being given to each district MP under the District Services Improvement Program (DSIP) introduced in 2014. DSIP bypasses provincial administrations in many ways. Many developing countries have constituency funds but in PNG they are very large, totalling K1.5 billion per annum in 2014 out of an annual goods and services budget of just over K11 billion. These funds could have the potential to be a significant contributor to local law and justice – but instead there are incentives for MPs to use the funds to reward their voter base, which potentially encourages the politicisation of spending decisions and may result in skewed priorities and outcomes.

Moreover, MPs may soon be in charge of DDAs, which are new statutory bodies with responsibility for DSIP funds, and managing district public servants. It is not clear how the DDAs will fit with PNG's provincial governments or the new proposed urban commissions. At present, a district is part of a province, however over the last decade districts have become increasingly detached and unresponsive to provincial headquarters. DSIP and local cultural forces see district public servants and communities focus towards district powerbases. There may be opportunities to work with such strong accountability links but whole-of-province coordination can be more difficult. Incentives and support for sub-national law and justice stakeholders to work together have long been weak (as at the national level) and fragmentation of resourcing, operations and management has occurred.

## ***Public finance management***

As national law and justice agencies are responsible for delivering most services at sub-national levels, the operation of the national budget process and the public financial management (PFM) systems of each national agency are critical. The national budget process must not only give each agency a sufficient allocation but each agency must appropriately balance its spending between Port Moresby-based and sub-national-based functions. While it is difficult to assess the sufficiency of these appropriations without costing studies, it is notable PNG spends less than three per cent of its national budget on policing, while a similar amount must be shared by all other law and justice agencies. If these agencies follow documented patterns from other parts of government, this spending is likely to be biased towards Port Moresby-based functions.

Operational allocations for sub-national functions must also efficiently flow downwards. For example, to attend to an FSV matter, police need access to a vehicle and funds for fuel. This contrasts with larger capital expenditure, which can be 'lumpy'. There is general evidence across government of flows to provincial and district levels being slow and unpredictable. Anecdotal reports suggest that at many times during the year there may be little or no operational funding for law and justice agencies in the provinces. Indeed, Provincial Governments commonly provide supplementary and 'emergency' funding for local law and justice functions. This means the operation of provincial PFM systems underpin local law and justice performance but need to operate in a way that prevents national costs being inappropriately shifted to provincial governments. There must also be an incentive for home agencies to improve their PFM systems.

The decentralisation of responsibilities to provinces and the introduction of the DDAs presents challenges to horizontal and vertical coordination, especially when funding for law and justice projects are planned by District MPs with little consultation with provincial or national agencies and when national agencies are expected to staff facilities and provide ongoing operational resources. While there is potential for District MPs to be responsive to a pressing local law and justice need, the large number of districts and the political localised nature of discretionary MP spending makes it difficult for national agencies and provinces to leverage that assistance.

Outcomes from a focus on sub-national service delivery rely on broader public sector governance improvements to budgeting, expenditure and procurement. Until improved, it may be difficult to sustain benefits from sub-national agency-level engagement. Across PNG there are greater weaknesses in procurement, internal controls on spending, internal audit and reporting than in plans and budgets that are not fully costed and unaligned to policy objectives. Constraining budget execution is also the slow and unpredictable transfer of recurrent funds to sub-national levels. It also includes well-documented constraints to implementing capital works, which can be related to limited oversight and performance management and limitations in procurement and sub-national public works capacity. Increases in funding often do not go hand-in-hand with a capacity to implement.

Weaknesses in implementation can be attributed to low behavioural incentives for senior managers to manage staff performance. But this is hard when many financial reports are not available and when there is so little (recurrent) money flowing through sub-national systems.

The program needs to acknowledge that problems in public finance management are serious and complicated and that solutions can only be found by working in conjunction with Australia's

Governance program. There needs to be support for agencies to develop a capacity to spend more wisely and to develop incentives to do so. At sub-national level, work has already been undertaken through PALJP on improving law and justice coordination through Provincial Coordinating and Monitoring Committees (PCMC) and the Provincial and Local Level Service Monitoring Agency (PLLSMA). This will continue during the Transition Program and is expected to continue into the Justice Services and Stability for Development Program, along with help in specific cases for agencies to cost services, develop service delivery strategies and track expenditures.

## **Corruption challenge**

Maladministration is commonplace in PNG and corruption is systemic and perceived to be increasing. Corruption is occurring in government, the public service and business because there is little incentive to resist, a lack of will to tackle the problem and a low capacity to detect, investigate and prosecute. Transparency International's 2013 Corruption Perception Index ranked PNG 144 out of 177 countries globally with a score of 25/100. The World Bank's Worldwide Governance Indicators for 2012 place PNG in the lowest quarter of percentile ranks in terms of Control of Corruption. Police, civil servants and political parties are perceived to be the most corrupt elements of PNG society.

Corruption to some extent demonstrates the strength of the 'informal' institutions at work in PNG where a 'Big Man' mentality - obligating those in power to redistribute their wealth to their constituencies or "wantoks" - sits alongside strong patronage systems and a culture of gift giving. Corruption is viewed differently from one area to another and interpreted in line with traditional customs and practices but citizens have little incentive to report corruption when it results in tangible benefits for their community or area. This creates problems for reporting of corruption and holding people accountable and affects investigations and prosecutions.

The misuse of public money, including revenue from natural resources for private gain, is acknowledged as common practice. In other instances, citizens unqualified to hold positions have been appointed and promoted, diminishing the ability of government to deliver the level of services that would be possible if appropriate individuals held key leadership and managerial roles.

The prevalence of corruption in all its forms is both a cause and consequence of the lack of law enforcement in PNG. Corruption has had a corrosive effect on incentive streams and individual behaviour, dissuading citizens from following rules and procedures when others around them suffer no consequence from breaking the law. Meanwhile, the lack of law enforcement can be attributed to under-resourcing, low skill levels, poor incentives for good performance and ethical behaviour, politicisation of leadership, weak accountability systems and corruption within enforcement agencies themselves. The strategic framework for Australia's aid program recognises the costs to development of corruption and commits to assist PNG's anti-corruption efforts.

Reducing corruption requires political will and concerted effort by PNG's political, bureaucratic, business and civic leadership. There are limits to what law and justice agencies, even with donor assistance, can achieve. It will require thinking and working politically and regular analysis to ensure appropriate approaches are adopted. This will be undertaken at a program and Whole of Australian sector level.

Providing 'treatment' or enforcement after a corrupt action has been undertaken is a lengthy process in PNG and one that can be politically influenced. But enforcement is important if norms are

to change. Efforts to prevent corruption, while harder to measure, require attitudinal and behavioural change and good regulatory systems.

In 2009, PNG became a member of the Asia-Pacific Group on Money Laundering and Counter Terrorism Financing, rendering it subject to a comprehensive review of its anti-money laundering regime. In 2014, PNG was placed on the Financial Action Task Force list for countries with deficient anti-money laundering and counter terrorism financing systems (known as “grey listing”). Unless PNG can demonstrate significant progress on compliance with relevant international standards, PNG will be placed on the “dark grey” list. This will, at a minimum, further increase the cost of doing business in PNG. Improving PNG’s compliance with international anti-money laundering standards is an anti-corruption priority and is also a financial stability and security priority.



## Annex 3: PNG Stakeholders in the Law and Justice Sector

The tables here give an overview of the agencies and organisations within the law and justice sector in Papua New Guinea. Notes in the table in bold-italics indicate agencies which are current partners in the Transition Program or likely/potential partners for the program described in this design.

Provincial and lower level governments draw their mandates from the Organic Law on Provincial and Local Level Governments. Under Provincial Governors and Administrators, provincial administrations are responsible for maintaining peace, harmony and goodwill and for coordinating the law and justice sector through a number of committees. A growing number now have Divisions for Law and Justice. Provinces are particularly responsible for village courts and land mediation though the national secretariat retains important responsibilities.

**Table 1: National Law & Justice sector agencies**

| Agency  | Mandate/services   |
|---|--|
| <b><i>All agencies in this section are potential partners for this program. All are current partners with the exception of the Constitutional and Law Reform Commission</i></b> |  |
| <b>Department of Justice and Attorney General (DJAG)</b>  | Reporting to the Minister of Justice. Lead agency of the law and justice sector, providing a range of legal, justice and trustee services to the government and the community through: Solicitor-General, State Solicitor, Legal Policy Unit, Community and Restorative Justice Services (Juvenile Justice), Crime Prevention, Village Courts and Land Mediation Secretariat, Office of Public Curator, Probation and Parole).   |
| <b>Office of the Public Prosecutor (OPP)</b>  | Established under sections 176 and 177 (1) of the PNG Constitution and responsible for conducting prosecutions before the Supreme and National Courts, or any other Court as provided by law; and bringing or declining to prosecute under the Leadership Code.  |
| <b>Public Solicitor's Office (PSO)</b>  | Established under sections 176 and 177(2) of the PNG Constitution and responsible for providing legal aid, advice and defence services for criminal cases with a penalty of more than two years imprisonment, or when directed by the Supreme or National Courts, as well as civil cases, as plaintiff or defendant and against the state.   |
| <b>Ombudsman Commission (OC)</b>  | Established under sections 217-220 of the PNG Constitution and performs three primary functions: investigates allegations of misconduct and administrative breaches by government agencies; investigates discriminatory practices by government bodies; and administers the Leadership Code. The Ombudsman Commission is also given powers and obligations under other laws (e.g. Organic Law on the Integrity of Political Parties and Candidates).                             |
| <b>Royal Papua New Guinea Constabulary (RPNGC)</b>  | Reporting to the Minister of Police. Established by sections 118 and 197 of the PNG Constitution to preserve peace and good order and maintain and enforce the law in an impartial and objective manner. Governed by the Police Act (1998).  |
| <b>Correctional Services (CS)</b>   | Reporting to the Minister of Correctional Services. Established by section 188 (2) of the PNG Constitution and the Correctional Services Act (1995) and regulations to take custody of persons committed to correctional centres; provide secure, efficient and humane facilities; and develop and provide meaningful educational training and rehabilitation programs for the benefit of detainees. Also governed by the Parole Act (1991) and the Juvenile Justice Act (2014). |
| <b>Legal Training Institute (LTI)</b>   | The LTI is a statutory body established under the Post Graduate Legal Training Institute Act (1972) and provides practical legal training for law graduates who wish to be admitted as lawyers in the National and Supreme Courts. The standard and quality of training at LTI is  |

| Agency   | Mandate/services   |
|--|--|
|  | equivalent to the benchmarked standards set by the Australasian Practical Legal Education Authority.   |
| <b>Constitutional and Law Reform Commission (CLRC)</b>                 | According to PNG's Constitution, the CLRC has a special responsibility to investigate and report to the Parliament and to the National Executive Council on the development and on the adaptation to the circumstances of the country, of the underlying law and on the appropriateness of the rules and principles of the underlying law to the circumstances of the country.   |
| <b>National Judicial Staff Services (NJSS)</b>                         | Established under Part 6, Division 5 of the PNG Constitution, the Supreme Court Act (1975) and the National Court Act (1975) and consists of the Supreme Court and National Courts (s.155 PNG Constitution). The Supreme Court is the final court of appeal and can review decisions of the National Court and has any other powers conferred by law. The National Court hears serious criminal and civil matters and appeals from the District Court.   |
| <b>Magisterial Services (MS)</b>                                       | MS reports to the Minister of Justice. Established under sections 173-5 of the PNG Constitution and the Magisterial Services Act (1975), Magisterial Services administers District Courts under the District Courts Act (1963). District Courts have jurisdiction over a range of criminal and civil matters. District Courts also have power to review Village Court decisions on process grounds or excess of jurisdiction (sections 86 and 92(2) Village Courts Act). Magisterial Services draws its main jurisdictional powers from the District Court Act (1963), the Criminal Code Act (1974) and the Village Courts Act (1989). Of importance, is that Senior Provincial Magistrates have roles on several relevant committees, including the Provincial Land Dispute Committee and the Juvenile Justice Committee                                    |
| <b>Other Central Agencies involved in the law &amp; justice sector</b> |  |
| <b>Department of National Planning and Monitoring (DNPM)</b>           | The role of the Department of National Planning and Monitoring is to lead, plan and coordinate and facilitate appropriate national and international initiatives that address and promote equitable and sustainable development of Papua New Guinea. The Department acts as the key central agency advising government on matters relating to strategic development policy, development planning and programming, aid coordination and management and the monitoring and evaluation of national development. DNPM is largely responsible for programming PNG's Development Budget, which includes the Public Investment Program, and which supports a range of major capital and non-recurrent projects across all sectors, including law and justice and non-government sectors. The Secretary of DNPM is the chair of the National Coordinating Mechanism. |
| <b>Departments of Treasury and Finance</b>                             | The Department of Treasury is responsible for appropriations, including for the law and justice sector, while the Department of Finance deals with flow of funds to service delivery implementers. There are also payroll and staffing grant issues which impact on the sector and are the purview of these agencies. PNG has a split national budget – although efforts are being made to integrate it. PNG has a recurrent budget, which is largely negotiated and prepared through Treasury, and the Development Budget, much of which is programmed through DNPM.  |
| <b>Department of Provincial and Local Government Affairs (DPLGA)</b>   | All local government institutions fall under the Department of Provincial and Local Government Affairs. Strategic Result Areas where DPLGA will support and strengthen include: service delivery by provinces and local level governments; governance in provinces and LLGs; and coordination, performance monitoring and reporting of sub-national governments.   |
| <b>Department of Religion, Youth and Community Development</b>         | The Department for Religion, Youth and Community Development is mandated to lead on gender based violence. Its role is to coordinate across all government departments to ensure a combined response to providing services. Additionally it also has a monitoring role on what is happening around the country to ensure the right services are funded. The Department is also responsible for providing funds for NGOs to provide appropriate services in the country.  |

