

Independent review of
Australia's aid funding to the
Samoa Law and Justice
Sector

Review (004)

Dated 14 Oct 2015

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To the members of the Australian Department of Foreign Affairs and Trade, thank you for your demand that we rigorously consider weaknesses in the design process. Your demand for, and openness to, honest feedback is to be commended – to us it demonstrates a true commitment to working as partners with Samoan agencies. A strong foundation for future working relationships.

It was a pleasure for us to work with each of you, thank you for this opportunity.

Key Data

Key data

GoS

› Commenced considering establishing the SLJS	Early 2000s
› CEO agreed to seek approval to establish the SLJS	13 April 2006
› Established the SLJS Secretariat	2009
› SLJS expanded to include representatives of community and CSO	2009
› GoS commences fully funding the Secretariat	Oct 2012

Australian Government support.

› Support to preparation stage commenced	2007
› Support to SLJS 2008 – 2012 Strategic Plan implementation commenced	2008
› Support to SLJS 2012 – 2016 Strategic Plan implementation commenced	May 2012
› Design for support to 2012 – 2016 Strategic Plan commences	Mar 2013
› Design for support to 2012 – 2016 Strategic Plan ceases	Jun 2013
› Support to SLJS finished.	31 Dec 2014

Total Australian Government contribution to initiative	\$3.99m
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“The sector is the best thing that happened to us. I can just call up (other CEOs) and what we need, will be done.

Even if we don’t get any more funds from donors, we need to continue to enhance the close working relationships we have now established.

You can’t put a monetary value on that”.

Quote from a CEO in the SLJS

Executive Summary

This report sets out the findings of the independent review of Australia's aid funding to the Samoa Law and Justice Sector between 2008 and 2014. The review focusses on the effectiveness of support. In addition, the review considers efficiency, relevance, sustainability and lessons learnt.

Samoa had been considering establishing a law and justice sector since the early 2000s. However, establishment did not progress until 2007 when a series of workshops defined the sector. In 2008, the Governments of Samoa and Australia entered into a Partnership for Development that sought to improve governance by supporting an integrated approach to policing and law, and justice sector reform. Subsequently, the Australian Government supported Samoa develop their first Samoa law and justice sector (SLJS) Strategic Plan. Samoa established a Steering Committee to establish and implement the SLJS.

The SLJS developed a second Sector Plan for the period 2012 – 2016. This included a monitoring and evaluation (M&E) Framework to monitor implementation of the Sector Plan and progress towards achievement of the goal. Australia continued to provide Samoa support to implement this Sector Plan. In 2013, a design mission was undertaken to design Australia's support to the SLJS for implementation of this second Sector Plan. The purpose of this design mission was poorly understood in Samoa, and the design was never finalised or approved. Funding finished in December 2014.

This review established a Theory of Change (ToC) underpinning the provision of support to the SLJS and a second ToC underpinning the SLJS Strategic Plan (Appendix F). These ToC were tested and refined in the field. The fieldwork comprised interviewing 100 stakeholders from over 30 different stakeholder groups, reviewing additional documents and analysing this data and a limited amount of quantitative data. The review team reported the findings and provided an aide memoire to the Steering Committee at the completion of the fieldwork. The review team provided the Steering Committee and the Australian Government a copy of the draft report and incorporated comments into this report.

This review found that funding to support Samoa establish the SLJS and implement the SLJS Strategic Plans has been effective despite the Australian Government not clearly defining expected outcomes and the Agreement specifying inappropriate indicators. With the Australian investment of AUD\$3.699m, Samoa achieved a number of significant outcomes including:

- › Sustainably establish the SLJS. The SLJS continued to function after Australian Government funding ceased.
- › Significantly increase harmonisation of the traditional and formal legal systems.
- › Establish a Human Rights Institute increasing access to justice.
- › Establish security of critical Land and Titles Court (LTC) records and improved public access to these records.

In addition, this support has enabled the SLJS to:

- › Obtain approval for a Community Law Centre (CLC) that will be established this year.
- › Develop a sector-wide crime prevention strategy.
- › Progress SLJS goals, particularly community safety, access to justice and law, and the integration of customary justice into the formal justice system; and
- › Separate from the Ministry of Police (MoP) and establish the Samoa Prisons and Corrections Services (SPCS).

All stakeholders agree that the support Australia provided was essential for achievement of these outcomes. The activities supported made significant contributions to addressing the needs of the marginalised despite no specific focus on gender or disability.

The SLJS generally invested funds efficiently. As a result, the overall investment represented excellent value for money. However, efficiency was adversely affected by: a lack of clarity in agreements between the Governments of Australia and Samoa; low Australian Government attendance at Steering Committee meetings; lack of SLJS ownership of the small number of activities initiated by the Australian Government and undertaken (rather than facilitated) by consultants, a lack of criteria to select and prioritise projects, and not contracting construction works. Monitoring, reporting and risk management was weak due to a lack of capacity within both the Steering Committee and Australian Government representatives who attended. Consequently, this review identified that for the SLJS the most significant way in which the sector can be further strengthened is an increased focus on strategic thinking, planning and monitoring which is likely to require developing the capacity of the SLJS and Secretariat.

Given that previous Australian Government aid program reviews (Cox et. al., 2012) found that establishment of law and justice sectors are generally not effective and that “sectoral aid coordination structures may not be the right mechanism for addressing fragmented law and justice systems” (p. 53), the reasons why the SLJS has succeeded are important learning. The success of the support to the SLJS was a consequence of:

- › Strong leadership from the Chairman and other SLJS sector agency CEOs,
- › Samoan ownership of the sector and supported activities,
- › Supporting improved, rather than best practice,
- › Focussing on a big activity that needed all sector agencies support, and
- › Funds to implement these activities.

The difficulties that emerged between Australian Government representatives and the Steering Committee could have been avoided with greater attention given to establishing and maintaining strong relationships. This requires a commitment of time and an understanding by each partner of the other’s needs. Boundaries must be established, documented, regularly reviewed and updated through a process of discussion. In addition, sustainability will be enhanced where multiple agencies (including the partner government) fund a sector-based approach rather than a single donor. Thus, the key lessons learnt were that:

- › Establishing and maintaining a relationship based on understanding and respect is critical. This requires a commitment of time and understanding of the partner’s culture.
- › Shared understanding of needs and boundaries must be established, documented, regularly reviewed and updated through a process of respectful discussion.
- › Sector-based approaches should be funded by multiple agencies, including the partner government, to maximise sustainability.

As required by the Scope of Services, factors to promote effective engagement between partners and donors are summarised in lessons learnt (Section 7.1). Items for consideration in relation to the future of the SLJS are presented in Section 7.2. This includes ways in which

Australia could consider providing small-scale targeted support to the law and justice sector in the future and approaches that may to further improve the efficiency of the sector.

Summary of recommendations

For the Steering Committee.

Consider:

- › Establishing and communicating criteria for project selection (Section 5.3.1 and 6.2).
- › Prioritise proposals to implement (refer Section 6.2).
- › Resourcing the Secretariat to support adequately the Steering Committee. This may mean team members with specialist skills in planning and monitoring in addition to finance. Alternatively, it may require short-term technical assistance inputs (refer Section 5.2).
- › Where timely production of functional outputs is critical, establishing output-based contracts with payments attached to specific milestones, and including maintenance periods may be more effective. Inclusion of liquidated damages for delayed completion may also be appropriate in some situations (refer Section 5.2).
- › Inclusion of a member of the National Youth Council to bring the voice of the youth to discussions (refer Section 3.3).

For Australia and other donors

Wherever possible, efficiency should be maximized by (refer Section 5.1.2):

- › Ensuring that the timing of payments is predictable.
- › Avoiding providing funding for short periods. Committing funds over a longer period supports good planning practice.
- › Acting consistently with the verbal message communicated, particularly in regards funding.

For all partners:

- › In all communication, work from a basis of partnership and trust to and ensure open and direct communication (refer Section 5.2 and 7.1).
- › When sector funding commences, Australian Government representatives and partner agency/Secretariat work closely together to ensure that processes are understood by all parties (refer Section 5.2).
- › Australian Government representatives and MoF monitor compliance more closely at the start of an initiative to ensure procedural compliance (refer Section 5.2).
- › Wherever possible, activities supported should be those initiated by the sector to maximise efficiency and effectiveness (refer Section 5.3.2).
- › Where Australian Government representatives initiate (or are perceived to initiate) activities, the purpose must be clear, the output useable and, where necessary, support provided to facilitate application of the output (refer Section 5.3.2).
- › To enhance ownership, technical assistance (TA) should facilitate partners within the sector to produce the output rather than the TA producing the output (refer Section 5.2).
- › Capacity gaps in both the donor and partners must be identified and addressed (refer Section 6.5).

1. Introduction

This report documents the independent review of Australia's aid funding to the Samoa Law and Justice Sector (SLJS) between 2008 and 2014. The independent review meets the specified needs of the Australian Government (Department of Foreign Affairs and Trade [DFAT]) and the SLJS Steering Committee (the primary intended users). They identified that they required an assessment of:

- › The impact and effectiveness of aid funding to the SLJSⁱ.
- › The extent to which Australian aid assisted the SLJS to achieve sector objectives and the outcomes agreed in the Samoa Australia Partnership for Development.

As requested by the Steering Committee, this review also provides the SLJS independent information on:

- › What they have achieved as a sector under their Sector Plan and
- › What could be improved.

The SLJS Steering Committee will use the findings to help chart a way forward as a sector. In addition, the Australian Government and the SLJS Steering Committee identified areas of information that they required the review to address (Appendix A). This information will provide lessons that the Australian Government may apply to future sectoral support provided in Samoa (particularly the education and health sectors) and any support provided to the law and justice sector in Samoa and elsewhere.

During the planning stage, the key evaluation questions were refined and prioritised (Appendix A) and the methodology agreed. This review was then completed in two phases. Initially, 23 documents were reviewed, (subsequently expanded to some 150 [Appendix B]) and a theory of change (ToC) developed. This and broader findings were documented in ME002 and copies provided to the Australian Government, the Secretariat and the Steering Committee for comment and information prior to commencement of the fieldwork. These findings were discussed with the Steering Committee at the commencement of the fieldwork.

The fieldwork included semi-structured interviews of 100 people (Appendix B) from 35 different stakeholder groups. Available relevant quantitative data was analysed. An aide memoire was presented to the Steering Committee on 22 July 2015. Key findings, including revisions to the ToC, were discussed with the Steering Committee and comments have been incorporated into this report. The key limitations were time (which limited the number of community members interviewed and constrained field work to Apia) and availability of quantitative data. Consequently, consideration of the effect of the support outside Apia is more limited than desired and little quantitative analysis has occurred.