**Table 2: Sub-national law and justice sector stakeholders**

| Agency  | Mandate/services   |
|---|--|
| <i>All of the following stakeholders are current partners in target location, with the exception of DDAs, which are still under development</i> |  |
| <b>Provincial Administration (Provinces, Districts and Local Level Governments):</b>  | <p>Established under the Organic Law on Provincial and Local Level Governments, regulated by the Provincial Governments Administration Act (1997) and the Local Level Governments Administration Act (1997). Under section 16 (g) of the Provincial Governments Administration Act (1997), Provincial Governments are responsible for “maintaining peace and harmony and goodwill in the province.” They have a significant function in coordinating local law and justice efforts (e.g. through PGOs, PCMCs, land dispute committees and juvenile justice committees) and providing support to national agencies in their provinces. While most law and justice functions are delivered in provinces by national agencies, provincial governments are responsible for village court and land mediation functions. Law and Justice Divisions as administrative divisions to cover provincial law and justice sector are not universally in existence across the country but there is a trend for their emergence. Provincial governments are headed administratively by Provincial Administrators and politically by Governors. Services provided by Provincial Governments include local health services. Health professionals are often the first government people to see victims of FSV, before the police.</p> <p>Two critical administrative powers of Department of Personnel Management (DPM) have been transferred to the provinces: recruitment and payroll for officers employed under the provincial administration structure.</p> |
| <b>The Autonomous Bougainville Government (ABG)</b>   | The ABG and the law and justice stakeholders in Bougainville are covered in the analysis portion of “The Investment for Bougainville” in Chapter C of this document.   |
| <b>District Development Authorities (DDA)</b>   | To be established by the District Development Authority Act (DDA). Legally, districts are part of a provincial government but they have grown to become a centre of local authority, implementation and accountability. This is centred about the personality of the district MP and the MP’s programming of DSIP, which often includes many law and justice capital expenditures. The DDA Act will give legal structure to these arrangements, by establishing a Board with the local Member of Parliament (MP) as the chair, LLG Presidents and three appointed members, one of whom must be a woman. District Administrators will be the CEOs of the DDA Boards. Board functions and powers include: district and LLG planning & budgeting for the district; entering into contracts; charging fees; form or participate in companies, partnerships and joint ventures.   |
| <b>Village Courts (VC)</b>  | <p>Village Courts are a judicial Branch and a function devolved by law to provincial governments. Village Court jurisdiction and powers are regulated by the Village Courts Act (1989) and the Village Court Regulations (1974). They are also subject to the Organic Law on Provincial Governments and Local Governments. Village Courts are required to ensure peace and harmony in their areas by mediating just and amicable settlements of disputes.</p> <p>They serve as links between the authority of the state and local sources of authority because they are linked in law if not regularly in practice to higher courts through appeal and review processes. Fragmented and devolved responsibility for the operations of Village Courts, mean that officials have not received regular training and, until 2014, were irregularly and poorly paid as ‘volunteers’. The 2013 NEC decision to substantially increase the allowances paid to Village Court officials is potentially transformational but significant work is required to ensure its successful implementation and to strengthen the functioning of the Village Courts and their administration.</p>  |
| <b>Land Mediators (LM)</b>  | The Land Disputes Settlement Act (1975) deals with the resolution of disputes in relation to interests in, or boundaries of, customary land. Ambiguities in the Organic Law of 1998 meant that responsibility for funding land mediation was unclear. The National Executive Council determined in 2009 that land mediation is a provincial function, however not all provinces have funded these services. In some provinces private sector land mediation services have emerged. Land cases are heard in special local and provincial land courts.   |

| Agency   | Mandate/services  |
|--|---|
| <b>Provincial Land Dispute Committees (PLDC)</b> | The Provincial Land Dispute Committee is legally mandated to appoint the land mediators and to declare land mediation areas and divisions under the Land Disputes Settlement Act 1975. Senior Provincial Magistrates are the chairpersons with Provincial Administrators as Deputies. This committee sets into motion all works related to land mediation in provinces. Provincial Administrations have Provincial Lands Officers who deal with both state and customary land issues. Some administrations have separate officers for customary and state land. |

**Table 3: Non-government stakeholders in Law & Justice**

| Agency  | Mandate/services   |
|---|--|
| <i>Currently the most significant relationships are with FSVAC, selected private sector groups and CIMC. Other groups mentioned here are potential partners in the future, subject to mapping of their roles and influence in the sector.</i> |  |
| <b>Consultative Implementation and Monitoring Council (CIMC)</b>  | CIMC is an independent organisation that brings together civil society, private sector and government partners to develop policy and directly influence and monitor government decision making for the long term development of Papua New Guinea. CIMC was established by the National Executive Council after the National Economic Summit of February 1998. The private sector and civil society representatives who attended the Summit called for a consultative mechanism to be put in place so that recommendations made by the community would be followed up within government circles and implemented through law and policy. Inter alia CIMC works on accountability of government to the public and has recently been conducting “town hall” type meetings where local budgets (and therefore what citizens should expect) are discussed. CIMC has occasionally convened a law and justice committee. |
| <b>Family &amp; Sexual Violence Action Committee (FSVAC)</b>  | The Family and Sexual Violence Action Committee (FSVAC) takes a lead for the NGO sector response to Family and Sexual Violence (FSV). It was established in 2000 under the Consultative Implementation and Monitoring Council with the mandate of reducing the occurrence and suffering caused by physical, sexual and psychological violence. The FSVAC has played a critical role in: developing an extensive network that includes traditional and religious leaders; building capacity through several training initiatives; advocacy for rolling out government programs, such as the Family Support Centres (FSC) providing grass roots organisations with much needed funding; working with male advocates; advocating for a study on the cost of gender based violence; and more generally sustaining the momentum around efforts to combat violence.  |
| <b>National Council of Women (NCW)</b>  | The National Council for Women (NCW) was enacted in 1979 as the government’s partner in the national gender space. The objectives of the NCW are to promote and encourage the views of women and to advocate for change, public support and legislative reforms to progress women’s advancement and protect them from violence and abuse. The NCW established a Women and Law Committee in 1987, which has undertaken campaigns on domestic violence.  |
| <b>Faith based organisations</b>  | Faith based organisations are and have been major actors in community development in PNG, some for many decades. The Australian High Commission has supported a Church Partnership Program in PNG, which has aimed to enhance the capacity of PNG Churches to contribute to PNG development and social stability. Churches involved are the Anglican, Catholic, Seventh Day Adventist, Salvation Army, Baptist, Evangelical Lutheran and United Churches. The program acknowledged the role of churches in health, HIV/AIDS response and peace building, all of which are relevant to this program.  |
| <b>Private Sector organisations</b>   | Analysis for this design has clearly shown the costs to and concern of the PNG business sector around crime and violence. While individual businesses respond with heightened security, traditionally business groupings, like the Chambers of Commerce, have been involved in support to local communities and to state institutions including in the community security and FSV areas. Larger scale corporate social responsibility programs are emerging in PNG under the leadership of some of the mining and LNG companies. The Australian High Commission is actively engaged with ExxonMobil to deliver law and justice services in Hela and with Barrick   |

| Agency                                    | Mandate/services  |
|---|---|
|   | <p>Gold's Restorative Justice initiatives in Porgera and a landowner group in Lihir to promote effective responses to FSV. There are further opportunities for cooperation to be explored and tested.</p>   |
| <p><b>Community based initiatives</b></p> | <p>Throughout PNG, communities themselves identify and act to solve law and justice problems. This is by no means an exhaustive list; these examples are illustrative of the types of initiatives with which this program should aim to engage:</p> <p><b>Coalition for Change</b> is an advocacy group that was set up in 2008. Their vision is to work towards cultural change in Papua New Guinea to create an environment where violence, especially spousal violence and violence against children, is not tolerated. They conduct a range of activities including advocacy for legislative reform, community awareness raising and public campaigns. They played a key part in the work around and advocacy for the Family Protection Act and are now engaged in its implementation. They have strong partnerships with the private sector and linkages to the recently established Business Coalition for Women. Members and the Board are mainly influential and professional women (Port Moresby based).</p> <p><b>Kup Women for Peace</b> – a local activist based initiative in Simbu Province which responded in the early 2000s to inter-group conflict, criminal violence and high levels of rape and violence against women. It has worked on community safety, reconciliation and return of displaced families and was instrumental in return of government services to the area.</p> <p><b>Saraga Peace Committee</b> – Saraga is a multi-ethnic settlement on the outskirts of Port Moresby well-known for harbouring criminals and its high levels of violence. A Peace and Good Order Committee was established in 2001 after a particularly brutal murder. It aimed to provide a local mechanism for managing ethnic and other tensions in a non-violent way but developed broader community development goals. Community laws aimed at curbing anti-social and criminal behaviour were formulated.</p> <p><b>Eastern Highlands District Peace Management Teams</b> – These are a hybrid response and comprise state and non-state actors; provincial and district officials, police, village court officials and community and church leaders from the affected areas. Trained in non-violent conflict resolution, they mediate between conflicting parties, broker ceasefires and help negotiate the terms of written peace agreements and resolve the underlying causes of local conflicts.</p> <p><b>Peacemaking in Enga</b> –there appears to have been a significant reduction in levels of violence and conflict-related fatalities in Enga in recent years. This decline has been attributed to successful locally-led efforts aimed at promoting the non-violent resolution of inter-group conflicts, involving tribal and clan leaders, church groups and Village Court magistrates.</p> <p><b>Yumi Lukautim Mosbi</b> – Based loosely on the UN Safer Cities concept, YLM is a city-wide program that began as collaboration between the Australian aid program and the National Capital District Commission, Port Moresby's municipal authority. It seeks to bring together government, community and private sector stakeholders to promote civic harmony, urban safety and crime prevention through a range of awareness and other activities, many of which are targeted directly at under/unemployed city youth.</p> <p><b>Bougainville initiatives</b> - Rather than rebuilding the same government systems following the cessation of conflict, Bougainvillean leaders, assisted by a relatively light international intervention, set about developing deliberately hybrid systems that combined different sources of authority (traditional, church and state) in creative ways and that were designed to restore social cohesion and address everyday problems, including disputation and anti-social behaviour, in a socially attuned manner. Noted players in the sector include the Bougainville Women's Federation and the Nazareth Centre for Rehabilitation. The Bougainville Women's Federation, along with its broader advocacy for women's rights and roles in politics, peace building, the economy and sustainable development, calls for programs on gender based violence, health education around FSV, elimination of discrimination against women and for neighbourhood watch schemes focussing on drugs and alcohol. The Federation is supported by a network of faith-based and civil society groups around the region, who are in different ways also trying to address family and sexual violence and local crime.</p> |

# Annex 4: Australia's Development Policy and Law and Justice Sector Investment Summary

## ***Australian Aid Program***

The Australian Government's development policy, *Australian aid: promoting prosperity, reducing poverty, enhancing stability* (2014) and performance framework, *Making Performance Count: enhancing the accountability and effectiveness of Australian aid* (2014), introduce key shifts in our aid program. The Justice Services and Stability for Development Program will be delivered and assessed within this context, to ensure that taxpayers' money spent through Australia's aid program is achieving the greatest possible development impact.

Four tests guide strategic choices across the aid program, translating this new strategic framework into practice. They ensure that Australian aid:

- pursues our national interest and extends Australia's influence
- impacts on promoting growth and reducing poverty
- reflects Australia's value-add and leverage
- makes performance count.

There will be significant improvements in the way we deliver aid, through:

- greater innovation
- strengthening our private sector focus
- enhancing aid for trade
- disability-inclusive development
- economic diplomacy
- working with the most effective partners
- consolidating the aid program
- responsibly engaging with risk and applying safeguards
- actively managing fraud and anti-corruption
- following value for money principles
- transparency.

To reinforce efforts to re-shape the aid program, the performance framework operates at all levels of the aid program, with ten high level targets to assess the aid program against key goals:

- Promoting prosperity
- Engaging the private sector
- Reducing poverty
- Empowering women and girls
- Focusing on the Indo-Pacific region
- Delivering on commitments
- Working with the most effective partners
- Ensuring value-for-money
- Increasing consolidation
- Combatting corruption.

# Australian Sector Investment

*Build Police Capacity*

*Increase Community Safety and Security*

*Address Family & Sexual Violence*

*Combat Corruption*

*Provide Effective Law & Justice services*

Australian programs  
working together to  
assist the Government  
of PNG to:

## **AFP: PNG-Australia Policing Partnership**

Focus areas:

Improving operational capacity in POM and Lae with a focus on training, addressing family and sexual violence and major event security

Supporting RPNGC priority modernisation program with a focus on core foundational skills, ethical behaviour and enabling services

## **DFAT: Justice Services and Stability for Development (JSS4D) Program, including institutional twinning arrangements**

Focus areas:

Expanding the effective delivery of law and justice services

Reducing impacts of conflict and violence at the local level

Supporting stability in Bougainville

## **AGD/AUSTRAC: Combatting Corruption**

Focus area:

Strengthening Anti-Money Laundering, counter terrorist financing and proceeds of crime legislation and implementation

## **AGD: Strongim Gavman Program**

Focus area:

Strengthening the delivery of state legal services



## Australian Government agencies working in the sector

| Agency   | Mandate/services   |
|--|--|
| <i>The Australian High Commission in Port Moresby and DFAT in Canberra will need to work closely with all Australian Government Departments working in the sector. The most significant partners are outlined below.</i> |  |
| <b>Australian Federal Police (AFP)</b>   | <p>The AFP Act, includes as a function:</p> <ul style="list-style-type: none"> <li>‘the provision of police services and police support services in relation to establishing, developing and monitoring peace, stability and security in foreign countries’.</li> </ul> <p>The AFP are funded through separate ODA appropriations for their role in:</p> <ul style="list-style-type: none"> <li>‘contributing effectively to the Australian Government’s international law enforcement interests including matters involving cooperation with key international partners to combat transnational organised crime and corruption, responses to emergencies, law and order capacity-building missions and participation in internationally mandated peace operations’ and</li> <li>‘actively contributing to broader government programmes or initiatives to ensure that they are informed by the AFP’s operational experience’.</li> </ul> <p>The AFP delivers the Papua New Guinea – Australia Policing Partnership (PNG-APP) through direct support to the Royal Papua New Guinea Constabulary in Port Moresby and Lae, it also supports the priorities of RPNGC modernisation program through focussing on building core foundational skills, improving ethical behaviour and assisting the RPNGC (through the Office of Reform) to improve enabling services.</p> |
| <b>Attorney-General’s Department (AGD)</b>   | <p>The Australian Attorney-General’s Department currently provides 11 experienced specialist legal and prosecution advisers to Government of PNG law and justice agencies through the <i>Strongim Gavman Program</i>. These officers work across the Department of Justice and Attorney-General and the Office of the Public Prosecutor. They are helping to build the technical legal skills of PNG Government lawyers and support broader organisational change to improve the quality, timeliness and integrity of the delivery of State legal and prosecution services.</p> <p>In partnership with the Australian Transaction and Reports Analysis Centre (AUSTRAC) AGD also currently delivers the Combating Corruption Project. Its goal is to enhance PNG’s ability to prevent and combat corruption through hardening the PNG financial system against money laundering, corrupt activity and terrorist financing. The Project is supporting PNG efforts to improve the legal and regulatory frameworks and to build local capacity to analyse, investigate and prosecute money laundering and recover proceeds of crime.</p>  |
| <b>Commonwealth Ombudsman</b>  | <p>The Commonwealth Ombudsman (CO) and the Ombudsman Commission of PNG (OCPNG) have had an Australian Government funded twinning program since 2003 and will continue to be funded and supported through this program. The objective of the twinning program is to build a sustainable and mutually supportive relationship between the two Ombudsman offices, which will enhance the function of each office through the exchange of knowledge, experience and ideas. A twinning officer from the CO sits within the OCPNG for half of each year.</p>   |
| <b>Other Australian Agencies with which twinning arrangements are in place or under investigation</b>  | <p>Federal Court of Australia (NJSS);</p> <p>Queensland Supreme Court (NJSS)</p> <p>NSW Judicial Commission (NJSS)</p> <p>Attorney General’s Department (DJAG) – funded separately to this program</p> <p>Australian Crown Solicitors (DJAG – OSG / OSS – not yet a formal arrangement)</p> <p>Queensland Correction Services (S)</p> <p>Queensland Director of Public Prosecutor (OPP)</p>  |

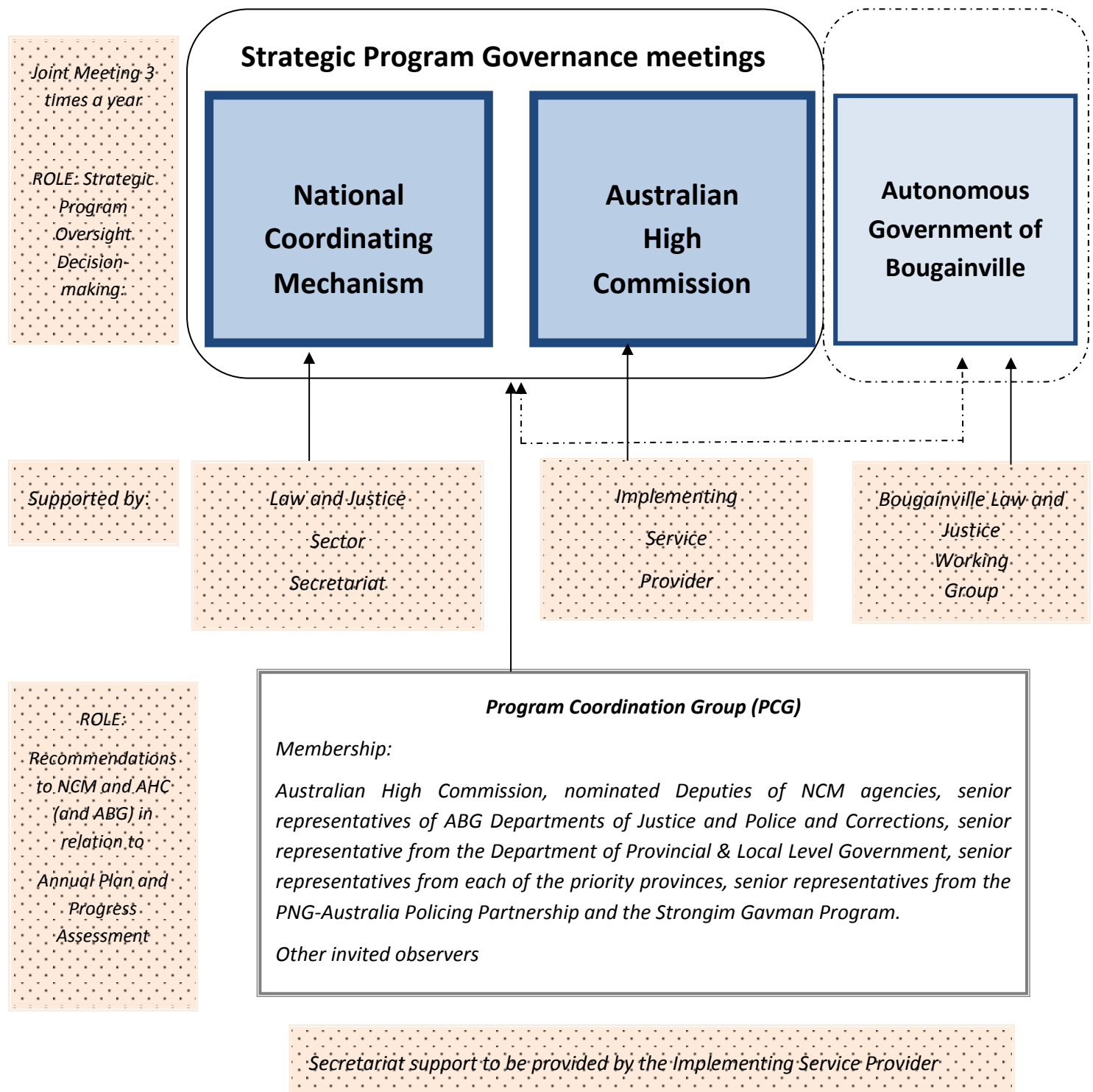


| Agency | Mandate/services   |
|--------|--|
|        | Legal Aid Queensland (PSO)<br>Aboriginal and Torres Strait Islands Legal Service (PSO) |

## Annex 5: Alignment of Australia and PNG Government law and justice priorities

| <p>Both Governments agreed in relation to L&amp;J as part of the PNG Aid Assessment in 2014 to:</p> <ul style="list-style-type: none"> <li>• Strengthen local conflict resolution;</li> <li>• Address family and sexual violence;</li> <li>• Strengthen access to justice;</li> <li>• Support PNG to combat corruption;</li> <li>• Build Police capacity (primarily through AFP policing partnership);</li> <li>• Particular focus on Bougainville</li> </ul> |   |
|---|---|
| Justice Services and Stability for Development  | PNG Law and Justice Priorities  |
| <p>Long term Justice sector goal</p> <p>Private sector and human development in PNG is underpinned by a just, safe and secure society for all</p> <p>With both a community focus; and building strong institutions to deliver core state functions:</p>   | <p><i>PNG Vision 2050;</i></p> <p><i>Development Strategic Plan (2010-2030);</i></p> <p><i>Medium Term Development Plan (2011-2015)</i></p> <p><i>National Security Policy (2014)</i></p> <p><i>National Strategy for Responsible Sustainable Development (2014)</i></p> <p>All prioritise law and order and variably express goals to reduce crime and social unrest to boost economic activity, ward off transnational crime threats and improve quality of life.</p> |
| <p>Outcome 1: Community safety and security</p> <p>Local level dispute resolution and conflict mediation mechanisms in target areas are more effective, locally legitimate and available</p>  | <p><i>Sector Strategic Framework (2011)</i></p> <p>Primarily Goal 2 – Justice: strengthening locally based non-violent dispute resolution (2.2 and 2.4) and delivering services that meet community expectations (1.1)</p> <p><i>National Law and Justice Sector Policy (2000)</i></p> <p><i>White Paper on Law and Justice (2007)</i></p>  |
| <p>Outcome 2: Addressing family and sexual violence</p> <p>Women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services</p>   | <p><i>Sector Strategic Framework (2011)</i></p> <p>Primarily Goal 2 – Justice: removing obstacles that prevent access to justice and cross-cutting issues response (2.1 and 2.4)</p> <p><i>White Paper on Law and Justice (2007)</i></p> <p><i>National Policy for Gender Equality (2011-2015)</i></p> <p><i>Gender Equality and Social Inclusion Policy (2013)</i></p>   |
| <p>Outcome 3: Effective law and justice services</p> <p>Law and justice agencies deliver ethical and accountable core state functions, with a focus on accessibility, quality and service</p>   | <p><i>Sector Strategic Framework (2011)</i></p> <p>Primarily Goal 5 – improved ability to deliver law and justice services</p> <p>O’Neill-Dion Government priority to expand state services.</p> <p><i>National Law and Justice Sector Policy (2000)</i></p> <p><i>White Paper on Law and Justice (2007)</i></p>  |
| <p>Outcome 4: Anti-Corruption</p> <p>Target agencies and provinces demonstrate improved resistance to, detection, investigation and prosecution of corruption`</p>  | <p><i>Sector Strategic Framework (2011)</i></p> <p>Primarily Goal 4 – to improve accountability and reduce corruption</p> <p><i>National Anti-Corruption Strategy (2010-2030)</i></p> <p><i>White Paper on Law and Justice (2007)</i></p>   |

## Annex 6: Program Governance Arrangements



The NCM will not make any changes to the Annual Plan as it relates to the Autonomous Bougainville Government plan without their consent. The program anticipates increasing involvement of ABG as powers and responsibilities are progressively transferred

## Annex 7: Indicative activities for each outcome area

This program will not begin until January 2016. The first annual planning process is expected to be undertaken in the second half of 2015. While building on the PALJP-Transition Program, a nuanced understanding of the context will be necessary to achieve program outcomes. The following indicative activities and areas of programming were identified through the design consultations in 2014. They are presented here as indicative activities and can be mapped to one or more intermediate outcomes in each outcome and have been summarised in relevant outcome diagrams.

### Outcome 1: Community Safety and Security

**Local level dispute resolution and conflict mediation mechanisms in target areas are more effective, locally legitimate and available**

#### *Indicative activities*

Fundamental to long-term peace and security in PNG communities are the local level mechanisms that are more immediately accessible by those communities. The program will contribute to promoting safe and stable communities that are able to prevent crime. It will require people-centred approaches that recognise that ultimately it is the communities that will make local systems work. It will require multi-layered approaches that recognise national, sub-national and local players can make the system work better if they work together. The following are indicative activities and areas for support:

**Village courts** will be strengthened and assisted to function more ethically, accountably and effectively to provide just and equitable outcomes for communities and citizens. This will follow on from training and other support provided through Australian assistance for several years. Village courts will be assisted to gain skills and understand human rights (especially for women and children) recognising that these are sometimes sacrificed in the use of local cultural approaches to justice. The program will continue to support efforts to increase the number of women village court magistrates and strengthen oversight and linkages with other agencies, most notably the police and district courts.

**Land mediation systems** will be strengthened and assisted to function more ethically, accountably and effectively to ensure local land disputes become less of a threat to local safety and security. The program will help to ensure that land mediators are better supported in their work and able to draw support from the Village Courts and Land Mediation Secretariat, the Magisterial Services and Provincial Administrations. Building on successes of PALJP and the transition period, the program could include ongoing training and organisational support for land dispute committees and mediators. It could also help to build networks with the private sector to support better and more just land mediation.

**Commitment and support from targeted provinces:** Target provinces will be assisted to better plan for and resource community law and justice mechanisms and ensure that lessons regarding local law and justice issues are shared nationally. The program will work with provinces (and, as appropriate, selected districts) to help them ensure that village courts, land mediation (and land dispute committees) and community initiatives are prioritised, planned, resourced and actively supported. Provinces, through mechanisms such as Provincial Coordination and Monitoring Committees, will be

supported to develop locally appropriate cross sectoral structures. They will report to and share information with the national government on local law and justice issues and the development of responses. National agencies will be supported to promote coordination between levels of government to ensure provinces can deliver services that meet commitments. This also involves leveraging services and support provided by non-law and justice agencies.