This report provides a summary of development of the SLJS, Australian support and considers each of the key review questions. The emphasis on effectiveness (and inclusion of relevance as Appendix C) reflects the priority of the Terms of Reference and primary intended users. The

report then identifies the key lessons learnt and principles to underpin any future Australian support to the SLJS. The recommendations are also summarised in the conclusions.

2. The Samoa Law and Justice Sector (SLJS)

2.1. Development of the SLJS

In the early 2000s, Samoa introduced a program of public sector reform. As part of this, there was an intent to improve performance management and monitoring at an agency and sectoral level. As a result, the Government of Samoa introduced sectoral planning, with a sector defined as “a grouping of economic, social and administrative activities based on the type of goods or services produced” (MoF, 2003). On 13 April 2006, the Chief Executive Officers (CEOs) of all agencies in what is now the SLJS agreed to seek the establishment of the LJS through the 2008 – 2011 Strategy for the Development of Samoa (SDS). To support this, they created the Law and Justice Sector Steering Committee (comprising the CEO’s of all agencies) and a Working Group of senior officers to progress the establishment of the SLJS.

In 2007, the Samoan Government sought funding from the Australian Government to support development of the sector. Funding was provided and a series of workshops were held to determine the sector identity, purpose and direction (AusAID, 2008). The Steering Committee agreed that the LJS should comprise three elements:

- › Law: All aspects of criminal and civil law.
- › Custom: Integrate and harmonise the ‘marriage’ of formal and customary justice.
- › Community: Address and reflect community interests and relations.

The Steering Committee identified two elements to the rationale for establishing the SLJS:

1. Improved service delivery: This was expected to be facilitated through:
 - › Raising recognition of the importance of law and justice.
 - › Improving the direction, planning, management, communication, coordination and monitoring of government services;
 - (a) Vertically: from national to agency levels,
 - (b) Horizontally: integrate and link services between sectors.
 - › Harmonise service delivery, and improve the effectiveness and value for money.
 - › Provided government owned priority setting mechanism for development.
2. Facilitate international development assistance to support GoS priorities. This would be by adopting an integrated, coordinated approach.

Over time, the five elements of this rationale have become the key functions of the Sector. The scope has broadened from government services to include all Sector Stakeholders; with a specific inclusion of community in driving priorities.

Following these workshops, development of a SLJS Strategic Plan commenced (2007). The draft was prepared in October 2007 and agencies used this to inform their own Strategic Plan

(AGD, 2008). The development of the Sector Strategic Plan was a slower process than anticipated. As a result, the Sector Strategic Plan 2008 – 2012 was not launched until May 2010 (SLJS, 2013; AGO, 2012)ⁱⁱ.

In 2008, the Governments of Samoa and Australia entered into a Partnership for Development. This included an outcome in line with SDS Goal 6: “Improved governance”. The target results were improved Government Effectiveness and Rule of Law scores in the World Bank Governance Indicators and PASP Secretariat Evaluation Report.

In mid-2009, the SLJS requested funding from Australia to establish a Secretariat. This was considered essential to provide the administrative and management support required by the Steering Committee to ensure continuation of progress, centralise coordination of sector operations and ensure uniformity in support (AusAID, 2009; SLJS, 2013). The Secretariat was established following approval of this funding. The SLJS Steering Committee was expanded in 2009 to include a representative of the National Council of Churches, the Samoa Law Society, the community (a senior and respected matai) and NGOs.

When the SLJS was established, few Steering Committee members (including Australian Government representatives) understood what a sector-based approach was: “For the first few years, everyone was trying to understand what it was like to work as a sector”ⁱⁱⁱ or the administration support a sector required. As one Australian Government official explained “we learnt as we went along”^{iv}. With a sector-based approach being a new concept, both to Australia and Samoa, there was a sense that “sometimes you have to start so that people can see it, then either fix it or throw it out. Otherwise it is difficult to conceive what it will look like. Donors can see this as disregarding the rules and agreements.”^v At the same time, there was a perceived rush to progress expenditure as a way to encourage sector agency to look at projects across the sector, rather than just for their agency. Consequently, when the sector commenced, there was no Medium Term Expenditure Framework or Performance Management Framework^{vi}.

A series of Sub-Committees and Taskforces were established to manage the implementation of specific areas of work, for example, prisons review and crime prevention. Working Groups were established to manage the implementation of specific projects. These Sub-Committees, Taskforces and Working Groups report to the Steering Committee (SLJS, 2015).

The SLJS developed their second Strategic Plan, to cover the period 2012 – 2016. This was done with funding from the Australian Government. The sector completed the Plan by June 2012 with the launch scheduled for July 2012. However, at the Australian Government’s request, the launch was delayed until December to allow for completion of four studies as part of the design process. The Australian Government further delayed the fourth study (the design) until 2013. However, given delays associated with planning and mobilising a design team for Australian support, and in recognition that the Sector Plan was Samoa’s Plan, the Australian Government confirmed that the Sector Plan should still be launched as planned and that the design process would proceed after the plan was endorsed. Following this, the SLJS Plan 2012 – 2016 was launched in December 2012, identifying five priority areas:

1. Community safety through improved crime management and prevention;
2. Improving access to justice, law and legal services;
3. Recognising customary based justice and harmonising with the formal justice system;

4. Promoting integrity and good governance in formal and customary processes and services; and
5. Building sector agency capacity and improved service coordination.

The first four were the same as the goals in the previous Sector Strategic Plan. Capacity development was included as an additional priority.

The SLJS Secretariat developed a M&E Framework to support the 2012 – 2016 Sector Plan. This is not aligned with the original Performance Management Framework. The Secretariat also conducted a mid-term review of the 2012 – 2016 Sector Plan in early 2015. The Government of Samoa commenced fully funding the Secretariat from October 2012.

The Samoa-Australia LJ Partnership (SALJP) design mission occurred in March 2013 (Aide Memoire, 2013). The intent was that implementation of the new design would commence in July 2014. However, Australian Government officials and the sector were unable to reach agreement on the direction proposed by the design team and mutually agreed to cease the design process. Subsequently it was agreed between the Governments of Samoa and Australia that future support to the SLJS would be considered within Government of Samoa priorities when setting a new Samoa country strategy. In line with these priorities and the Australian aid program recognising the need to consolidate activities to improve effectiveness, the Australian Government was unable to commit to further broad-scale support to the SLJS. At the 2014 high-level aid talks both governments agreed to jointly commission an independent review at the conclusion of the current funding agreement (December 2014) to assess the effectiveness of Australian assistance to the sector to date. Further details on the establishment of the SLJS can be found in Appendix D.

2.2. Sector funding

The Australian Government has been the main donor in this sector since 2008 (refer Appndix D, Table 3). Australia provided these funds through grants to the Samoan Government's Ministry of Finance who in turn oversaw disbursement of funds to the law and justice sector in support of agreed law and justice sector activities. Since development of the Sector Strategic Plans, this support has all been aligned with these Plans.

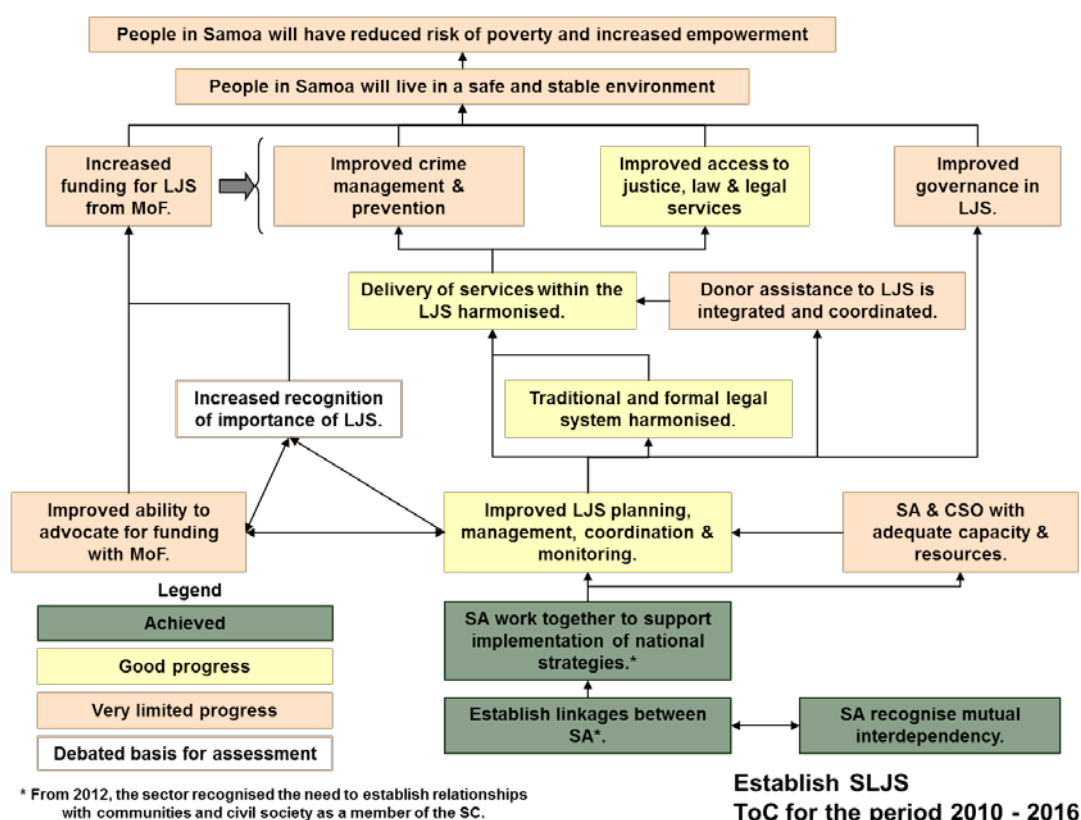
Agencies within the SLJS have also received significant support that generally does not appear to have considered the SLJS Strategic Plan. For example, this includes Australian support provided to the sector through other mechanisms including Australian Federal Police (AFP) support to Police, the Ombudsman to OoO, PACTAM to AGO; AYAD to MJCA and MWCSO; Pacific Islands Law Library Twinning and the Australasian Legal Information Institute to the Judiciary. Support from other countries includes Government of New Zealand support to the Ministry of Police (training) and the Attorney General's Office (review the Criminal Laws of Samoa) (Barlow Shuster, 2012). The New Zealand Government also established an MoU with Corrections in 2013 and is increasing this support in coming years^{vii}. China constructed the new Court building and has committed to funding infrastructure work at the prisons. A range of regional programs have also provided support. These include Regional Rights resource Team, Pacific and Commonwealth Ombudsman Alliance and the Pacific Legal Information Institute (AusAID, 2012). It is thus a complicated sector in terms of support.