**Complementary community initiatives:** The program will, on a pilot basis, assist communities that are seeking to build their own safety, security and crime prevention mechanisms, where it can be demonstrated that they have commitment to implement initiatives that can complement the work of village courts and land mediation services. This will take into account the need to help communities gain capacity for such initiatives. This needs to be contextually based and could be an area for innovation and research but will need to be tested. It might for example include responses to sorcery related claims and violence, tribal fights, road safety or community reconciliation between offenders and victims. It could include support for juvenile justice and community based corrections. Support should be through exploring and piloting combinations of informal community and formal justice sector mechanisms with support, where appropriate, from faith-based organisations, NGO's, civil society organisations (CSOs) and the private sector. The World Bank Justice for the Poor program may indicate potential follow up activities looking at drivers of crime and opportunities for community resilience and reconciliation.

**Community awareness and demand for services:** Communities will be assisted to be more aware of their legal rights, roles and responsibilities, to raise the demand for services and to become more active in developing law and justice solutions. The program will build upon awareness and outreach programs delivered during the transition period and will assist service providers to implement programs that focus on the legal rights of citizens and how they can access law and justice services. This will include awareness of the services and jurisdictions of law and justice agencies as well as citizen roles and responsibilities within the law and justice system. This support will aim to link to enhancements in service delivery in communities as well as initiatives implemented by communities themselves. This is essentially a civic education approach. The program could also include support for a visible police presence in communities and advocacy for appropriate police behaviour.

## **Outcome 2: Addressing family and sexual violence**

**Women and others vulnerable to family and sexual violence increasingly access effective justice, legal protection and support services.**

### ***Indicative activities***

The program will focus on strengthening existing and emerging systems within the RPNGC, village courts and district and national courts to provide protection and connect those seeking help with medical and other support, following incidences of family and sexual violence (FSV). Complementary support will be provided to ensure referral pathways are strengthened and communities can better link into the services provided by the state and civil society. The program will provide support at the national level for implementation of enhanced legislation to strengthen the rights of women and children. The following are indicative activities for program support:

**Specialist police FSV Units:** 14 have so far been established since 2009 and have shown they can be effective in responding to FSV cases. A review of the effectiveness of the FSVUs is anticipated during

the PALJP-Transition Program. The program is expected to implement recommendations arising to improve the quality of existing FSVUs. This could include improving the reliability of reporting, improving police investigation of serious cases, coordinating with referral networks and improving the skills of police officers working in and supporting the work of FSVUs. It could also examine ways of leveraging additional resources for FSV training, for police to go to scenes of offences or for repatriation of victims and perpetrators. FSVU staff may be provided with training and awareness, capacity building and infrastructure support to better act as links between victims and police investigators and prosecutors and to link effectively with referral and support systems. The program may also support the establishment of more FSVUs in targeted areas. The program will also look for opportunities to help reduce the level of violence and FSV perpetrated by RPNGC officers through awareness training and improved disciplinary measures as well as means of supporting officers who are dealing with traumatic cases to cope with the emotional drain of these responsibilities. The program will support increasing access to this type of support with a preference for outcome 1 target areas, or where there are Australian-funded or other partners to provide support for implementation (e.g. support may come from the private sector, other Australian-funded program partners such as the FSVACs).

**Village Courts** deal with a large number of family-related disputes every year including those involving FSV and other forms of violence. But village magistrates have in many cases received very little training. With Australian support a nationally accredited competency-based training package has been developed for village court officials and is being rolled-out to target provinces and Bougainville. This training package includes issues of ethics, gender and FSV. Further work on child protection aspects should also be included. While the village court jurisdiction is limited in relation to dealing with serious crimes, including rape, the Village Courts Amendment Act 2014 explicitly strengthens the role of Village Courts in protecting the rights of women and children and addressing violence in PNG communities. The program will continue to support training for village magistrates and court officials to more effectively and justly deal with FSV cases and to refer serious matters to police as appropriate. This support will be provided in conjunction with training and organisational support for village courts in the community safety, security and crime prevention component.

**Judicial enforcement** of FSV-related decisions needs to be strengthened. This includes: continued improvement in access to and enforcement of protection orders and access by women to legal aid; further development of inter-agency protocols; developing the use of complaints mechanisms in the FSV space; and the integration of child protection. The program will support measures to increase confidence and trust in the formal justice system's response to FSV. In the long-term this is about a shift in cultural norms and attitudes towards and reducing acceptance of FSV. In this regard it is also noted that the formal justice system is often not the survivor's choice because of local stigma and the need in many cases to avoid loss of family income. Shortcomings in dealing with FSV cases have been noted above but the formal legal system must be a viable option for survivors of FSV. In supporting the roll-out of legal aid services through the effective legal services outcome, the program will seek to link legal aid services to efforts to combat FSV. Recognising the key role of the Magisterial Service in taking up FSV cases from Village Courts - particularly in issuing protection orders - the program will assist to build linkages from village to district courts. It is expected that this will link to support for higher level courts, such as prosecutions skills support being developed by the AGD and the AFP (for which this program may provide some complementary support).

**Emergency response and referral** service providers, family support centres and specialised gender-based violence units providing services to women and children exist to varying degrees across PNG. The program will support networking and coordination in this space among civil society organisations, non-government organisations, faith-based organisations, the private sector and government and may involve media and advocacy initiatives, including male advocacy programs. Protection of children as victims should also be a high priority. Where possible the program should help emerging referral and response organisations. Continued support will be provided for victim liaison officers if appropriate. The program will help PNG to develop a more coherent system for referral and counselling support for victims of FSV, starting with assistance to build national quality standards for training and education in this important area, with a view to raising standards for response and referral. The program will also assist in the development of emergency response mechanisms, including safe emergency housing, in government and civil society that should complement and support emergency response by the police.

**Community response** is vital if the incidence and impact of FSV is to fall in the future. This will require involvement with government and civil society mechanisms to address FSV and sorcery related violence. Most importantly, women and other victims of FSV need to feel confident that they can access services without danger of retribution and that the services provided will protect and support them. The program will support community initiatives that help to prevent FSV, where there is capacity and commitment to implement them and encourage the involvement of other stakeholders. Child protection will be a priority element. This element of the program would logically be implemented alongside support for community justice initiatives as per the community safety and security component of the program. It should be open to innovation and experimental action approaches. There is potential for replicating in target provinces initiatives that have worked well elsewhere.

**Legislation:** The Family Protection and Juvenile Justice Acts and associated legislation are now in place. The program will assist stakeholders to implement the protections that these laws provide. This will include training and capacity building on FSV protections in government agencies. Other laws with significant impacts on women and the family are ripe for review and updating. The program will take opportunities to work with other interested parties to continue the process of removing bottlenecks to women receiving justice.

**Women in justice and strengthening coalitions for change:** is the seventh element of support from the program in the FSV area. GOPNG already has its Gender Equality & Social Inclusion policy and as agencies commit to this it will be a good basis for work on increasing the numbers of women (and other vulnerable people) and enhancing their roles in the law and justice sector, including their involvement as transformational leaders and managers. The program will seek to help agencies and non-state actors build support for change in FSV around women's involvement in the sector. This is essentially about building advocacy skills and confidence around FSV issues and would naturally include support for males as advocates as well as females. A multi-layered approach to this is appropriate given that combating FSV requires support from agencies and organisations at all levels within PNG society.

## Outcome 3: Effective law and justice services

**Law and justice agencies deliver ethical and accountable core state functions, with a focus on accessibility, quality and service**

### *Indicative activities*

The program will contribute to achieving this outcome through intermediate outcome areas that together will help strengthen the delivery of effective law and justice services.

**Infrastructure:** The program will aim to strengthen agency capacity to provide strategic infrastructure for enhanced service delivery. This means prioritised and co-funded infrastructure support in priority locations that demonstrate adherence to the merit principles (enhancing service delivery, evidence based design, alignment of effort, effective procurement and consideration of people with disabilities). Australia will support prioritised infrastructure developments with a preference for co-funding from PNG and will adhere to the recommendations for donor supported infrastructure investments in the *PALJP Infrastructure Impact Evaluation* (2013).

**Mobilising resources:** The program will help sector agencies to strengthen their ability to identify and mobilise resources to effectively deliver law and justice services. The program will assist the sector to agree on minimum service standards and to advocate collectively to government and other funders (e.g. SIP sources) for more efficiently directed resources. This will involve the sector collecting data and understanding costs of services and needs for service delivery. It will involve continuing support for sector M&E and reporting. The program will follow up from PALJP and Transition Program work with the sector on public accountability through the Sector Performance Monitoring Framework and the publication of the Sector Annual Performance Report. This will help agencies to better track and publish their results in carrying out core functions. The program will progressively move into helping the sector to mobilise its own resources and to put up sound arguments to top level decision makers for government resources. It will help develop systematic approaches to allocating sector resources across PNG based on data and analysis (e.g. on the population to be served, levels of crime/need, alignment of human resources and infrastructure).

**Workforce capacity for service delivery:** The capacity to train and deploy the workforce required for enhanced service delivery will be strengthened. This is more about the sector's own capacity to train and deploy than it is about the provision of Australian-funded training support per se. This will call for a progressive move to training trainers, identifying training needs and having training programs designed by the sector. Selective priority training and capacity building initiatives on a sector basis involving multiple agencies will be encouraged (agencies and topics as yet to be determined). Activities to promote better understanding at workforce level of private sector and community needs could be considered.

**Transformational leadership:** The capacity will be strengthened to manage and lead transformation in the sector in order to deliver services to people. Work of this nature will require attention to what incentives exist for the current behaviour and what is required and what would motivate behaviour change. Work will be undertaken on this during the transitional period and the program will follow-on as appropriate. This may also involve consideration of wider GOPNG influences (e.g. Government of PNG policies on service delivery as they unfold). It should also consider the inclusion of civil



society leaders in any training programs provided. Support could include training and mentoring on leadership, sensitising senior leaders, managers and officers to the issues relating to gender and the promotion of cooperation and networks for positive change and activities involving cooperation with Australian institutions. Continuation of support for selected personnel to undertake Diploma of Government training (as per the Transitional Program) should be considered.

**Legal services:** Capacity will be strengthened to provide high quality legal advice, legal policy advice and legal and litigation services to and by GOPNG. This is a high-level technical skills development area that currently involves twinning and advocacy training. This program may provide complementary support to that provided through the SGP and the AFP to maximise the impact of other Australian-funded support in priority areas.

## **Outcome 4: Anti-corruption**

**Target agencies and provinces demonstrate improved resistance to, detection, investigation and prosecution of corruption**

### ***Indicative activities***

This program will focus on supporting improved internal and public accountabilities with willing agencies and administrations and providing complementary support for the work of other Australian agencies. The following are indicative activities under this outcome.

**Workplace culture and leadership** – while clearly related to prevention and deterrence (see the next two elements for this outcome); workplace culture and leadership aspects in anti-corruption will be supported separately because this can strongly reinforce internal procedures for prevention and deterrence. Support for ethical approaches will be incorporated into all leadership, management and other skills training to be provided within the program (e.g. for village courts, land mediation and management training). This will also be modelled by the program and supported by fraud control and anti-corruption strategies. Specific interventions showing promise that could be separately implemented under this component include follow-up to the ‘Dealing with Dilemmas’ program and developing service delivery charters for law and justice agencies (with associated complaints mechanisms).

**Accountability to citizens and civil society capacity:** It is clear that accountability to citizens for public money spent and actions taken is an essential ingredient in building confidence in law and justice agencies. As the overall program assists in improving service delivery to end users, agencies will be encouraged to inform end-users and civil society what services can be expected. To make this effective, the program will work with selected civil society groups involved or concerned with the relevant services (including provision of infrastructure and other investments) and delivered to help them track service expenditures. This will potentially link with sector outreach activities to help civil society and citizens understand the various state complaint handling mechanisms. This approach is currently being piloted through service charters and will be evaluated during the transition program, prior to any decision on rolling this out in the 2016 to 2019 program.

**Internal prevention and deterrence** of corruption within agencies is essential if the sector is to be able to play a full part in enforcing anti-corruption measures and if the people of PNG are able to be confident that the sector is protecting the country and citizens from the negative effects of corruption. The program will selectively assist law and justice agencies and participating provinces,

where they request assistance, to address specific areas in their organisations which are vulnerable to corruption or contribute to maladministration e.g. performance management, budgeting, procurement and payroll systems.

**Capacity to enforce laws on corruption** is fundamental to the state's ability to reduce corruption in whatever form it takes but the rate of enforcement of laws against corruption requires political decisions. Whole of Australian Government support should not be too ambitious as to what can be achieved. It is important to regularly assess benefits and risks in investment to help PNG enforce anti-corruption laws and to provide support flexibly. It may, for instance, be possible to support 'champions' to build the culture and networks required to improve enforcement but this will need to be done with care. Other Australian agencies will provide the technical know-how for regulation supervision, detection, investigation and prosecution of corruption and money laundering and on recovering proceeds of crime. The Australian High Commission may fund some of these activities under this program. The program will continue work with the Ombudsman Commission to strengthen its own role in agreed priority areas in addition to support provided by other Australian Government providers. This may include the long-standing twinning relationship with the Commonwealth Ombudsman and the PNG Ombudsman Commission. Establishment of an Independent Commission against Corruption (ICAC) is an identified priority for the PNG Government and work on this is ongoing. Australia is willing, if asked, to consider support on a whole of government basis for PNG's efforts to establish an effective, independent anti-corruption body.

**Strategies and frameworks for anti-corruption** refer to PNG's efforts to comply with international standards for anti-money laundering, counter-terrorism financing and dealing with proceeds of crime. Being seen internationally and by its own citizens as moving forward will significantly build momentum for combating corruption. This will require Australian whole-of-government support for legislation, regulation, implementation and investigation, which during the transitional period may include assistance in drafting ICAC legislation and continuing support for anti-money laundering. This program will selectively provide support where it is appropriate and where it can help to maximise the benefits of whole of Australian Government assistance.

## Annex 8: Indicative Budget

As part of the realignment of the Australian aid priorities to PNG, the program\* budget is expected to be \$90 million over the four years 2016-2019. This represents approximately 20% decrease from the predecessor sector programs but must be considered in the context of the increasing overall Australian support through the expanded AFP policing partnership including policing in Bougainville.

The following indicative budget has been developed based on:

- analysis of past assistance to the sector, including expenditure rates over the past 6 years
- noting the decrease in adviser numbers between 2010 and 2012
- taking account of the program outcomes and intentions regarding ways of working
- taking account of the higher Adviser support costs required for provincial-based support &
- comparisons of adviser v. management fees in PALJP and other PNG programs

| Cost Categories:   | Percentage of Budget (min-max) | Approx. Budget                           |
|--|--------------------------------|--|
| <b>Management Fee and Operational Costs (MF&amp;OC)</b><br>(The minimum value is based on PALJP five year term)  | 15-18%                         | \$13 - \$16 million over the four years. |
| <b>Personnel Fees and Advisor Support Cost (PF&amp;ASC)</b><br>This program will remain dependent on Advisers, particularly relating to work in the target locations.<br><br>This percentage will enable approximately 15 Long Term Advisers along with a Short Term Adviser pool and a management team. This is fewer than the program has ever had before. However it is intended to add incentives to identify innovative means of delivering support, to encourage the development of co-funding arrangements and cooperation with other programs. | 40%                            | \$36 million over the four years.        |
| <b>Program Activity Costs (PAC)</b><br>Expenditure by the sector between 2009 – mid 2014 indicated that approximately K22 million (\$12.4 million) has been the average expenditure by the sector/year. This percentage of overall budget maintains the rate of support within a reduced overall program budget.   | 42-45%                         | \$37 - \$40 million over the four years. |
| <b>TOTAL</b>   | <b>100%</b>                    | <b>Up to \$90 million</b>                |

\* NB total contract value will also include the pre-implementation, transition phase during 2015.

Nominal allocations against each outcome are as follows and remain broadly consistent with the indicative split included in the approved Investment Concept Note. The total is based on anticipated

personnel fees and Adviser support costs and the program activity costs to deliver the activities under each component.

| <b>Outcomes:</b>  | <b>Notional proportional allocation</b> | <b>Approx. Budget (PF&amp;ASC + PAC)</b> |
|---|---|--|
| Outcome 1: Community safety and security (in six target provinces plus the similar component in Bougainville) | 35%                                     | \$26.25 m                                |
| Outcome 2: Addressing family and sexual violence  | 15%                                     | \$11.25 m                                |
| Outcome 3: Effective law and justice services (incl. of police outcome in Bougainville)                       | 45%                                     | \$33.5 m                                 |
| Outcome 4: Anti-corruption  | 5%                                      | \$4 m                                    |
| <b>Proportion across all four outcomes</b>  | <b>100%</b>                             | <b>\$75 million</b>                      |

The above proportions have been broadly agreed with the NCM on the basis of a 50/50 split between more community justice focused support (Outcomes 1&2) and continued focus on institutions and their delivery of law and justice services (Outcomes 3&4). All four outcomes involve elements of working at both state and non-state levels and with state and non-state actors in efforts to improve the relevance and alignment between services and justice and stability needs.

The percentages above for Family and Sexual Violence and Anti-corruption outcomes represents an increase in allocation from that under PALJP - deliberately so. The intention is to raise the profile, for policy and for programming to scale up the focus on these complex problems. It may be necessary to review these indicative allocations following the review of the first year of the program.

The following nominal allocations across each of the outcomes will also inform programming choices. These allocations respond to issues identified during the design consultations and commitments under the PNG aid assessment (2014), *A new direction for Australian aid in PNG: Refocusing Australian aid to help unlock PNG's economic potential* and Australia's new development policy, *Australian aid: promoting prosperity, reducing poverty, enhancing stability* (2014).

This includes the focus on Bougainville, responding to the PNG Government's priority given to infrastructure investments through the aid program and the need to increase the focus on making performance count.

| <b>Across Outcomes</b>  | <b>Nominal Proportion of program</b> | <b>Approx. Budget (PF&amp;ASC+PAC)</b> |
|---|--------------------------------------|--|
| Bougainville Component  | 20%                                  | \$15 m                                 |
| Infrastructure investments  | 30%                                  | \$22.5 m                               |
| Monitoring and Evaluation support and activities  | 10%                                  | \$7.5 m                                |
| <b>From total professional fees &amp; adviser support costs and program activity cost</b> |                                      | <b>~\$75 million</b>                   |

## Annex 9: Suggested Monitoring and Evaluation Arrangements

Monitoring and evaluation (M&E) has been an identified weakness across the sector. The narrative below discusses the challenges for the program and is followed by Table 1 of indicative M&E activities suggested for agencies and organisations in the sector. Table 2 is a draft M&E framework (MEF) utilising the end of program and intermediate outcomes and identifying possible indicators, means of obtaining information, frequencies and responsibilities for monitoring. These materials are to be considered as indicative for the purposes of this design. The annex provides possibilities for M&E – some of which may be undertaken through the PALJP-Transition Program, others may form part of the new program. Table 3 is a summary of indicative research activities associated with each outcome.

### Challenges in monitoring and evaluation

In terms of *monitoring* there are important challenges. As well as monitoring the achievements and associated expenditure of this investment and the performance of the ISP against the annual plan and scopes of services, there will be a need to assess progress and performance more holistically and systematically at provincial (and district) level in the provinces targeted for support. It is at the provincial and local levels that changes in law and justice service delivery will be affected and outcomes in terms of safety and security will be realised. At some point, detailed tracking of law and justice expenditure and delivery at the provincial level, regardless of responsibility and source of funding, may be required. Considerable support would be required to strengthen provincial planning, budgeting and performance assessments.

In terms of *evaluation*, the new Sector Strategic Framework Performance Monitoring Framework (PMF) includes some indicators that cannot be collected reliably from law and justice agency information systems. The program will need to make decisions about which agency systems should be supported (and the nature and extent of that support) and what additional sources of information should be developed and funded. It is clear that surveys and other contracted information collection and research will be required – particularly for sector and aid program performance assessment.

A comprehensive evaluation strategy will form part of the MEF. This will more precisely define indicators and means of calculation for all outcomes and should assist in setting more detailed end-of-program targets. Targets and milestones may be set for both quantitative and qualitative indicators. Where specific studies or data collection activities are suggested they need to be scheduled over the program to collect comparable data to assess progress and performance. In some cases baseline information should also be collected to enable change to be measured over time. Preparations for baseline studies and surveys will commence during 2014-15. The evaluation strategy will also need metrics to assess value for money and efficiency.

The program's M&E arrangements are expected to involve the following range of activities and/or utilise the associated information:

- ISP performance reporting against the program Annual Plans and scope of services
- Agency reports and data collection systems

- Annual Sector reports against the Performance Monitoring Framework (2013)
- Provincial reporting to meet the province's own information needs as well as other statutory requirements (such as section 119 and 114 reporting)
- Information collected by other national government agencies and organisations (including the Provincial Expenditure Reports by the National Economic and Fiscal Commission)
- Law and justice information collected by other Australian and donor programs, either nationally or in the targeted areas
- Contracted surveys, monitoring tools, evaluation studies and research – a range of which have been identified
- Independent audits of provincial and district expenditure and other accountability monitoring (expenditure, procurement, service delivery)
- Independent program mid-term reviews and completion reporting

The above M&E activities will be undertaken by a variety of bodies as summarized below.

**Table 1: M&E activities by agency/organisation**

| Organisation/body             | Indicative M&E activities  |
|-------------------------------|--|
| Implementing Service Provider | <p>Refinement and further development of the MEF in consultation with all key stakeholders.</p> <p>Program monitoring and evaluation using MEF indicators and methodologies, as appropriate.</p> <p>Regular progress and performance reporting against annual plans, outcomes and intermediate outcomes as per the contract.</p> <p>Extracting and communicating important findings and lessons from M&amp;E and program activities to stakeholders.</p> <p>Contracting independent audits, research and evaluative studies.</p> <p>Supporting M&amp;E across the sector e.g. to implement the Performance Monitoring Framework and agency annual reports.</p> <p>Supporting provincial planning and M&amp;E systems and their implementation.</p> <p>Monitoring and managing the performance of advisers and sub-contractors.</p> |
| Australian High Commission    | <p>Program monitoring and evaluation (involving assessing the program's performance against end of program and intermediate outcomes and the requirements of the aid performance framework, including value-for-money).</p> <p>Assessing and reporting on program and sector progress annually against aid investment plans and performance benchmarks.</p> <p>Reviewing and approving ISP proposals to strengthen the MEF and performance measurement generally.</p> <p>Proposing or reviewing proposals for independently contracted research and studies including approving TORs.</p> <p>Monitoring contractor performance.</p>  |

| Organisation/body                   | Indicative M&E activities   |
|-------------------------------------|---|
|                                     | Contracting independent reviews, evaluative studies and completion reports (when not contracted by the ISP).  |
| National Coordinating Mechanism     | <p>Monitoring performance of the sector against the Sector Strategic Framework using the Performance Monitoring Framework indicators and other sources of information.</p> <p>Reviewing performance and progress of the program and program activities.</p> <p>Overseeing coordination of law and justice activities at provincial level (including M&amp;E of central agency participation in coordinated activities).</p> <p>Promoting consistent categorization in law and justice information (e.g. crime categories) and information exchange.</p> <p>Learning from research, innovations, pilot activities and new initiatives.</p> |
| Individual law and justice agencies | <p>Data collection as per corporate needs, including monitoring progress of funded initiatives, strategic plans and the sector's Performance Management Framework.</p> <p>Strengthening/maintaining and using information and case management systems to promote improved performance.</p> <p>Data and information exchange with other agencies and provinces.</p> <p>Monitoring service delivery sub-nationally.</p> <p>Evaluating the effectiveness and efficiency of services provided.</p>  |

**Table 2: Indicative indicators of Outcomes and Intermediate Outcomes (IO)**

| Design element   | Indicator – General description   | Indicator definition (if further definition required)  | Source of information / Method of collection   | Responsibility  | In common with Sector PMF, PALJP-Transition Plan or PNG-APP?                             | Frequency of reporting   | Comments/ issues  |
|--|---|--|--|---|--|--|---|
| <b>Outcome 1 CSS</b><br><b>Local level dispute resolution and conflict mediation mechanisms are more effective, locally legitimate and available</b> | Community satisfaction with VCs, land mediation services and other local level initiatives    | Of those hhs who have been involved in these services, the % who were satisfied with 1) the process and 2) the outcome | Community Crime Survey (designed to cover rural areas and VCs, land mediation etc.)  | Contractor to ISP   | CCS will be designed to meet the needs of Sector PMF and PNG-APP as well as this program | Baseline survey, then simple survey at selected locations annually and a more comprehensive endline survey | CCS needs to be redesigned, sampling process and to cover rural populations, VCs, land mediation services or community initiatives  |
| <b>IO 1.1</b><br>Village Courts and land mediators make progress in delivering equitable, effective services in target areas                         | No. cases handled by VCs (by type of case, sex of complainant(s), mediation or court sitting) |  | VC records (VCLMS/DJAG).<br><br>Records of PVCOs and DVCOs in target provinces.<br><br>ISP monitoring of a sample of VCs in target provinces.    | DJAG for base records.<br><br>PVCOs and DVCOs.<br><br>ISP to review register books and preventive order sheets in sample of VCs.  | Sector PMF also collect  | Annual   | VC records held by VCLMS/DJAG are not comprehensive<br><br>No. successful VC mediations and client satisfaction not captured.   |
| <b>IO 1.1</b>  | No. land mediation cases dealt with in target provinces                                       | Need clearly define what "dealt with" means  | Provincial and District records in target provinces<br><br>ISP monitoring of a sample of districts in target provinces for land mediation cases. | PVCOs and DVCOs keep some records.<br><br>MS and Provincial Land Dispute Committees may also keep records.<br><br>ISP may have to support some record keeping and analysis. | Sector PMF counts number of land mediation matters <i>dealt with by VCs</i>              | Annual   | Land mediation services can be dealt with also by VCs.<br><br>Success of land mediation difficult to assess in the short-term.<br><br>Land mediation records are generally poor |
| <b>IO 1.1</b>  | No. land mediators registered, trained and active in target provinces                         | No. active may be those receiving payment  | Provincial records. VCLMS/DJAG records (vary with provincial records).<br><br>ISP, Province and MS training records.                             | Provincial administrations, ISP (and MS)  | No   | Annual   |   |