3. Effectiveness/Impact

This section identifies the expected outcomes (Figure 1), whether these expectations were realistic and consistent across all stakeholders. As part of this, the Section discusses the extent to which Australian aid funding considered and adequately addressed the different needs of those marginalized from the law and justice system. It also identifies what was achieved, whether these achievements contributed to the expected high-level outcomes and whether different gender or people with disabilities gained different outcomes

The initial documentation relating to the Australian Government support did not identify expected outcomes. Until 19 November 2010, the only reference to the purpose of support was to establish the Secretariat (AusAID, 2010). Subsequently, this was expanded to include providing support to implement the SLJS Strategic Plan, but still did not identify anticipated outcomes. In March 2012, the purpose was stated to be “improve governance in law and justice” (AusAID, 2012, Annex 1). However, this was too general to provide any assistance and none of the funding was aimed at “improved governance”. Consequently, there was no clear ToC related to this support and no outcome-level indicators. It is likely that there were two separate unstated ToC; (i) the ToC underpinning establishment of a SLJS and (ii) the ToC underpinning the SLJS Strategic Plan. Consequently, this review has considered separately two groups of outcomes: (i) establish a SLJS and (ii) the outcomes in the SLJS Strategic Plan. The ToC and the outcomes are presented in this Section.

Figure 1. Progress against implicit ToC for establishing the SLJS



3.1. Establish SLJS

3.1.1 Underpinning ToC for establishing the SLJS

Across the documents reviewed, there was no articulated ToC for establishing a SLJS. However, there is a ToC expressed implicitly across the documents (Figure 1). During interviews, stakeholders consistently identified that addressing the challenges to safety and security in Samoa required all sector agencies to harmonise their work and address the issues together. This would require: coordination across agencies, more effective and efficient sharing of resources and providing a stronger voice for the sector through which increased funding (particularly donor) could be obtained for the sector. This is captured in the ToC.

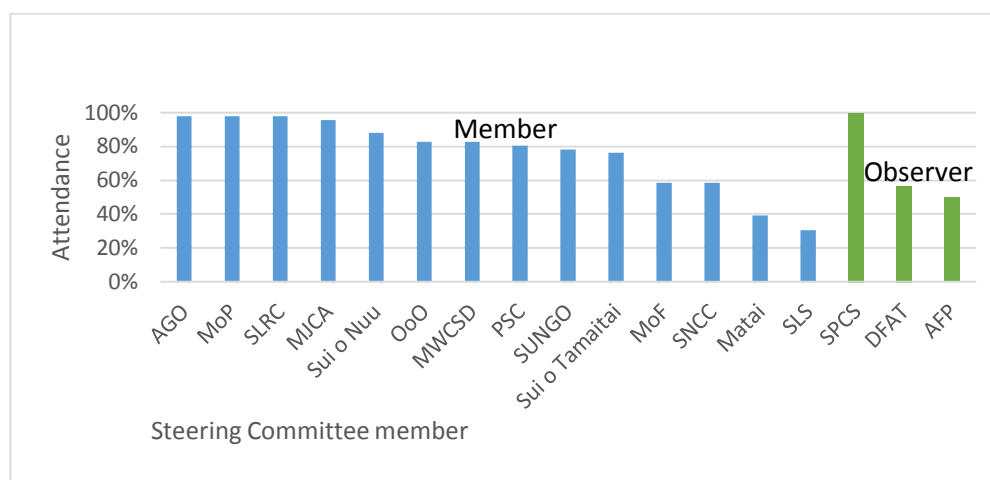
Thus, stakeholders reflected a strong, consistent rationale for initially establishing, and now maintaining, the SLJS. However, initially stakeholders viewed the Sector as a way to obtain funding for their agency. In all cases, this is no longer seen as the key reason for maintaining the Sector. The CSO sector also expected that establishing the SLJS would provide opportunity for providing increased input into the sector's planning. This had proved the case^{viii}.

3.1.2 Effectiveness of establishing the SLJS

The SLJS is now established^{ix}. This is well demonstrated by the continued monthly meeting of the Steering Committee, even after GoA funding ceased (Figure 2). They have identified, designed and implemented a number of cross-agency projects to help address specific law and justice problems facing Samoa (Section 3.2). In addition, all sector agencies are working together to establish a sector based database. While the database is not now functional, this is

a consequence of technical issues rather than lack of coordination and cooperation. The Secretariat is fully staffed, operating and supporting the Steering Committee. In March 2012, the Steering Committee decided to fund the Secretariat and has done so since October 2012.

Figure 2. Percentage of Steering Committee meetings attended (to July 2015)



The establishment of the sector is a significant achievement because it required a large change in stakeholder's mindset^x. Prior to the support, there was limited cooperation between agencies. Each agency was very focused on responsibilities within the boundaries of their agencies and retaining these boundaries. This is reflected in stakeholder's descriptions that the sector agencies "did everything on their own" and "they used to work in silos"^{xi}. One CEO described the typical approach as "I run my ship and you run yours"^{xii}. This was further compounded by the poor professional or personal relationships between senior executive of several sector agencies before the SLJS was established.

Possibly, due to the lack of understanding of a sector approach, a number of sector agencies (SA) did not initially support the concept. They believed a SLJS would duplicate the work of SA work, or merely provide a mechanism through which they could access donor funds for their agency^{xiii}. However, since the SLJS was established in 2008, this situation has been transformed. All SA now recognize that the challenges faced to future safety and security in Samoa will require the united attention of each agency; that no agency can successfully address any of the issues alone^{xiv}. As a consequence, they work together to address these issues. The statement by a CEO is typical: "Now there is no more them and us mentality"^{xv}. This interdependency is well recognized and the description of the SLJS by a CEO as "the best way forward for Samoa"^{xvi} reflects the general sentiment across the sector.

Consequently, SA worked together to implement a number of national strategies with excellent progress towards their goal (refer Section 3.2). Each SA recognized that the SLJS had a different function to that of the individual SA and brought significant benefit, regardless of donor funding. They considered the benefits to include coordination, addressing the critical issues facing the sector, and keeping each agency informed of the other agencies activities. The networking alone was described as invaluable. A CEO reflected that "the SLJS Steering Committee is one group I make a priority to attend ... it is very valuable for communication"^{xvii}.

3.1.3 Outcomes from establishing the SLJS.

Even at this early stage, the SLJS has achieved some significant outcomes which could not have occurred without the Sector's effective operation. Four examples are discussed briefly below.

The first example is updating the Village Fono Act. As explained by leaders from MJCA, AGO and the community, this was a necessary, but extremely sensitive issue in Samoa (Box 1). The Bill containing the amendments to the Act is currently before Parliament and, due to the united position of all sector agencies and CSO, the Bill is expected to pass quickly. These amendments will make a significant contribution towards harmonization of the traditional and formal legal systems. The Act itself underpins maintaining a safe and stable environment - conflict between the two legal systems undermines stability because in a Samoan context, “peaceful families means peaceful communities, peaceful communities means a peaceful country”^{xviii}.

A National Human Rights Institute (NHRI) was established this year. While the need for a NHRI was recognized, it had not progressed as no individual agency would prioritise their resources to establish a NHRI. However, when working together as a Sector, the agencies were able to prioritise the NHRI as a common project. At this stage, it is too early to determine outcomes leading from the establishment of the NHRI as staff have only recently been appointed.

Establishment of a Community Law Center (CLC) has been approved and is expected to be operational by the end of 2015. Agencies had recognized the need for such a center to improve access to justice, however due to potential conflict of interest for the agencies through which such a body could be established (MJCA and AGO), its establishment had not progressed. However, working as a Sector, the SA were able to prioritise this, identify approaches to address potential conflict of interest and obtain Cabinet support; none of which would have been possible for any SA operating alone. Once operational, this should significantly improve access to justice for members of the public who cannot afford a private lawyer

Box 1: Together we can achieve the impossible (Source: AGO, MJCA, Church and community leaders)

There was significant conflict between village and formal law. At the village level, community rights predominated; a person could be banished where their behaviour didn't contribute to the good of the community (for example, if they tried to start a different church in the village). Then they would appeal their banishment in the formal courts. The formal courts overturned the village decision because it was against the individuals rights. Many village leaders didn't understand the limits of their power, leading to a lot of conflict, it was growing, and we needed to do something before it got worse. But it is complex because there are so many different positions on this in Samoa – some people don't want any change, and others want lots of change. Even the sector agencies had different positions; MWCSO who are the sponsoring agency would focus on community rights and AGO and MJCA would focus on the formal system. Before the SLJS was established, there would have been little consultation between the sector agencies. We wouldn't have been able to get to an agreed position. When the Bill went to Parliament, a sector agency would say they weren't consulted and the process would be slowed or stopped.

The SLJS identified that we needed to revise the Village Fono Act to try and address the conflict. We worked together to find a solution that would balance community and individual rights. Then we raised the awareness of people across Samoa about this. It was a big consultation process. When we came to the villages, everyone talked about the issue. People were really receptive to the need to address the problem and that change was required. We also ran advertisements on television. Because of the different perspectives of people, it was important for all of the SLJS agencies and CBO to be at these consultations and communicate and hear the issues. At the end of the consultation, we all agreed that we had to find a way to revise the Act to address the issues.

We took all the comments from the community and we worked together to modify the Bill to address the people's concerns. By working together we have an Amendment that each sector agencies and the CBO supports, and is good for Samoa, this wouldn't have happened if we didn't work together – if the SLJS

hadn't been established. We expect the Bill to go through Parliament quickly because all sector agencies support it and communities were widely consulted during the review process.

The consultations in villages immediately helped the leaders in the village understand the limits of their power. Some have already implemented the requirements of the new draft legislation.

The fourth example is the development of the Crime Prevention Strategy. While a number of agencies had considered or commenced developing such a strategy, a single agency strategy would not have been effective. This is because the cooperation of all agencies is essential to successfully address the drivers of crime. The SLJS has established a Working Group which is actively investigating the issues and developing a strategy for the Sector. When completed, its implementation is expected to significantly support crime prevention.