| Design element  | Indicator – General description   | Indicator definition (if further definition required)   | Source of information / Method of collection   | Responsibility  | In common with Sector PMF, PALJP-Transition Plan or PNG-APP? | Frequency of reporting   | Comments/ issues  |
|---|---|---|--|---|--|--|---|
| <b>IO 1.2</b><br>Targeted administrations and law and justice agencies in these areas increasingly coordinate with and support local law and justice activities and initiatives | Provincial plans and budgets and their implementation, illustrate a coordinated approach to law and justice   | This is a qualitative indicator. Criteria to be developed to classify stages in administration achievement and should be aligned to general governance indicators | Annual reviews of target province performance in planning, budgeting, implementation and expenditure   | ISP undertaking routine monitoring.<br><br>Contractor undertakes periodic evaluation of effectiveness and audits of expenditure | No   | Annual summary   |   |
| <b>IO 1.3</b><br>Local community initiatives are playing an effective role in ensuring safer and more secure communities  | Community satisfaction with local initiatives and community perceptions of safety, stability and levels of crime  | % M/F who were satisfied with 1) the process and 2) the outcome   | Specific evaluations designed for identified initiatives.<br><br>A module may also be included in the CCS  | Contractor to ISP<br><br>Or independent contractor to Australian High Commission  | No   | Periodic evaluations depending on the local initiatives thought important to study |   |
| <b>IO 1.4</b><br>Women and men are increasingly aware of the PNG justice system and their legal rights and responsibilities   | No. and % of men and women reporting awareness of rights, available L&J services and where to seek redress  |   | CCS  |   | No   | Included within the CCS (whenever the CCS is implemented)                          |   |
| <b>Outcome 2 FSV</b><br><b>Women and others vulnerable to family and sexual violence increasingly effective access justice, legal protection and support services</b>           | No. of women and men reporting to FSVUs.<br><br>% women and vulnerable who had experienced FSV in past 12 months who had accessed legal protection and support services | This is a composite indicator that must be broken down to reflect the numbers and % who accessed each type of relevant service                                    | A specific FSV module developed for the CCS.<br><br>Supplemented by sample survey in target provinces with control area in conjunction with Gender program | Contractor to ISP<br><br>Or independent contractor  | FSVU numbers yes.<br><br>No                                  | FSV module included in all CCSs.<br><br>Possibly a sample survey every 2-3 years   | The draft EVAW Initiative has proposed a range of standard indicators – many of which could be considered for the final MEF |

| Design element   | Indicator – General description   | Indicator definition (if further definition required)   | Source of information / Method of collection   | Responsibility  | In common with Sector PMF, PALJP-Transition Plan or PNG-APP?                                | Frequency of reporting | Comments/ issues  |
|--|---|---|--|---|---|------------------------|---|
| <b>IO 2.1</b><br>Women are empowered to influence the delivery of law and justice                                | No. and % of women staff in L&J agencies  |   | L&J agency staffing records.   | Sector agencies.  | Sector PMF  | Annual                 |   |
| <b>IO 2.2</b><br>Access to effective FSV referral and support services increases                                 | Evidence of improved referral networks with FSVUs and other locations where FSV victims seek help         | No. and types of services available at FSVUs and other front line centres (health centres etc.)   | Survey of FSVUs and a sample of other centres  | RPNGC with ISP for FSVUs.<br><br>FSVAC or other agencies (Health) may also have information.                                  | No  | Annual                 | Access is covered in outcome indicators.  |
| <b>IO 2.2</b>  | Quality of services   | % of services meeting agreed service delivery standards (or interim criteria).<br><br>Victim satisfaction with referral and support services (availability and quality of services) | Survey of service providers in selected locations of target provinces.<br><br>Follow-up surveys/case studies of victims.<br><br>FSV module in CCS. | Contractor with multi-agency collaboration (Police/Health/NGOs etc.) to design and contract the studies                       | No  | Annual                 |   |
| <b>IO 2.3</b><br>Women and other vulnerable groups increasingly access effective legal protection and assistance | No. Interim Protection Orders (IPO) issued by VCs.<br><br>No. IPOs and POs issued through District Courts |   | VCLMS/DJAG for POs issued by VCs.<br><br>MS for IPOs and POs issued by DC  | ISP to review register books and preventive order sheets in sample of VCs within target provinces.<br><br>MS provide DC data. | Sector PMF covers <i>no. IPOs issued</i> and <i>total number of applications for IPOs</i> . | Annual                 | VC not yet collecting numbers of IPOs (new responsibility)<br><br>MS has good records of DC IPOs and POs. |

| Design element  | Indicator – General description  | Indicator definition (if further definition required)  | Source of information / Method of collection  | Responsibility   | In common with Sector PMF, PALJP-Transition Plan or PNG-APP?                                | Frequency of reporting   | Comments/ issues  |
|---|--|--|---|--|---|--|---|
| <b>IO 2.3</b>   | Effectiveness of POs and IPOs (from VC and DC)   | % cases where IPO/PO not effective in preventing violence during the term of the order<br><br>Qualitative assessment of victim perception of the ease of acquiring the orders and level of protection they afford. | Part of FSV module in CCS.<br><br>Targeted study of those successful in gaining a PO from VC, or IPO or PO from MS.   | Contractor to ISP  | No  | Part of CCS.<br><br>Targeted study as baseline and follow-up study to assess impacts of community awareness of FSV, VC/DC magistrate training or any significant procedural changes  |   |
| <b>IO 2.4</b><br><br>Increase in effective and timely investigation and prosecution of FSV cases in the lower and national courts                                     | Analysis drawing on the no. FSV cases reported to police (FSVUs and otherwise), investigated, outcomes at DC and committed to NC and outcomes  |  | National statistics are available for prosecution and indictments.<br><br>ISP to support RPNGC collect accurate records on reporting and investigation through FSVU in target provinces | FSVUs/RPNGC with support of ISP.<br><br>OPP on prosecutions and indictments<br><br>Analysis will require specific resources                                    | Sector PMF includes:<br><i>no. FSV cases</i> and <i>no. FSV prosecutions</i>                | Annual   | National statistics on FSV reporting and investigation are not available with any accuracy.   |
| <b>Outcome 3 ELJS</b><br><br><b>Law and justice agencies deliver ethical and accountable core state functions, with a focus on accessibility, quality and service</b> | Business and Community satisfaction with and perceptions of law and justice services.<br><br>No. and % of sample hhs who have been involved in each type of L&J services in the past 12 months.<br><br>No. and type of L&J services available in each district / regional centre | Of those hhs who have been involved in these services, the % who were satisfied with 1) the process and 2) the outcome   | Community Crime Survey<br><br>Business Surveys**  | Contractor to ISP for community and business crime surveys.<br><br>ISP to record L&J services available in each district / regional centre in target provinces | CCS will be re-designed to meet the needs of Sector PMF and PNG-APP as well as this program | Baseline (especially for rural areas), then simple survey annually and more comprehensive survey every 2 years<br><br><br>**NB: ADB/INA conduct business environment survey due in 2017 and the AFP plans an annual business crime survey. | CCS should establish if respondents are disabled (to disaggregate their responses). FGDs may also need to be conducted to establish specific L&J needs and concerns for the disabled. |

| Design element   | Indicator – General description   | Indicator definition (if further definition required) | Source of information / Method of collection   | Responsibility  | In common with Sector PMF, PALJP-Transition Plan or PNG-APP?           | Frequency of reporting  | Comments/ issues  |
|--|---|---|--|---|--|---|---|
| <b>IO 3.1</b><br>Supported infrastructure investments result in improved quality of and/or expanded access for women and men to state law and justice services | Quality of infrastructure strategy and plan and data/methodologies used to determine priorities.<br><br>Catchment populations served by new infrastructure.<br><br>User perspectives of new infrastructure and quality of services therein. |   | Qualitative assessment of infrastructure strategy<br><br>Survey of service-users in at selected new infrastructure | Contractor to ISP   |  | Upon drafting of the strategy.<br><br>Mid-term and end-line small surveys of users at new facilities  | Quality of construction and maintenance and accessibility for people with disabilities will also be monitored.    |
| <b>IO 3.2</b><br>Management, leadership and prioritised professional skills are stronger in law and justice agencies   | No. and % of persons trained and assessed (M/F) (by agency and by management/ leadership skills)<br><br>Evaluation of the effectiveness of training and impact  |   | ISP training records<br><br>Evaluations of training  | ISP   | No   | Training data will be provided on at least a 6 monthly basis<br><br>Form of evaluation on the effectiveness of training will be at least twice during program | Training must be based on sector wide analysis of needs and priorities.   |
| <b>IO 3.3</b><br>Law and justice agencies supported to provide more effective and efficient legal services to the government of PNG                            | Ratio of Closed to Open cases across agencies<br><br>Qualitative assessment by managers and clients of govt legal services  |   | DJAG database and records  | DJAG to provide data and ISP to assist in analysis if required. | Sector PMF includes:<br><br>Timeliness of services provided indicators | Annual  | Assessment of the effectiveness of government legal services is notoriously difficult. A new tool to be developed |
| <b>IO 3.4</b><br>PNG agencies demonstrate commitment to tracking and publishing agency & sector performance data   | No. L&J agencies publishing annual or other reports   |   | Agencies   | ISP   |  | Annual  | More detailed assessment of data quality may be undertaken if requested to upgrade data systems.                  |

| Design element   | Indicator – General description  | Indicator definition (if further definition required) | Source of information / Method of collection  | Responsibility  | In common with Sector PMF, PALJP-Transition Plan or PNG-APP?                                 | Frequency of reporting   | Comments/ issues   |
|--|--|---|---|---|--|--|--|
| <b>Outcome 4 AC</b><br><b>Target agencies and provinces demonstrate improved resistance, detection, investigation and prosecution of corruption</b>  | No. of agencies or administrations supported implementing improved systems contributing to resisting, or reporting detecting, investigating and handling of cases of corruption                          |   | Agency and provincial records of corruption cases.<br><br>Participatory process evaluations assessing efficiency and effectiveness of key high risk functions where systems of detection/reporting and investigation are in place | ISP-program monitoring and reporting<br><br>Contractor to support the participatory process evaluations if required | Sector PMF, includes specific indicators for selected types of corruption or misconduct data | Annual   | Assessment of the effectiveness of these systems will be separate  |
| <b>IO 4.1</b><br>Law and justice agencies and administrations supported to improve systems and increase their accountability to resist petty and bureaucratic corruption                       | No. and % of officials and relevant staff in the target agencies and administrations trained to resist and detect corruption (M/F)<br><br>Participant perceptions of the value of the training/mentoring |   | ISP training records.<br><br>Evaluations of training/mentoring and awareness/behavioural change campaigns   | ISP   | Transition Program MERP covers % of officials/staff trained                                  | Annual<br><br>Evaluation of training effectiveness as least twice during program |  |
| <b>IO 4.2</b><br>Civil Society and coalitions are increasingly advocating for anticorruption agendas, including monitoring expenditures on services delivered by target provinces and agencies | No. of CS groups supported under the program tracking service delivery by law and justice agencies   |   | ISP records of CS groups supported.<br><br>Participatory evaluations of CS groups and their activities  | ISP<br><br>Contractors may also play a role in evaluations  | Transition Program MERP covers partnerships with CSOs  | Annual   | Assess of capacity and effectiveness of these CS groups and the efficiency and sustainability of their work will need to be separate |

| Design element   | Indicator – General description  | Indicator definition (if further definition required)  | Source of information / Method of collection        | Responsibility                 | In common with Sector PMF, PALJP-Transition Plan or PNG-APP? | Frequency of reporting                                | Comments/ issues   |
|--|--|--|---|--------------------------------|--|---|--|
| <b>IO 4.3</b><br>Responsible PNG enforcement agencies enabled to more actively and effectively enforce laws against corruption   | No. leadership complaints received by OC, no. and % investigated and no. and % referred for prosecution<br><br>No. administrative complaints received, no. and % investigated and no. and % resolved by OC | This is a composite indicator that must be broken down to reflect numbers and % for each element | OC records  | OC                             | Sector PMF   | Annual  |  |
| <b>IO 4.3</b>  | No of corruption cases being prosecuted and analysis of outcomes   |  | OPP records / National Court databases              | ISP to negotiate with agencies | No   | Annual  | MS and NJS case docket / sentencing data bases may provide information and could be negotiated with CJ |
| <b>IO 4.4</b><br>Anti-money laundering and proceeds of crime frameworks increasingly meet Financial Action Taskforce and other international standards and PNG enforcement and regulatory agencies are enabled to more effectively implement aspects of the frameworks | Frameworks are developed to meet Financial Action Taskforce Standards and relevant international standards   |  | FATF Regional Review Group assessment of compliance | RRG                            | No   | 3 monthly in 2015, thereafter depending on compliance | Minimum reforms due to be assessed in late 2015 but will require continuous improvement.               |

| Bougainville  | Indicator – General description   | Indicator definition (if req'd)  | Source of information / Method of collection   | Responsibility   | In common with Sector PMF, PALJP-Transition Program or PNG-APP?  | Frequency of reporting   | Comments/ issues  |
|---|---|--|--|--|--|--|---|
| <b>Outcome B1 CPS</b><br><i>Local level dispute resolution and conflict mediation mechanisms are more effective, locally legitimate and available</i> | Community satisfaction with VCs, land mediation services, and other local level initiatives<br><br>No. cases handled by VCs (by type of case, sex of complainant(s), mediation or court sitting)<br><br>No. cases handled by land mediators | Of those hhs who have been involved in these services, the % who were satisfied with 1) the process and 2) the outcome | Community Crime Survey (redesigned to cover rural areas and VCs, land mediation etc.)<br><br>VC records (DoJ).<br><br>Records of VCOs and DVCOs<br><br>MS records on land mediations | Contractor to ISP  | CCS will be re-designed to meet the needs of the wider Australian supported program                      | Baseline (especially for rural areas), then simple survey annually and more comprehensive survey every 2 years | CCS needs fundamental redesign, both the sampling process and the tool. Earlier CCS did not cover rural populations, VCs, land mediation services or community initiatives. Further adaption needed to fit needs of Bougainville. |
| <b>IO B1.1</b><br>Village courts, land mediators and community governance arrangements are more effectively supporting each other                     | Perceptions of level of collaboration among staff of Village courts and other community governance actors<br><br>Evidence of changed ways of working together.  |  | Qualitative indicators assessed annually by ISP advisers through informal methods (e.g. key informant interviews and discussions with mixed stakeholder groups)                      | ISP to review register books and preventive order sheets in sample of VCs. | Potential commonalities with support provided to build community governance through Bougainville program | Annual   | Case studies of changed relationships or cooperation mechanisms may be documented to inform other districts/councils  |
| <b>IO B1.2</b><br>Local level dispute resolution mechanisms adequately resourced and more effectively linked to formal law enforcement                | ABG and National Govt budget allocation to VCs<br><br>Perception of level of cooperation between VC, CAP and BPS  |  | ISP monitoring of ABG budget and expenditure on VC<br><br>ISP monitoring of a sample of districts in target provinces for cooperation with law enforcement                           |  | Potential commonalities with support provided to build community governance through Bougainville program | Annual   | Case studies of changed relationships or cooperation mechanisms may be documented to inform other districts/councils  |

| <b>Bougainville</b>   | <b>Indicator – General description</b>   | <b>Indicator definition (if req'd)</b> | <b>Source of information / Method of collection</b>  | <b>Responsibility</b>  | <b>In common with Sector PMF, PALJP-Transition Program or PNG-APP?</b>                      | <b>Frequency of reporting</b>                                       | <b>Comments/ issues</b>   |
|---|--|--|--|--|---|---|---|
| <b>IO B1.3</b><br>Crime prevention initiatives, including through rehabilitation of offenders and diversion, are more effectively implemented               | No. of CBC officers and volunteers in place (M/F).<br>No. persons and juveniles under CBC programs (M/F).<br>No. CBC staff and volunteers who have been trained (M/F)<br>No. community-led initiatives supported by L&J agencies to address key safety concerns. |  | Dept of Pol & Corr'ns and/or DJAG on CBC and juvenile numbers<br><br>ISP records on community-led initiatives supported by program | Dept of Pol & Corr'ns and/or DJAG<br>ISP   | No  | Annual  |   |
| <b>OutcomeB2 FSV</b><br><b>Women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services</b> | No. of women and men reporting to FSVUs/police.<br><br>% women and vulnerable who had experienced FSV in past 12 months who had accessed justice, legal protection and support services  |  | A specific FSV module developed for the CCS.<br><br>May be supplemented by a sample survey   | Contractor to ISP  | No  | FSV module included in all CCSs.<br><br>Sample survey every 2 years | Data collected as part of larger program FSV component and in collaboration with the Gender program |
| <b>IO B2.1</b><br>Women and others vulnerable groups increasingly access effective legal protection and assistance  | No. IPOs issued by VCs.<br><br>No. IPOs and POs issued by DCs  |  | Dept of Justice for POs issued by VCs.<br><br>MS for IPOs and POs issued by DCt  | DoJ for VC records supported by ISP to review register books and preventive order sheets in sample of VCs.<br><br>MS for DCt data. | Sector PMF covers <i>no. IPOs issued</i> and <i>total number of applications for IPOs</i> . | Annual  | VCs not yet reporting IPOs<br><br>MS data does not differentiate FSV cases from other POs.          |



| <b>Bougainville</b>  | <b>Indicator – General description</b>  | <b>Indicator definition (if req'd)</b>  | <b>Source of information / Method of collection</b>   | <b>Responsibility</b>   | <b>In common with Sector PMF, PALJP-Transition Program or PNG-APP?</b> | <b>Frequency of reporting</b>   | <b>Comments/ issues</b>                                  |
|--|---|---|---|---|--|---|--|
| <b>IO B2.1</b>   | Effectiveness of POs and IPOs (from VC and DC)  | % cases where IPO/PO not effective in preventing violence during the term of the order.<br><br>Qualitative assessment of victim perception of the ease of acquiring the orders and level of protection they afford. | Part of FSV module in CCS.<br><br>Targeted study of those successful in gaining a PO from VC, or IPO or PO from DS.           | Contractor to ISP   | No   | Routinely part of CCS.<br><br>Targeted study as baseline and follow-up study to assess impacts of community awareness of FSV, VC/DC magistrate training or any significant procedural changes |  |
| <b>IO B2.1</b>   | Quality of services   | % of services meeting agreed service delivery standards (or interim criteria).<br><br>Victim satisfaction with referral and support services (availability and quality of services)                                 | Survey of service providers in selected locations<br><br>Follow-up surveys/case studies of victims.<br><br>FSV module in CCS. | Contractor with multi-agency collaboration (Police/Health/NGOs etc.) to design and contract the studies | No   | Annual  |  |
| <b>IO B2.2</b><br>Increase in timely investigation and prosecution of FSV cases in lower and national courts | No. FSV cases reported to police<br><br>No. FSV cases investigated.<br><br>No. FSV cases prosecuted |   | BPS records.<br><br>Police prosecution<br><br>MS / OPP records / NJS  | ISP to negotiate gathering and cross-referencing agency data  |  | Annual  | BPS records are expected to be incomplete or inaccurate. |
| <b>IO B2.3</b><br>Women and other vulnerable people empowered to influence the delivery of law and justice   | No. and % of women staff in L&J agencies and institutions working in L&J                            |   | L&J agency staffing records.  | Sector agencies.<br><br>ISP   | Sector PMF includes  | Annual  |  |

| <b>Bougainville</b>   | <b>Indicator – General description</b>  | <b>Indicator definition (if req'd)</b>   | <b>Source of information / Method of collection</b>   | <b>Responsibility</b>   | <b>In common with Sector PMF, PALJP-Transition Program or PNG-APP?</b>                      | <b>Frequency of reporting</b>   | <b>Comments/ issues</b>  |
|---|---|--|---|---|---|---|--|
| <b>IO B2.4</b><br>Law and justice agencies demonstrate improved response to conflict drivers of FSV   | No. and % of relevant staff in the target agencies trained (M/F)<br><br>Participant perceptions of the value of the training  |  | ISP training records.<br><br>Evaluations of training  | ISP   | No  | Annual<br><br>Evaluation of training effectiveness may be twice within program  |  |
| <b>Outcome B3 ELJS</b><br><i><b>Bougainville law and justice services are delivered in a manner that is more accessible, effective, accountable and service-focused</b></i> | Community satisfaction with law and justice services.<br><br>No. and % of sample hhs who have been involved in each type of L&J services in the past 12 months.<br><br>No. and type of L&J services available in each district / regional centre. | Of those hhs who have been involved in these services, the % who were satisfied with 1) the process and 2) the outcome | Community Crime Survey (redesigned to include representative rural areas)<br><br>Community score card (as a possible addition if NGOs/CSOs show interest) | Contractor to ISP for community and business crime surveys.<br><br>ISP of records of L&J services available in district / regional centre<br><br>NGOs/CSOs if scorecards or social audits implemented | CCS will be re-designed to meet the needs of Sector PMF and PNG-APP as well as this program | Baseline (especially for rural areas), then simple survey annually and more comprehensive survey every 2 years  | CCS needs fundamental redesign, both the sampling process and the tool.<br><br>Business crime survey to also be redesigned and tested to assess perspective of L&J services by the private sector. |
| <b>IO B3.1</b><br>Prioritised infrastructure investments improve the delivery of law and justice services   | Geographic accessibility of services<br><br>On time, on budget progress of infrastructure<br><br>User perspectives of new infrastructure.   |  | Survey of service-users at selected new infrastructure  | Contractor to ISP   |   | Mid-term and end-line small surveys of users at new facilities  | Cost effectiveness / value for money to be considered as part of ISP advice to Australian High Commission/PCG prior to approval of infrastructure in annual plans                                  |
| <b>IO B3.2</b><br>Management, leadership and prioritised professional skills are stronger in law and justice agencies.  | No. and % of persons trained and assessed (M/F) (by agency and by management/ leadership skills)<br><br>Evaluation of the effectiveness of training and impact  |  | ISP training records<br><br>Evaluations of training   | ISP   | No  | Training data will be provided on at least a 6 monthly basis<br><br>Form of evaluation on the effectiveness of training will be at least twice during program | Training must be based on sector wide analysis of needs and priorities.  |

| Bougainville  | Indicator – General description   | Indicator definition (if req'd) | Source of information / Method of collection   | Responsibility   | In common with Sector PMF, PALJP-Transition Program or PNG-APP?        | Frequency of reporting   | Comments/ issues  |
|---|---|---------------------------------|--|--|--|--|---|
| <b>IO B3.3</b><br>Law and justice agencies in Bougainville demonstrate accountability and transparency in the delivery of services to the women and men of Bougainville | No. agencies with reliable paper-based or computer systems to record performance from district or facility levels and collate for selected key indicators.<br><br>No. agencies routinely providing up-to-date performance and budget/expenditure data to ABG and that make this information publically available. |                                 | Verifying the reliability and accuracy of performance data is not simple as it requires investigation of data/information from district levels and L&J facilities.<br><br>Data audits may be warranted where the program is interested to support information systems. | ISP advisers to make assessment based on information from ABG and L&J agencies |  | Annual assessments based on whether performance data is provided to ABG and published (not assessing data quality) |   |
| <b>IO B3.4</b><br>Bougainville has enhanced internal capacity to provide legal services to the ABG  | Ratio of Closed to Open cases across the sector<br><br>Qualitative assessment by managers and clients of govt legal services  |                                 | DoJ database and records   | DoJ to provide data and ISP to assist in analysis if required.                 | Sector PMF includes:<br><br>Timeliness of services provided indicators | Annual   | Assessment of the effectiveness of government legal services is notoriously difficult. A new tool to be developed |
| Appropriate and coherent approach to progressive transfer of law and justice related powers and functions   | Perceptions of policy makers in the ABG and L&J agencies<br><br>Policies and strategies in place and being implemented  |                                 | A qualitative assessment of the quality, realism and affordability of policies and strategies  | ISP / independent expert(s)  |  | Annual   |   |
| <b>Outcome B4 Police</b>  | Community and   | Of those                        | Community and  | Contractor to ISP  |  |  | M&E of this outcome   |

| Bougainville   | Indicator – General description   | Indicator definition (if req'd)  | Source of information / Method of collection   | Responsibility  | In common with Sector PMF, PALJP-Transition Program or PNG-APP? | Frequency of reporting | Comments/ issues   |
|--|---|--|--|---|---|------------------------|--|
| <b><i>A more credible and functioning Bougainville Police Service, effectively linked to community policing and other arms of Bougainville's law and justice system</i></b>      | private sector satisfaction with BPS.<br><br>No. and % of sample hhs who have been involved with BPS in the past 12 months.   | hhs/businesses who have been involved with BPS, the % who were satisfied with 1) the process and 2) the outcome                      | Business Crime Surveys<br><br>Community score card (as a possible addition if NGOs/CSOs show interest) | Or with AFP/NZ Police community and business crime surveys.<br><br>NGOs/CSOs if scorecards or social audits implemented |   |                        | and associated IOs to be designed in collaboration with NZ Bougainville Policing and Community Program and the AFP |
| <b>IO B4.1</b><br><br>The Bougainvillean police staffing increases, including the numbers of police women  | Recruitment plans developed and being implemented.<br><br>No. uniformed and non-uniformed men and women recruited each year.<br><br>No. uniformed and non-uniformed men and women in service. |  | BPS HR records   | BPS and ISP   |   | Annual                 |  |
| <b>IO B4.2</b><br><br>BPS human resources systems, corporate and administrative services support the delivery of good quality, accountable policing services across Bougainville | Assessment of BPS capacity in key functional areas (against key capacity objectives/targets for the BPS functions prioritised for support)  | Participatory institutional assessments against agreed stages of institutional development for each of the functional areas targeted | Participatory assessments with the BPS departments / sections/staff concerned                          | ISP or contractor supporting capacity development   | No  | Annual                 |  |
| <b>IO B4.3</b>   | No. and % of police   |  | BPS/ ISP training  | ISP and other   |   | Annual                 |  |

| <b>Bougainville</b>  | <b>Indicator – General description</b>  | <b>Indicator definition (if req'd)</b> | <b>Source of information / Method of collection</b>   | <b>Responsibility</b>        | <b>In common with Sector PMF, PALJP-Transition Program or PNG-APP?</b> | <b>Frequency of reporting</b> | <b>Comments/ issues</b> |
|--|---|--|---|------------------------------|--|-------------------------------|-------------------------|
| BPS and CAPs demonstrate improved policing skills, competencies and response of the to key community and ABG concerns  | and CAPs trained and assessed (M/F) (management/technical skills)<br><br>Participant perceptions of the value of the training |  | records<br><br>Evaluations of training  | trainers                     |  |                               |                         |
| <b>IO B4.4</b><br><br>Supporting policy developments to identify a police service appropriate to Bougainville's vision | Policies and strategies in place and being implemented  |  | Adviser reports.<br><br>A qualitative assessment of the, capacity and appropriateness of Police | ISP<br><br>NZ, AFP and RPNGC |  | Annual                        |                         |