3.1.4 Areas in which the SLJS can be strengthened.

A number of areas where the SLJS can be strengthened have been identified. These are summarized in Section 7.3 and reflected in Appendix H.

3.2. Goals in SLJS Strategic Plan

3.2.1 Underpinning Theory of Change (ToC) for the SLJS Strategic Plan

Across the documents reviewed, there was no articulated ToC for the first Strategic Plan. In addition, it was also difficult to establish a clear implicit underpinning ToC. However, there is a clear ToC expressed implicitly in the Strategic Plan for 2012 - 2016. This ToC reflects the five goals set out in the Strategic Plan. The ToC for each of these five goals is included in Appendix F. Unfortunately, the indicators specified in the Strategic Plan are not always clearly aligned with the change.

At a strategic level, the outcomes and targets set in each Strategic Plan were unrealistic. They were overly ambitious for a well-established sector, let alone one still going through the process of group formation. In addition, the extent of activities identified and the period in which they would be completed in each Strategic Plan was also highly ambitious. Consequently, this assessment considers what was achieved in light of the five goals more generally.

3.2.2 Effectiveness of contribution to the SLJS goals

The SLJS has made progress towards achieving their planned outcomes (Appendix F). While this progress is limited, it is reasonable given that there has effectively only been funding for 63%^{xix} of the requirements for projects in the Strategic Plans and 2.5 years of project activities^{xx}. Overall, support to the SLJS has contributed to each of the five goals, with significant contributions to Goals 2 and 3, and more limited contributions to Goals 1, 4 and 5.

Goal 1 is improved community safety, both feeling safe and being safe. At this stage, most of the outcomes are a result of support to introduce a pilot neighbourhood watch program in settlement areas. The evaluation of this pilot found that the community felt safer (Box 2), thus contributing to part of this goal. However, initial analysis of crime statistics by MoPP (2011) did not show a change in levels of crime. Analysis of data over a longer period is needed, such analysis must also consider the long term trend in settlements. This means that a reduction in the rate of increase should also be considered an improvement. This analysis was done as part

of this review. The initial results showed a significant decline in crimes associated with theft. Further data has been requested from MoP to confirm these findings. If correct, this would be a significant outcome for MoP. At the same time, this review identified a number of weaknesses with implementation of the pilot. Addressing these weaknesses would further improve outcomes. The Commissioner of Police has been informed of these potential improvements.

Box 2: Safer settlements: Neighbourhood watch (Source: AGO, MJCA, Church and community leaders)

People are moving into settlements in Vaitele-Fou and Siusega. The traditional village structures aren't there, so there is no traditional control of behaviours. Police were not visible, and they only came when they were called (even then it was a slow response). As a result, petty crime increased, it wasn't a good place to live and we don't want this behaviour spreading elsewhere in Samoa.

The SLJS agreed to support piloting a neighbourhood watch program. We know what we are doing won't be enough, but it is a start. The program is working with the Churches that are in these communities and others. They also specifically engaged with women and youth.

Since we started the neighbourhood watch program, the police are patrolling the streets more. They also respond more quickly when they are called. People in the village feel more secure. The program has been very successful. Police also consider this to be the only effective program they have established in these communities.

The same also applies with the new police posts that were established in villages.

Goal 2 is improved access to justice and law. Support to the sector has already contributed to this goal through the digitisation of all lands and titles documents at the Land and Title Court (LTC). In this case, GoA funding overcame the financial constraint to implementation, significantly improving access to law and justice (Box 3). The Law Society noted provision of Court recording equipment to MJCA had significantly improved access to justice. This overcame the previous lack of timeliness and loss of transcriptions. As previously discussed, the establishment of the HRI and the CLC will also improve access to law and justice once these organisations are fully operational. This contribution to the goal should be achieved in 2016.

Box 3: The Heart and Blood of Justice. (Source: MJCA officers, and church and community leaders)

The records kept at LTC are the records of our life, our roots, our genealogy. They link us to our family, our land and our title. Every Samoan is born to a title, so you have a line to access land (85% of land in Samoa is customary land). These records are our identity, they give proof of who we are, they are critical in showing the land we can access and the rightful holder of a title. You can be added to a family and have access to the land, but not the title. These records show this. The records affect the future, my children and grandchildren, the next 100 years. As a title holder, it is my job to protect my family's assets and resources for the future generations. These records help me do this.

Some people can become a title holder by default if they have access to the records and others don't. If the records were lost, my identity would be questioned by so many people. They could acquire the title and family assets when they should not. So the records need to be there forever, everyone must be able to access them, they are needed until the end of time.

Before, the records were only in files. They are old – some are over 100 years old. They were damaged by people handling them, insects and the climate. Sometimes people removed some of the records from the file. So we lost important information. We were concerned that if the building was damaged, the information would all be lost. We didn't have confidence that the information would always be there. When you wanted to get a copy of the record we had to sit and wait all day, often coming back day after

day. When lawyers wanted to access the documents for a judicial review, they would submit the request forms it would take at least two weeks to get a copy.

Now all the documents are scanned and stored electronically. There is also an off-site electronic copy. We still have the hard copy of the records. The records are safe. When people come, they can get a copy of the records within 10 minutes. As one young woman explained, “Most people who come for the LTC are old. Can you imagine your grandparents waiting at the office for days to get the information” . Lawyers see this as a big improvement and now they obtain a copy of the records almost instantaneously. Because access to the records has improved, people can see that the issue has already been addressed. So the number of cases coming to Court may also decrease.

MJCA didn't realise just how good it would be, it is something we can't now live without, so we must continue it. It would be a sin for us to stop digitising the records in Savai'i, we would be saying the people in Savai'i aren't important. So we prioritised this and are finding money in our budget to do this work.

And this brings a sense of peace that only a Samoan can fully understand: “I feel safe and secure because I now know no one can alter or destroy these records. Everything is based on our culture, and these records are central to our culture. This is why Samoa is such a peaceful country, because peaceful families mean a peaceful community, and this gives a peaceful country. The safety of these records will help keep Samoa safe and peaceful.”

Goal 3 is recognition of customary justice and its integration into the justice system. The work to amend the Village Fono Act has already made significant contributions towards increasing community awareness and understanding of formal and customary systems (Box 1). Once the Amendments to the Bill are passed, this will make a substantial contribution to recognition of customary justice and its integration into the justice system; a major outcome.

Goal 4 is improved integrity and good governance across the SLJS. As previously discussed, SLJS has established a Human Rights Institute which will contribute to this goal once it is fully operational (late this year). However, at this stage, the contribution is limited.

Goal 5 is improved capacity and service coordination within the SLJS resulting in delivery of coordinated services. While outputs have been produced (the sector and human resource needs assessment, communication strategy and plan), these outputs have not been used to any meaningful extent. In addition, work on the sectors management information system has not led to a usable database at this stage. The reasons for this are discussed in Section 5.2. Consequently, these outputs have made little, if any, contribution to the outcome.

However, the capacity of various agencies within the sector has been significantly strengthened because of improved resourcing and the competency of staff. For example, participants on the mentoring program conducted with the AGO identified how this had improved their skill. This was supported by the Chief Justice and Law Society who each identified that performance of staff at the AGO work had improved. In addition, the Law Society noted the significant improvement in MJCA service as a result of provision of Court recording equipment.

3.3. The Marginalised

The SLJS has not specifically considered the different needs of men, women, boys and girls (including those with disabilities) to access justice or interact with the law and justice system. However, an extensive range of support has been provided to improve access to justice (Table 2). Consequently, each groups different needs have been addressed to an extent that would be

assessed as reasonable within the available resources. Importantly, this review did not identify any group that had negative outcomes as a result of SLJS support.

Table 1: Support targeting specific marginalised groups

Support (*1)	Marginalised group ^{xxi}						
	Poor	Rural	Women	Victims	Youth	People with disability	Returnees ^{xxii}
<i>Awareness programs for new legislation</i>		✓	✓	✓	✓		
<i>Anger management for men who are violent within the family.</i>			✓	✓			
<i>Police outposts on Savai'i^{xxiv}</i>		✓					
<i>Through support to Victims of Crime, established facilities so victims can give evidence from outside the Court room^{xxv}.</i>				✓			
<i>Returnees program (Box 4)</i>							✓
Establishing the Human Rights Institute	✓	✓	✓	✓	✓	✓	✓
Establishing the Community Law Centre ^{xxvi}	✓	✓	✓	✓	✓	✓	
Amendments proposed to the Village Fono Act ^{xxvii}		✓	✓	✓	✓	✓	✓
Family Law ^{xxviii}			✓		✓		
Improvements in prison for juvenile prisoners ^{xxix}					✓		
<i>*1 Those shown in bold italics have already demonstrated positive outcomes for those marginalised.</i>							

The Steering Committee has considered representation of marginalized groups within its membership. To this end, membership of the Steering Committee was expanded in 2012 to include a representative from each of SUNGO (the umbrella organization for NGOs), Sui o Nu'u (men) and Sui Tamaitai o Nu'u (women), Samoa Victim Support Group (SVSG) in addition to matai. MWCSO noted extremely positively that this was the first time in the SLJS and the first Sector Steering Committee for which they had not been the sole representative of women. However, there is no youth representative specifically included. This may be a consequence of the National Youth Council being established after the expansion of the Steering Committee.

The interviews suggested that marginalisation of groups within the Samoan community to access law and justice was generally poorly understood. There was widespread variation in assessment of whether any specific group was marginalised, and a general lack of articulated understanding about the relevance of marginalization to the sector. However, in practice, the sector had identified and prioritized implementation of numerous projects specifically aimed at improving access to justice for the marginalized, and the experience of and outcomes from encounters with the sector. Given the breadth of projects focused on marginalized, it is difficult to equate the lack of awareness with actual practice.

This dichotomy may be a consequence of cultural interpretations of the words used – Western vs Samoan. Alternatively, the focus of each agency on the range of conventions to which Samoa is a signatory (disability) or has ratified (CEDAW) may in some way account for this. The reason was not identified during this review.

Box 4: A really, really bad man.

When people who have committed crimes overseas are returned to Samoa (returnees), they are often rejected by their family and community. Many have been away so long, they no longer know our culture. They have no support, find it difficult to get a job, and have real problems in fitting back into society.

One returnee was from our village. He was deported for drug use and murder. He was really, really, ... really bad. He displayed a real attitude problem. Everyone was afraid of him and afraid of the influence he would have on our young people.

The Returnees Charitable Trust helps returnees find their family, relearn our culture, become involved in the local church and find their place again in our society. They took the returnees to the prison and the returnees realised that the conditions in prisons here really are not good.

The returnee in our village is closely involved in the returnee program. He has become a Christian, goes to church and bible study. Now he has completely changed. He has a house in our village and is respected. He is a really positive influence on our youth. He talks to them about his experience. After they talk with him, taking drugs and rebelling don't seem so exciting or enticing. I would feel safe to walk alone with him, even after dark. He is a really changed man.

Recommendation:

The Steering Committee may want to consider inclusion of member of the National Youth Council to bring the voice of the youth to the discussions.

4. Sustainability & Innovation

This Section identifies the benefits from Australian support that will or will not continue after Australian funding ceases. It identifies immediate options (funding or otherwise) for GoS and its development partners to consider to reinforce the sustainability of positive outcomes achieved to date. The Section recaps the approaches identified earlier in this report that would have enhanced sustainability.

Benefits resulting from Australian support have been achieved at two levels, at a sector level and at a project level.

4.1. Sustainability of the sector

As discussed in Section 3, the sector has been sustainably established. All members identified the existence of a functional sector as a significant benefit. The SLJS Steering Committee has continued to meet and progress sectoral priorities without Australian funding. Agencies have contributed budget to cover costs associated with implementation of priority activities. For example, in the 2014 – 2015 financial year they contributed almost AUD 175,000 to progress the Crime Prevention Strategy, customary mediation, mentoring and public awareness campaign^{xxx}. This clearly reflects that sector is sustainable, regardless of donor funding.

Provision of sectoral funding rather than only funding individual sector agencies would enhance sustainability. This enables the sector agencies to work together to implement some of the more costly initiatives that they have planned. However, the advice obtained during this review indicated that the SLJS is the only sector in Samoa that does not receive a specific budget from GoS. If this is correct, GoS could consider provision of a budget to support sectoral initiatives. Donors may also want to consider providing a sectoral budget where they match the budget provided by the GoS. This would encourage GoS funding and discourage a donor from being the sole funder of the sector.

4.2. Sustainability of the project benefits

Projects initiated by the SLJS have been sustainable while the benefits of those perceived to have been driven by GoA (either activities considered critical for the new sector or for the development of the new design) were not sustained (refer Section 5.2). The key difference was the level of ownership of the output and the extent to which it met the needs identified by the SLJS. Initiatives driven by GoA were not owned, generally the output was produced by an external specialist. The time allowed for the production of the output was insufficient to create understanding, ownership and develop capacity sufficiently to use the output. While the outputs may have been of high quality, they generally did not meet Samoa's needs. They were usually too complex and lacked guidance (or support) in how to commence implementation.

The most effective support would have been improved, rather than best practice (refer Section 7.1).

Those interviewed acknowledged that the attitude of senior management to sustainability had changed. In the past, managers gave little attention to how to sustain achievements when funding ceased. This is reflected in a typical statement that “Before, when the money for a project finished, so did the project. Now we think how we can keep it going^{xxxi}”. This change in attitude may be a consequence of previous support being through project and program modality, with donors having a greater influence on the areas addressed. However, the direction of the support provided through the SLJS was fully determined by the sector, it was not influenced by Australia. When sector driven initiatives proved more successful than expected, senior management focussed on sustaining the benefits from these initiatives when funding ceased. This established a new focus on sustaining benefits. This review makes no recommendations to SLJS on how to reinforce sustainability of benefits from work they initiated. All available evidence suggested that sustainability was not a constraint and because of the level of ownership, the sector was ensuring sustainability^{xxxi}. However, a number of recommendations are made in relation to work that is driven by donors. These are discussed in Section 5.2.

4.3. Innovation

The support to the SLJS was highly innovative. The Australian Government facilitated an innovative approach to the support and the Steering Committee has funded a number of innovative projects.

At the time the development assistance was originally planned (2008), sector support was a new modality for Australia, and relatively new worldwide. As a consequence, those involved faced a steep learning curve and there was limited guidance available. Within the Australian Government there was recognition that the approach was new and high risk, but had the potential for significant achievements^{xxxi}. Those involved are to be commended for accepting this risk, enabling significant achievements in the SLJS.

Specific elements of the approach taken were also innovative. For example, whether the decision to allow the Steering Committee to determine the direction of support without Australian Government influence was deliberate, different or innovative is unclear (Section 7.1). However, this approach is certainly atypical. While it led to challenges, this innovation resulted in the highly sustainable outcomes discussed earlier in this Section.

At a project level, the support provided to reintegrate prison returnees into Samoan society is significant (Box 4). As similar strategies have not been identified elsewhere, this support can be considered innovative within Samoa, Australian Government programs and internationally. It will be important to monitor the long-term success of this project as the concept may have applicability elsewhere, particularly where culture is strong.

5. Efficiency

Efficiency considers how economically the resources were converted to results. This includes whether the objectives were achieved on time and the initiative implemented in the most efficient way compared to alternatives. Specifically, the Australian Government and the Steering Committee requested this consider whether:

- › The lack of a design affect the efficiency of the support.
- › Lessons can be learnt from the way implementation occurred (including modality, policy dialogue, Australian Government approach and use of Samoan financial systems).

This section is summarized given space limitations. Further detail can be found in Appendix I.

5.1. Contractual matters

5.1.1 Agreements between the Governments of Australia and Samoa

As discussed in Section 2.1, when the SLJS was established, there was a lack of understanding among both Australian Government and SLJS stakeholders about sector based approaches. As a result of this and the perceived pressure to progress expenditure as quickly as possible, much of the preparation that would normally be undertaken did not occur and documentation was not available. This gap was not addressed because the Australian Government's focus was on sector ownership and therefore they did not want to drive the sector^{xxxiv}.

The Direct Funding Agreement established in 2012 sought to clarify some of these elements. However, the Principles and other Clauses in this Agreement could easily be interpreted in contradictory ways and there were specific problems with wording in Clauses 16 and 17 (refer Appendix G). Consequently, clarity was not improved and contractual requirements (such as those for reprioritization) were not well understood and were breached.

Funding

Numerous inefficiencies were introduced because of the timing of funding. These included:

- › Delayed payment of funds associated with the Direct Funding Agreement of almost five months, delayed implementation of projects identified in the second SLJS Strategic Plan.
- › A lack of congruence in SLJS planning (July 2012 – June 2016) and Australian Government funding periods (March 2012 – September 2013) made planning and reporting more difficult for the Steering Committee and led to inefficient use of the original funds where funding was discontinued as projects could not be completed.

In addition, when supporting establishment of the sector, the Government of Australia indicated verbally they would provide funding of up to \$20m over an extended, but unspecified, period. Ultimately Australia provided only \$4m, with sectoral funding really only

being available for two years. This created difficulty for sectoral planning and adversely impacted on the perception of Australia among many SLJS stakeholders.

Recommendations.

Wherever possible, efficiency should be maximized by:

- Ensuring that the timing of payments is predictable.
 - Avoiding providing funding for short periods. Committing funds over a longer period supports good planning practice.
 - Acting consistently with the verbal message communicated.
-

5.1.3 Design of support to the SLJS

Both the absence of a design (or more specifically, the lack of agreement on boundaries and process) and the approach used to develop a design for support to the second SLJS Strategic Plan created significant inefficiencies.

All support to the SLJS was provided without a design. While there were sound reasons for this decision (Appendix I), the absence of a design created a number of inefficiencies consequent on the lack of agreement on many of the details included in a design. For example, the agreed outcomes, criteria for applying Australian Government funds to projects and the Australian Government's role (i.e. what is the role of an observer SC member). Had these issues been discussed, agreed and documented, it may have prevented the subsequent issues that emerged to adversely affect relationships.

Finding a balance in these two perspectives (valid reasons why a design was not developed and the need for agreed boundaries) in providing future support, particularly to new modalities, is essential.

There was an intention that a design would underpin the support provided to implement the second Strategic Plan. However the design was not completed, fundamentally due to poor initial planning leading to misunderstandings and a lack of SLJS ownership of the design process, and the approach adopted by the design team (Appendix I). In particular, the Steering Committee did not consider the approach collegial nor to consider adequately the Samoan perspective: the context, achievements or and feedback provided by the Steering Committee. The design team did not provide a written aide memoir while in-country and no evidence was available that that a verbal debrief had been given to the Steering Committee.

This process also adversely impacted the relationship between the Australian Government and the SLJS for an extended period. Entrenched positions were established quickly. Significant work on both sides was required to restore a positive relationship, and those who contributed to this should be commended for their efforts.

As described by members of the SC, there was "a problem with the process rather than the content" of the design. To be both effective and efficient, the design should not have proceeded without the full involvement and ownership of the process by the SLJS. There exclusion from the selection process should have halted the process. If this did not occur, the SLJS written advice that they did not understand the purpose of the design, should, as a minimum, have delayed the process. With the lack of SLJS ownership, any design produced

was likely to be unsuccessful. Thus, efforts to resurrect the design process were unlikely to be effective in the long term. This is discussed further in Appendices I and J.

5.2. SLJS Management

Those interviewed who had experience of other sectors identified that the SLJS was more effective and more efficient than those sectors. This was reflected in clear, simple processes and procedures for proposing a project and the Steering Committee assessing proposals through the Working Group and then debating (rather than rubber stamping) projects^{xxxvi}. In addition, a number of stakeholders commended the SLJS for housing the Secretariat outside (under a different roof) to sector agencies so that there is no perceived conflict of interest. They believed this was a better approach than housing the Secretariat within one of the SA as standard practice in all other sectors, and recently adopted within the SLJS^{xxxvii}. However, there are a number of areas in which significant improvements in efficiency could have been achieved with greater support. These are discussed below.

The definition of the role of the Secretariat (SLJS, 2012d) is focussed at the project level and does not include supporting strategic level monitoring or planning. They also don't clearly identify the Secretariat's authority to act without specific direction. Consequently, the Secretariat has not supported the strategic level and there was some confusion among members of the Steering Committee and Secretariat on specific responsibilities and authority^{xxxviii}. This may have contributed to some of the issues identified later in relation to procurement.

An effective sector database is critical to support monitoring. While the sector database (Auafa Mau) has been developed, it is not operational, apparently due to a small error in coding. There was no contractual mechanism to ensure it was completed as scheduled because the database was developed by a volunteer. Engaging a local firm to develop the database using an output based contract with a maintenance period would have been more efficient, even though more costly. The firm would not be paid until the database was operating successfully.

Recommendation:

Where timely production of functional outputs is critical, establishing output based contracts with payments attached to specific milestones, and including maintenance periods may be more effective. Inclusion of liquidated damages for delayed completion may also be appropriate in some situations.