**Table 3: Research activities associated with program outcomes**

| Outcomes   | Key assumptions  | Critical questions   | Proposed research and evaluation activities  |
|--|--|--|--|
| <b>Outcome 1 CSS</b><br>Local level dispute resolution and conflict mediation mechanisms are more effective, locally legitimate and available        | <p>That GOPNG funding is adequate and sustained to support the functioning of VCs and land mediators.</p> <p>That Provincial Administrations and national L&amp;J agencies support and coordinate with local level L &amp;J mechanisms.</p> <p>That VC officers and land mediators are appropriately trained and supervised to ensure they are effective and make appropriate decisions.</p> | <p>Are communities satisfied with the decisions and outcomes from village courts and land mediation services?</p> <p>How just and equitable are their decisions? How effective are they in resolving local disputes and conflicts?</p> <p>How well do village courts address issues of FSV (both within and beyond their jurisdictions)? How do women view the effectiveness of village courts in protecting them against violence?</p> <p>What are the factors behind the successes and failures of community initiatives for safer and more secure villages/communities? Can successful initiatives be easily replicated or scaled-up?</p> | <p>Targeted surveys of the operation and effectiveness of VCs and land mediators (in project supported and un-supported areas)</p> <p>Community surveys covering perceptions of crime and safety, satisfaction with law and justice services and recent experiences with crime or violence</p> <p>Case studies of community safety, security and crime prevention initiatives in PNG including role of CSOs, NGOs, faith-based organisations and the private sector (including FSV initiatives).</p>   |
| <b>Outcome 2 FSV</b><br>Women and others vulnerable to family and sexual violence increasingly access justice, legal protection and support services | <p>That there is sustained and adequate funding to appropriately address FSV in the L&amp;J agencies at all levels.</p> <p>That women and other victims of FSV are aware of their legal rights and the support service available to them.</p> <p>That staff in L&amp;J agencies are trained and motivated to provide the legal and support services necessary</p>                            | <p>How effective are FSVUs in terms of addressing the needs of victims, providing them protection, promoting reporting of FSV crimes and ultimately leading to the prosecution of offenders?</p> <p>What is the nature of support services available to victims of FSV? Are these services of a high standard? What support and advice to do they provide (and how consistent are they among providers)?</p> <p>What services do victims prioritize, need most and use?</p>  | <p>Community surveys covering perceptions of levels of FSV and levels of protection available, access to and satisfaction with law and justice services and other support services dealing with FSV and recent experiences with FSV</p> <p>Research into issues of FSV responses (what's working and why) in rural and urban areas.</p> <p>Assessments of the nature and quality of FSV support services available.</p> <p>Targeted study of effectiveness of IPOs and POs in preventing continued FSV.</p> <p>Targeted study of victims who have reported FSV crimes to a FSVU (satisfaction, outcomes etc.)</p> <p>Case studies of community initiatives related to FSV in PNG including role of CSOs, NGOs, faith-based organisations and the private sector. (As per the first outcome area)</p> |

| Outcome   | Key Assumptions   | Critical questions   | Proposed research and evaluation activities  |
|---|---|--|--|
| <b>Outcome 3 ELJS</b><br>Law and justice agencies deliver ethical, accountable core state functions, with a focus on accessibility, quality and service | <p>That GOPNG funding is increased and sustained to support improvements in L&amp;J service accessibility and delivery.</p> <p>That state L&amp;J agencies improve coordination among themselves, with sub-national administrations and with civil society and private sector in infrastructure and service delivery planning, implementation and monitoring.</p> <p>That civil society increasingly demands better L&amp;J services.</p> <p>That women and men develop greater trust and confidence in L&amp;J services to use them more widely and effectively.</p> | <p>How effective is law and justice coordination among key agencies at the provincial level? Are central agencies interested in and capable of earmarking resources at the provincial level? How can provinces better coordinate the resources flowing directly to districts?</p> <p>Will greater representation of women in law and justice agencies and other civil society organisations improve policies, practices and equitable outcomes for women? What factors support or constrain their influence?</p> <p>What are the key factors which influence women and men's use of law and justice services?</p> <p>What is the level of community satisfaction with the available law and justice services in their locality?</p> <p>Is civil society interested in holding law and justice service providers accountable?</p> | <p>Study to promote better understanding of private sector and community need for law and justice services.</p> <p>Independent evaluation of twinning and other international support elements.</p> <p>Impact evaluations of DFAT funded capacity development and infrastructure investments.</p> <p>Support to CSOs/NGOs to initiate/extend community scorecard or related approaches to assess effectiveness of law and justice services.</p>  |
| <b>Outcome 4 AC</b><br>Target agencies and provinces demonstrate improved resistance, detection, investigation and prosecution of corruptions           | <p>That there is sufficient support and resolve from the GOPNG, leaders of L&amp;J agencies and provincial administrations for anti-corruption measures and agency reforms.</p>   | <p>Will the development of systems for detecting and reporting corruption and training/awareness campaigns be effective in reducing levels of corruption?</p> <p>What are the factors that promote successful anti-corruption initiatives in agencies, or that constrain them?</p> <p>How sustainable are the benefits of successful campaigns?</p>  | <p>Evaluation of the effectiveness of the service charter model on ethical behaviour and expectations in selected agencies.</p> <p>Supplementing the Provincial Expenditure Reviews (PERs) conducted by the National Economic and Fiscal Commission with a review of the effectiveness of expenditure (with the participation of Provincial Administrations in target provinces<sup>1</sup></p> <p>Perception surveys of agency staff attitudes to corruption and the assessments of levels of corruption in key agency functions/activities.</p> <p>Select District and LLG budget expenditure reviews with involvement of CSOs/NGOs.</p> |

<sup>1</sup>PERs use records of expenditure registered in PGAS but do not assess whether that expenditure was actually expended as recorded or whether expenditure provided the goods and services expected.

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| World Bank, Social Cohesion and Violence Prevention Team; Lakhani, S                   | Trucks under siege: the costs of crime and insecurity to the transport industry in Papua New Guinea                  | Washington | 2014. |
| World Bank, Social Cohesion and Violence Prevention Team; Lakhani, S and Willman, A.M, | Gates, Hired Guns and Mistrust - Business Unusual: The Cost of Crime and Violence to Businesses in Papua New Guinea. | Washington | 2014  |
| World Bank, Social Cohesion and Violence Prevention Team; Lakhani, S and Willman, A.M, | The Socio-economic Costs of Crime and Violence in Papua New Guinea: Recommendations for policy and programs          | Washington | 2014  |
| World Bank, Social Cohesion and Violence Prevention Team; Willman, A.M (et al)         | "Always Looking Over Our Shoulders", The High Costs of Crime and Violence to Businesses in PNG                       | Washington | 2014  |
| World Bank, LEGJR, Legal Vice Presidency, Akmeemana, S                                 | Crimes and Disputes: Missed Opportunities and Insights from a National Data Collection Effort in Papua New Guinea    | Washington | 2014  |

## Annex 11: Risk Register

Last report period assessment shown in ~~strike through~~.

| Risk No. | Risk  | Result  | Quarter 2 Impact of Risk |                      | Quarter 2 Risk Rating                | Reporting Quarter 2 comments   | Responsibility           |
|----------|---|---|--------------------------|----------------------|--------------------------------------|--|--------------------------|
|          |   |   | Consequence              | Likelihood           |                                      |  |                          |
| 1        | Macro GoPNG political stability risks                           | Instability in GoPNG politics adversely affects justice sector leaders and governance mechanisms – program relationships and support for reform is weakened.  | Major<br>Major           | Likely<br>Possible   | <del>Extreme</del><br><b>Extreme</b> | No change.<br>Risk remains beyond Program control. The 'Likelihood' assessment has been reduced as political conflict continues to be dealt with within established judicial systems, including the Supreme Court and Leadership Tribunals. The lack of associated public disorder suggests that the rule of law is being maintained.  | AHC<br>PCG<br>ISP SMT    |
| 2        | Bi-lateral Aid Policy instability                               | Changing GoA/GoPNG Aid Policy creates uncertainty in program objectives and goals, requiring shifts in implementation approaches that weaken impact.  | Moderate<br>Moderate     | Unlikely<br>Unlikely | <del>Medium</del><br><b>Medium</b>   | No change.<br>Risk is beyond Program control and is accepted. Changing aid focus has not appreciably impacted on program activity delivery during reporting period. Launch of GoPNG's new Aid Policy in 2015 will require reassessment of this risk.   | AHC<br>PCG               |
| 3        | Intra-GoA ODA program coordination                              | Closer interactions with other GoA ODA programs require lengthy consultation, slowing implementation. Priorities are not fully shared and internal tension about strategic intent & approach creates conflict, lessening overall effectiveness. | Moderate<br>Moderate     | Unlikely<br>Unlikely | <del>Medium</del><br><b>Medium</b>   | No change.<br>Risks continue to be mitigated by: <ul style="list-style-type: none"> <li>• high levels of GoA L&amp;J program participation in PALJP-TP project implementation;</li> <li>• continued positive engagement with SGP; &amp;</li> <li>• minimal crossover with PAPP/AFP.</li> </ul>   | AHC<br>ISP TL<br>ISP SMT |
| 4        | Fiduciary risks – financial mismanagement, fraud and corruption | Fraud on the aid budget results in increasing levels of controls that slow activity implementation and reduce trust and confidence in the program's ability to deliver results.   | Moderate<br>Moderate     | Rare<br>Rare         | <del>Medium</del><br><b>Medium</b>   | No change.<br>Financial management processes are now 100% donor/ISP controlled. New ISP systems well established. One new fraud case (low level) reported this Quarter.  | AHC<br>ISP SMT<br>Cardno |
| 5        | Transition from PALJP systems, processes and approaches         | PNG development partners are unsure of new processes and donor requirements, feel less control and ownership - slowing planning and implementation.   | Moderate<br>Moderate     | Likely<br>Unlikely   | <del>Extreme</del><br><b>Medium</b>  | Reduced risk.<br>'Likelihood' rating has been reduced markedly, as: <ul style="list-style-type: none"> <li>i) new systems are well established and progress reporting is improving; &amp;</li> <li>ii) resolution in-principle of governance issues for the new program (2016) - which were impacting on the current program - has provided greater certainty to programming.</li> </ul> | AHC<br>ISP SMT           |

| Risk No. | Risk  | Result   | Quarter 2 Impact of Risk |                      | Quarter 2 Risk Rating | Reporting Quarter 2 comments  | Responsibility                            |
|----------|---|--|--------------------------|----------------------|-----------------------|---|---|
|          |   |  | Consequence              | Likelihood           |                       |   |   |
| 6        | Demonstrable Return on Investment   | Impact of Transition Activities in a limited timeframe is difficult to assess and demonstrate, jeopardizing ongoing donor and partner support.   | Major<br>Major           | Possible<br>Unlikely | Extreme<br>High       | Reduced risk.<br>'Likelihood' rating has been reduced markedly, as M&E is now being delivered at activity, KRA, Outcome & whole-of-program levels. The PAJP-TP M&E framework (MERP) has been finalized and aligns directly to the new sector framework (PMF). Increased M&E and media support resources have been successfully deployed during the Quarter to better demonstrate program impacts.   | ISP TL<br>M&E team                        |
| 7        | Effective cross-sectoral/provincial collaboration                         | Existing GoPNG sector coordination systems cannot improve their performance to the levels required by the heavier emphasis on collaborative effort. Implementation failure rates increase. | Moderate<br>Moderate     | Possible<br>Possible | High<br>High          | No change.<br>Technical assistance is being provided in key areas to facilitate progress. Implementation is now well underway with early lags less evident. Primary review point will be reached at the beginning of Q3.  | ISP TL<br>ISP SMT<br>ISP TA team          |
| 8        | Over-programming of activities within partner capacity                    | The large number of approved activities exceeds capacity of partners to effectively implement program and achieve planned results.   | Moderate<br>Moderate     | Likely<br>Unlikely   | High<br>Medium        | Reduced risk.<br>'Likelihood' rating has been reduced markedly. The financial completion rate for the Quarter is 95% and YTD 75% - historically high for the sector. Primary budget/activity review point will be reached at the beginning of Q3.   | ISP TL<br>Project Management Teams<br>PCG |
| 9        | Technical assistance personnel deployed in remote and high risk locations | Security and implementation risks associated with single deployments to remote high-risk locations cause low completion rates  | Major<br>Major           | Likely<br>Likely     | Extreme<br>Extreme    | No change.<br>During the Quarter, fatalities due to tribal fighting in Hela disrupted activity implementation and personnel were temporarily withdrawn; two security incidents in BGV were reported resulting in personnel being temporarily withdrawn; and PNGDF-RPNGC fighting in POM resulted in opportunistic looting. A risk assessment of the 2 <sup>nd</sup> instance above found that security planning is inadequate and last Quarter's recommendations are approved and pending implementation. | Cardno<br>ISP TL<br>ISP DTLs              |

**Risk Assessment Key:**

|             |                |   |            |        |          |         |         |
|-------------|----------------|---|------------|--------|----------|---------|---------|
| Likelihood  | Almost certain | 5 | High       | High   | Extreme  | Extreme | Extreme |
|             | Likely         | 4 | Medium     | High   | High     | Extreme | Extreme |
|             | Possible       | 3 | Low        | Medium | High     | Extreme | Extreme |
|             | Unlikely       | 2 | Low        | Low    | Medium   | High    | Extreme |
|             | Rare           | 1 | Low        | Low    | Medium   | High    | High    |
|             |                |   | 1          | 2      | 3        | 4       | 5       |
|             |                |   | Negligible | Minor  | Moderate | Major   | Severe  |
| Consequence |                |   |            |        |          |         |         |

Note: This Risk Register is as included in PALJP-Transition Program Quarterly Program Progress Report of 1 October– 31 December 2014.