In addition, the Secretariat staffing did not include team members with the capacity to support the monitoring role (and perhaps planning) effectively, particularly at the strategic level. As the development of the database progressed, inclusion of a person with IT skills to manage the database would have been beneficial. We strongly support the Steering Committee's current proposal to include such a person within the Secretariat.

Recommendation:

The Secretariat should be resourced adequately to support the Steering Committee. This may mean team members with specialist skills in planning and monitoring in addition to finance (which is generally included in such teams). Alternatively, it may require short-term technical assistance inputs.

The Agreement required that SLJS Steering Committee apply the Samoan Government procurement process. However, although the procurement process was well documented and

transparent, procurement did not always comply with the Samoan Government procurement process. Two cases of procurement that did not adhere to the Samoan Government process were identified. Both cases occurred at the start of funding the projects. In part, both were a consequence of attempting to quickly establish activities. In one case (digitization of LTC records), lack of full-compliance with the Samoan Government procurement procedure did not adversely affect either quality or cost of the work^{xxxix}. In the other case (construction of female inmates cells), the Steering Committee identified numerous quality and cost issues resulting from not contracting the works. They increased their supervision of the works to address these problems. Consequently, the Steering Committee concluded that all construction works should be contracted in future regardless of perceived benefits of one agency undertaking the work themselves^{xl}.

In both cases, there was no suggestion of fraud or misappropriation associated with these activities. The process applied was clear in documents available at Steering Committee meetings and minutes. The breach in Government of Samoa procedures could have been identified by MoF (who had responsibility for monitoring sector expenditure) or Australian Government officials had they regularly attended and actively participated in Steering Committee meetings. However, neither identified the breach. The Australian Government first became aware of these breaches through their procurement and public financial management reviews^{xli}. Unfortunately, as the focus of these reports was on a Canberra-based audience, the tone of reporting of these breaches (conveyed through words, punctuation and formatting) did not consider the Samoan audience. As a result, the SLJS Steering Committee considered the tone conveyed disrespect and was offensive. Thus, reporting by consultants to meet a new Government of Australia requirement contributed to a loss of trust for both the Australian Government and the Steering Committee^{xlii}, adversely impacted their relationship (refer Appendix J) and contributed to the Steering Committee's slow recognition that these actions were breaches of agreed procedures.

Both breaches were a learning experience for the Secretariat and Steering Committee. Therefore, this review considers that while a breach of process, the focus should be on learning to avoid similar situations in the future. On this basis, a series of recommendations follow to help avoid this situation.

Recommendation:

When sector funding commences the Australian Government and partner agency/Secretariat work closely together to ensure that processes are understood by all parties.

The Australian Government monitor compliance more closely at the start of an initiative to ensure procedural compliance.

In all communication, work from a basis of partnership and trust rather than adopting an adversarial tone and ensure open and direct communication.

5.3. Projects

5.3.1 Project proposal assessment

The Steering Committee applied a clear (though undocumented) procedure for assessment of proposals. Information was submitted for each proposal in a very detailed form. Consequently,

there was adequate information available to assess proposals. However, there was no specific set of agreed criteria against which to assess or prioritise proposals.

There was an undocumented general understanding that Australian Government funding was for activities that benefited the whole sector (usually multi-agency responsibility) rather than a single agency. This understanding was reflected in the projects on which expenditure occurred (Appendix K). Despite this, a number of interviewees from smaller stakeholders expected funding was available to support activities related to a single agency. In some cases, where the agency did not obtain significant funding for their proposed projects, this led to a perception of bias in the selection process. Other organisations were unclear whether CBO could propose projects. The establishment and communication of selection criteria would help avoid this situation.

Recommendation:

The Steering Committee establish and communicate criteria for project selection.

5.3.2 Activities seen to be initiated by DFAT

Most activities were identified, planned, implemented and driven by the SLJS. SLJS has used all outputs they initiated and directed. However, a small number of activities agreed to by the SLJS were perceived to be driven by the Australian Government. These were either activities considered critical for the new sector's functioning or for the development of the new design. These activities were not efficient.

When the sector was established, the Australian Government engaged several short-term specialists to develop a series of studies to support establishing the sector. Following consultation with the SLJS agencies, the specialist wrote the study. As a result, even where SLJS supported the activity they had no ownership of the documents produced. In some cases, the documents were unnecessarily complex (AusAID, 2012, p. 21) and the SLJS did not know how to apply them. Consequently, none of these documents were used.

Similarly, stakeholders had limited involvement in planning activities the Australian Government initiated related to development of the design and did not understand the design's purpose^{xliii}. In addition, key elements of some of these documents are unreadable^{xliiv}, in others the wording and formatting of the Executive Summary is likely to cause offence to any Samoan reader^{xliv} (refer Appendix J). The same message could have been conveyed in a manner that would not create offence and would encourage positive action.

Recommendations.

Wherever possible, activities supported should be those initiated by the sector to maximise efficiency and effectiveness.

Where the Australian Government initiates activities, the purpose must be clear, the output useable and, where necessary, support provided to facilitate application of the output. In addition, ownership would be enhanced if the TA facilitated partners within the sector to produce the output rather than the TA producing the output. This approach is more expensive, but more efficient than producing an output that is not used.

6. Monitoring & Review

As identified in Section 3, documentation did not clearly define agreed outcomes or the ToC for the Australia support. However, this review documented an implicit ToC based on the SLJS Strategic Plan (Section 3). This Section briefly considers whether the projects supported are consistent with this ToC. It then identifies the extent to which monitoring and reporting enabled assessment of progress towards outcomes and management of risk and the use of this information.

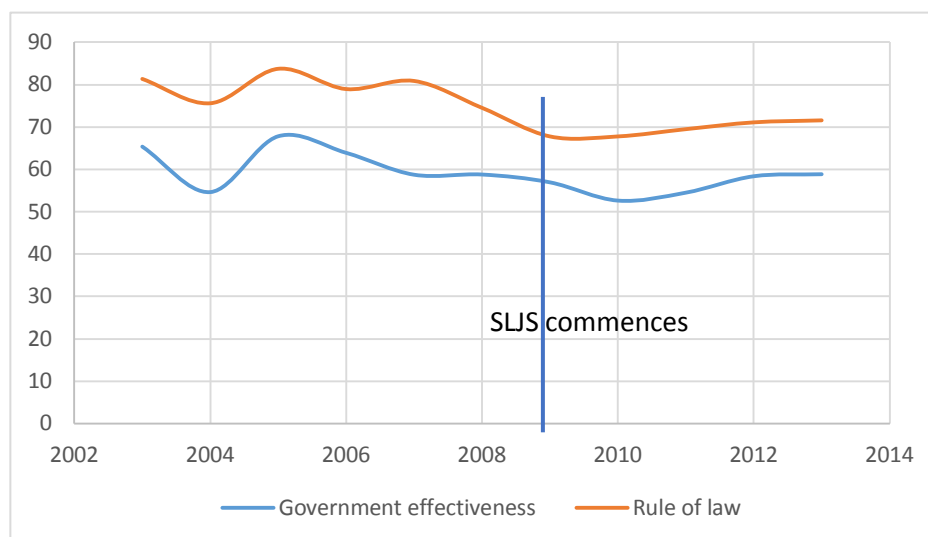
6.1. Partnership indicators

The Agreement (Government of Australia & Government of Samoa, 2012) identified the Partnership for Development between the Governments of Australia and Samoa (2008) goal and indicators as applicable to this support. These indicators are:

- › Improved Government Effectiveness Score in World Bank Governance Indicators (Figure 3).
- › Improved Rule of Law Score in World Bank Governance Indicators.
- › Improved PASP Secretariat Evaluation Report.

Figure 3. World Bank Governance Indicators (percentile rank)

(Source of data: <http://info.worldbank.org/governance/wgi/index.aspx#doc>)



While the World Bank indicators show an improvement since 2009 (when the sector began operating as a united group), it is difficult to say that the support has contributed to this (Figure 3)^{xlvi}. The PASP Secretariat Evaluation Report has only been completed once during this period. It is therefore not helpful in assessing change. With the wisdom of hindsight, these high level indicators were not appropriate as they measure change over too long a period to be useful for evaluating the impact of support provided to SLJS.

6.2. Consistency with the ToC

Review of all activities funded through the SLJS indicates they align with the SLJS Strategic Plan outcomes. However, it is difficult to think of any activity that sector agencies may want to fund which would be outside the outcomes. Thus, the critical issues is whether these activities were the sectors priorities and cross-agency in nature.

As all projects were approved by the Steering Committee, it can be assumed that they were a Sector priority. However, while it is clear from the minutes that the Projects were supported, it is not always clear whether a specific project was considered a priority. This is a consequence of a lack of: (i) criteria against which proposals were assessed and (ii) prioritisation of proposals. Now that funding is more constrained (due to the lack of donor and Samoan Government funding), the need to prioritise project proposals will be more critical. The priorities will help ensure the Sector takes a strategic view and funds the most important proposals rather than those developed. This also provides a sound basis for discussion with donors.

Recommendation:

The Steering Committee develop clear criteria against which proposals are assessed.

The Steering Committee prioritise proposals they wish to implement.

6.3. Monitoring and reporting

Monitoring and reporting against project progress met the needs of the Steering Committee. It enabled the Steering Committee to identify areas that were not progressing as planned and take remedial action (for example, construction at prisons). However, there is no monitoring or reporting of progress towards outcomes, nor were KPI reported against. In particular, there was no evidence that the six-monthly meetings between the Steering Committee and the Australian Government identified in the Agreement were held or Agreement's requirements addressed. Consequently, neither the Steering Committee nor the Australian Government had an understanding of progress towards planned outcomes. The reasons for this are discussed in Section 6.5.

6.4. Risk management

While the Steering Committee was also able to identify and address project level risk, this was not through a formal process involving effective application of the risk management plan or monitoring of risk. Risks at a sector or strategic level were not considered in reporting.

The risks identified in Annex 4 of the Agreement were limited. None of the documentation provided suggested that development of the risk management plan considered the unique characteristics of Samoa, the modality or the Agreement – the risks and the risk mitigation measure are virtually generic. The Plan does not include any risk related to strategic outcomes. Consequently, the risk management plan would do little to support risk management, in particular risks associated with strategic outcomes. In contrast, the risks identified in the SLJS Strategic Plan reflect risks specific to Samoa, the sector and the modality. Unfortunately, these do not appear to have been monitored or reported against, nor were they integrated into the Agreement's Risk Management Plan.

The Steering Committee reported in each six-monthly report that “the Risk Management Plan for the Sector continues to reflect, in the Sector’s opinion, the current state of affairs for the Sector with regard to risk; it needs no further revision after the past six (6) months”. Similarly, the Australian Government did not identify any change in risk in QAI reports or at the six-monthly meetings^{xlvii}. This reflects a lack of risk analysis by both the Steering Committee and the Australian Government as there were significant changes in risks between 2012 and 2014. This may be due to lack of understanding of risk management, its importance for effective management or the need for partners to regularly consider risk management through joint discussion.

6.5. Australian Government representative and Steering Committee capacity

There was no clear understanding on the difference between output and outcomes indicators for both the Steering Committee and the Australian Government in relation to monitoring, review, reporting and risk management. This was initially reflected in neither the SLJS Strategic Plan nor the Agreement explicitly identifying an expected ToC or strategic level monitoring, and the superficial attention to risk in the Agreement. After development of the Performance Management Framework, the Steering Committee advised that they did not apply it because it was too detailed and complicated. Neither the Steering Committee nor the Australian Government addressed the issue within their organisations. .

The indicators included in the M&E Framework for the second Strategic Plan were largely activity and output indicators, rather than outcome level indicators. However, it does not appear that reporting against these indicators occurred. A reduced number of indicators and inclusion of simple outcome level indicators may have improved the quality of monitoring..

The Australian Government found the lack of reporting at an outcomes level frustrating^{xlviii}. While this was communicated to the Steering Committee, they did not agree to the Australian Government’s concern because from their perspective, they had provided data and monitoring information to Australia^{xlix}. Because the performance measures were more activity and output based than being outcomes based, the sector saw the requirement for six monthly reporting as impractical and it was not met. The Australian Government concluded the lack of reporting on outcomes in six monthly reports reflected an insufficient focus on outcome level.

In short, the key performance indicators developed were too project focused, were too complex and did not reflect end of Sector Plan outcomes. The lack of a clear ToC and well defined KPI compounded this situation. The Australian Government claim to have identified the cause of the problem and to have worked to address it but there is no evidence to suggest they had sufficient influence within the steering committee to adequately address it. Consequently, effective outcome monitoring and reporting did not occur.

Recommendation:

The capacity of Australian Government officers must be adequate to engage effectively on a complex sector program.

Capacity gaps for both the donor and partner must be identified and addressed. The strategies to achieve this must be selected to meet the needs of those involved and will thus differ between programs and people. Examples are included as an end note^l.

7. The Future

7.1. Lessons Learnt

The SLJS successfully established the Steering Committee and increased coordination across the sector. Given the more widespread lack of success of a sectoral approach (Cox et. al., 2012), the factors that have facilitated success in Samoa are important. There appear to be five critical factors that underpinned the success of the sectoral-based approach in Samoa:

1. Strong leadership from Chairman and other SLJS sector agency CEO. This leadership has consistently emphasised that the focus is on the sector and that projects funded must benefit the sector as a whole rather than individual agencies. This strongly contrasts findings in countries where sectoral approaches were ineffective (Cox et. al., 2012).
2. Samoan ownership. This is a result of the strong Samoan leadership and the donor not taking a directive role during establishment.
3. Focussing on a big activity that needed all sector agencies support, in particular the Village Fono Act. This reflects the suggestion of the Australian Government review that sectoral based approaches may be most effective where law and justice agencies work together on a concrete, practical issue whose resolution requires the cooperation of all agencies. It also aligns with their finding that success was more likely where support focussed on “issues for which there were local constituencies for change, who could be mobilised and supported” (p. 9).
4. Support focusing on improved, rather than best, practice. This also aligns with the findings of the Australian Government review which concluded that implementing “flexible, localised, 'good enough' solutions” rather international best practice was likely to be more effective (p. 9).
5. The commitment of money by the Australian Government to support activities through the SLJS Strategic Plan.

At a project level, support provided by the Australian Government through the SLJS generally made a significant difference where the project met one of three criteria. These were that the planned change:

1. Was too hard to achieve without the support of all agencies in the sector. This was due to: the extreme range of perspectives on the change (the amendments to the Village Fono Act Box 1); potential conflict of interest (establishment of the CLC); need for all agencies to address in a consistent manner for success (Crime Prevention Strategy); or lack of willingness to allocate an agencies resources to something seen as a sector benefit (HRI).
2. Was a prioritised and well researched item, but the sector agency had insufficient funds to undertake the work. The digitisation of records at the LTC was an example of this (Box 3).
3. Was critical but not publically popular. For example, the support established for returnees (people deported from other countries back to Samoa for an offence) (Box 4).

As the SLJS spoke with one voice, change was possible. It is questionable whether most of these changes could have been achieved where there was disunity in the proposed position.

In addition, there were a number of other ‘lessons learnt’ from the support provided to the SLJS. Unfortunately, these were not new lessons – they have all been ‘learnt’ before. The concern is that having been learnt, they were lost. Those of particular significance are discussed in Appendix J and comprise:

- › Relationships: Establishing and maintaining a relationship based on understanding and respect is critical. This requires a commitment of time and each partner to develop an understanding of the other’s culture and needs.
- › Design: Shared understanding of needs and boundaries must be established, documented, regularly reviewed and updated through a process of respectful discussion.
- › Sector based approach: Sector based approaches should be funded by multiple agencies, including the partner government, to maximise sustainability.

7.2. Future Australian support

The Australian Government has identified that while Australia will not be continuing sectoral-based support to the SLJS they remain supportive of the sector. Appendix G provides some principles that would improve the effectiveness of the limited future support Australia may provide to the sector.

7.3. Improving efficiency of the SLJS

The SLJS has proved effective and consequently, members of the Steering Committee are committed to sustaining the sector. Given the previously constrained level of resourcing and, with the cessation of Australian Government sectoral funding, yet more constrained future resourcing, improving efficiency is critical if the sector is to be sustained. In light of this, the following points are presented for the Steering Committee’s consideration in improving efficiency:

- › Prioritise implementing **Auafa Mau** (the sectors database), populating it with quality data (start small) and analysing data at an outcomes rather than activity and output level.
- › Clearly define and delimitate the **roles, responsibilities and authority** for the Steering Committee and the Secretariat. In part, this may reflect the Steering Committee adopting a more strategic focus with responsibility for governance and the Secretariat increased responsibility for management and administration.
- › The Steering Committee adopt a more **strategic approach**. This may include these steps:
 - Start the research for the SLJS 2016 - 2020 Strategic Plan now.
 - Analyse the data.
 - Develop the theory of change (including clear outcomes and measures).
 - Prioritise the SLJS strategies.
- › Establish and promulgate clear **activity selection criteria** reflecting the SLJS strategies.
- › Improve reporting so that it meets **your information needs**. For example:

Period	Level of reporting	KPI for
Annual	Sector	Outcomes
Six-monthly	Project	Outcomes and progress

Monthly	Project	Progress
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- › Where technical assistance is used, apply the **technical assistance as a facilitator** with multiple short trips to guide the SA to undertake the work rather than to undertake it themselves (legislative drafting is probably an exception).

Broader issues are summarised in Appendix H.

8. Conclusion

Funding to support Samoa establish the SLJS and implement the SLJS Strategic Plans has been effective despite the Australian Government not clearly defining expected outcomes and the Agreement specifying inappropriate indicators. With the Australian investment of \$3.699m, Samoa achieved a number of significant outcomes:

- › Sustainably establish the SLJS. The SLJS continued to function after Australian Government funding ceased.
- › Significantly increased harmonisation of the traditional and formal legal system.
- › Established a Human Rights Institute increasing access to justice.
- › Established security of critical LTC records and improved public access to these records.

In addition, this support has enabled the SLJS to:

- › Obtain approval for a Community Law Centre that will be established this year.
- › Develop a sector wide crime prevention strategy.
- › Progress SLJS goals, particularly community safety, access to justice and law, and the integration of customary justice into the formal justice system.

All stakeholders agree that the support Australia provided was essential for achievement of these outcomes. The activities supported made significant contributions to addressing the needs of the marginalised despite no specific focus on gender or disability.

The SLJS generally invested funds efficiently. As a result, the overall investment represented excellent value for money. However, efficiency was adversely affected by: a lack of clarity in agreements between the Governments of Australia and Samoa; low Australian Government attendance at Steering Committee meetings; lack of SLJS ownership of activities initiated by the Australian Government and undertaken (rather than facilitated) by consultants, a lack of criteria to select and prioritise projects, and not contracting construction works. Monitoring, reporting and risk management was weak due to a lack of capacity within both the Steering Committee and Australian Government Officers. Consequently, of the ways this review identified that the SLJS can be further strengthened, the most significant is an increased focus on strategic thinking, planning and monitoring.

The success of the support was a consequence of strong leadership from the Chairman and other SLJS sector agency CEO, Samoan ownership of the sector and activities, supporting improved rather than best practice, focussing on a big activity that needed all sector agencies support, and funds to implement these activities. The difficulties that emerged between the Australian Government and the Steering Committee could have been avoided had relationships based on respect and understanding been established and maintained. This requires a commitment of time and understanding of the partner's culture and needs. Boundaries must be established, documented, regularly reviewed and updated through a process of respectful

discussion. In addition, sustainability of sector-based approaches will be enhanced where they are funded by multiple agencies, including the partner government, rather than a single donor.

Summary of recommendations

For the Steering Committee.

Consider:

- › Establishing and communicating criteria for project selection (Section 5.3.1 and 6.2).
- › Prioritise proposals to implement (refer Section 6.2).
- › Resourcing the Secretariat to support adequately the Steering Committee. This may mean team members with specialist skills in planning and monitoring in addition to finance. Alternatively, it may require short-term technical assistance inputs (refer Section 5.2).
- › Where timely production of functional outputs is critical, establishing output based contracts with payments attached to specific milestones, and including maintenance periods may be more effective. Inclusion of liquidated damages for delayed completion may also be appropriate in some situations (refer Section 5.2).
- › Inclusion of a member of the National Youth Council to bring the voice of the youth to discussions (refer Section 3.3).

For DFAT and other donors

Wherever possible, efficiency should be maximized by (refer Section 5.1.2):

- › Ensuring that the timing of payments is predictable.
- › Avoiding providing funding for short periods. Committing funds over a longer period supports good planning practice.
- › Acting consistently with the verbal message communicated, particularly in regards funding.

For all partners:

- › In all communication, work from a basis of partnership and trust rather than adopting an adversarial tone and ensure open and direct communication (refer Section 5.2 and 7.1).
- › When sector funding commences, Australian Government and partner agency/Secretariat work closely together to ensure that processes are understood by all parties (refer Section 5.2).
- › The Australian Government monitor compliance more closely at the start of an initiative to ensure procedural compliance (refer Section 5.2).
- › Wherever possible, activities supported should be those initiated by the sector to maximise efficiency and effectiveness (refer Section 5.3.2).
- › Where the Australian Government initiates (or is perceived to initiate) activities, the purpose must be clear, the output useable and, where necessary, support provided to facilitate application of the output (refer Section 5.3.2).
- › To enhance ownership, technical assistance (TA) should facilitate partners within the sector to produce the output rather than the TA producing the output (refer Section 5.2).
- › Capacity gaps in both the donor and partners must be identified and addressed (refer Section 6.5).

Appendix A. Terms of Reference

Extract from Services Order

1.1. The Contractor must provide the following Services:

- a. Undertake an independent evaluation of Australia's aid funding to the Samoa Law and Justice Sector which measures the impact and effectiveness of sector based funding to the law and justice sector.
- b. Consult with DFAT evaluation and law and justice specialists in Canberra as necessary; DFAT staff at Post and Government of Samoa representatives (including Law and Justice sector agencies, the Samoa Law and Justice Secretariat, the Ministry of finance and other relevant stakeholders) in-country.
- c. The team leader: Fiona Kotvojs who will lead the evaluation process, including initial briefing, presenting preliminary findings in the aide Memoire, assigning tasks and responsibilities to the Samoa Local Specialist, organise and coordinate all meetings and consultations in Samoa independently.
- d. The team leader will bear primary responsibility for delivering the following outputs:
 - i. Develop the overall approach and methodology for the evaluation;
 - ii. Produce the Aid Memoire, based on inputs from the Samoa Specialist;
 - iii. Produce the draft Independent Evaluation Report and
 - iv. Produce the final Independent Evaluation Report electronically in Microsoft word format
- e. The final report will assess and capture the achievements of the law and justice sector to date and identify the lessons for DFAT and Government of Samoa on the effectiveness of the partnership

2. REPORTING REQUIREMENTS

2.1. The Contractor must provide the following reports by the date indicated:

- a. **Aide Memoire:** submitted by **27 July 2015** to be presented on the last day of the in-country mission, the team leader and Samoa Specialist will present an aide memoire of up to 5 pages with key findings. The aide memoire will be prepared in dot-points and presented to DFAT and Government of Samoa.
- b. **Draft Evaluation Report:** submitted by **10 August 2015**. To be prepared and submitted to Clyde Hamilton at Apia Post within two weeks of the aide memoire. The draft report should be written in plain English and contain no more than 25 pages excluding annexes. The report should answer the evaluation questions and synthesise findings, implications and recommendations, in particular:
 - i. ways in which DFAT could consider providing small scale targeted support to the law and justice sector in the future, and
 - ii. approaches the Government of Samoa could take to most effectively engage in the future with international donors.
- c. **Final evaluation Report:** The final evaluation report should be submitted to DFAT within 14 days of receiving final comments from DFAT on the draft report. The evaluation report must be prepared in accordance with *DFAT Monitoring and*

Extract from Terms of Reference

1. PURPOSE

These Terms of Reference (ToR) will guide the independent evaluation of Australia's aid funding to the Samoa Law and Justice Sector. The evaluation is focused on assessing the impact and effectiveness of aid funding to the sector managed by the Department of Foreign Affairs and Trade (formerly AusAID). The evaluation will assess the extent to which Australian aid assisted the law and justice sector in Samoa to achieve sector objectives and the outcomes agreed in the Samoa Australia Partnership for Development. The evaluation will also provide necessary independent information to the law and justice sector on what they have achieved as a sector under their sector plan, what could be improved and will help them chart a way forward as a sector.

The evaluation may consider the role of Australian-funded volunteers and Australian-funded technical advisors provided through mechanisms such as the Pacific Technical Assistance Mechanism (PACTAM) where relevant. The evaluation may make comment on aid delivered by other Australian Government agencies (e.g. Australian Federal Police, Attorney General's Department) but only where relevant to this evaluation.

2. BACKGROUND

Law and justice is formally recognised as a priority in Samoa's national development strategy - Strategy for the Development of Samoa 2012-2016 (SDS). The SDS identifies the priorities of community safety through improved crime management and prevention; improving access to justice, law and legal services; recognising customary -based justice and harmonising with the formal justice system; promoting integrity and good governance in formal and customary processes and services; and building sector agency capacity and improved service coordination.

Australia has been supporting the sector through aid funding administered by AusAID and then DFAT since 2008. The funding was provided with the aim of helping the law and justice sector in Samoa to achieve its targets in the SDS and as agreed in the Samoa-Australia Partnership for Development:

1. Improve governance in law and justice through improving the operation of the rule of law (SDS: Goal 6) and;
2. Reduce numbers of serious crime in Samoa (SDS Goal 6)

The partnership recognized the importance of an integrated approach to law and justice in the country. The establishment of the sector enabled linkages between law and justice service agencies towards achievement of national strategies and priorities and aimed to improve the coordination and delivery of services to the community. Australian aid funding assisted in the establishment of a coordination body (the Law and Justice Sector Secretariat). Following the establishment of the secretariat, core funding was provided in support of the law and justice sector's key priorities as identified in its own sector plan.

The law and justice sector plan's objectives are:

- Ensuring community safety through improved crime management prevention;

- Improve access to justice, law and legal services;
- Recognise customary based justice and incorporate into formal justice system;
- Promote integrity and good governance in formal & customary processes and services; and
- Build sector agency capacity and improved service coordination.

The Government of Australia has been the main donor in this sector since 2008 and the only donor to provide annual funding to the sector to implement its sector plan. Australian funds were provided through regular grants to the Government of Samoa's Ministry of Finance who in turn oversaw disbursement of funds to the law and justice sector in support of agreed law and justice sector activities. Australian funds were used for the operational costs of the Law and Justice Steering Committee Secretariat which manages and monitors the sector's development activities, and for high priority projects proposed by sector agencies and approved by a Law and Justice Steering Committee. The Committee has a wide ranging, active membership from the public sector, civil society and community groups. It is the first time that coordination of priorities and formal dialogue has occurred in the law and justice sector at a sectoral level in Samoa.

In March 2013 DFAT (then AusAID) commenced a formal design process for a new phase of support to the sector. AusAID/DFAT and the sector were unable to reach agreement on the direction proposed by the design team and mutually agreed to cease the design process. At high level aid talks in December 2013 the Australian and Samoan governments agreed that further support for law and justice would be considered in the context of prioritizing the range of aid program priorities when setting a new country strategy for Samoa. Since then the Australian aid program globally is going through a period of change and in recognition of the need to consolidate Australian aid activities at the country level Australia is unable to commit to further broad-scale support to the law and justice sector. At high level aid talks in December 2014 both governments agreed to jointly commission an independent evaluation at the conclusion of the current funding agreement (December 2014) to assess the effectiveness of Australian assistance to the sector to date.

3. OBJECTIVES

The objective is to evaluate the impact and effectiveness of sector-based financing assistance provided by AusAID/the Department of Foreign Affairs and Trade (DFAT) to the law and justice sector from 2008 to 2014, for the purpose of allowing both DFAT and the Government of Samoa to better understand the achievements of the law and justice sector to date, as well as identify lessons for DFAT and Government of Samoa on the effectiveness of the partnership. Therefore the evaluation will look back at the achievements of Australian aid whilst also providing learning for the Government of Samoa for its engagement with other development partners.

The following evaluation questions are to be considered in accordance with DFAT evaluation standards (a narrower set of priority questions for the evaluation to focus on will be developed in consultation with DFAT and the Law and Justice Sector Secretariat as part of preparing an evaluation plan):

1. Relevance – To what extent has AusAID/DFAT-managed Australian aid to the law and justice sector been aligned to Australian and Samoan Government priorities?

2. Effectiveness/Impact – To what extent did AusAID/DFAT-managed Australian aid to the law and justice sector achieve target outcomes of improved operation of the rule of law and reduced numbers of serious crimes in Samoa? Were outcomes expected from Australian funding appropriate given the scale and type of investment? What other positive and negative changes were produced, directly or indirectly, intended or unintended?
3. Efficiency – What role did the modality of aid have in supporting the achievement of outcomes in the most efficient way? Did Australia’s investment represent value for money in achieving the outcomes?
4. Sustainability – Will the benefits achieved from Australian funding continue beyond the period of Australian funding? If not, what other actions/approaches could Australia or Samoa have taken to improve the sustainability of outcomes? What are the immediate options (funding and otherwise) for Government of Samoa and its development partners to consider which will reinforce the sustainability of positive outcomes achieved to date?
5. Monitoring and Evaluation – Was the quality of monitoring, reporting and evaluation of sufficient quality to provide the necessary performance information both partners required to track progress and understand results? Is there evidence that performance information was actively used by AusAID/DFAT and the law and justice sector to guide effective decision making?
6. Gender and Disability – To what extent did Australian aid funding to the sector adequately address the different needs of men, women, boys and girls, including those with disability, in accessing justice and interacting with the law and justice system?

SCOPE OF SERVICES

In addressing the objectives of this ToR one internationally recruited evaluator will undertake analysis of written documentation and reporting relevant to the law and justice sector in Samoa and Australian support to the sector in particular, consult with DFAT evaluation and law and justice specialists in Canberra as necessary, and travel to Samoa to consult with Australia’s Department of Foreign Affairs and Trade and Government of Samoa representatives (including Law and Justice sector agencies, the Samoa Law and Justice Secretariat, the Ministry of Finance and other relevant stakeholders). The internationally recruited evaluator will be assisted by a local consultant to provide local context and assistance in arranging in-country consultations. Prior to travel to Samoa the evaluator will be required to submit an evaluation plan which describes in detail the evaluation methods and approaches.

Refined key evaluation questions

Following discussions with DFAT and representatives of the Steering Committee, the focus of each of the KEQ was agreed as follows:

1. **Relevance.** As DFAT is able to identify the alignment between the support and Australian government priorities, this need not be considered as part of this review. Instead, the focus should be on whether Australia was the appropriate partner to provide this support to Samoa, and whether the support provided aligned with the Sector Strategic Plan.
2. **Effectiveness/impact.** What outcomes were expected, was this expectation consistent across stakeholders and was it realistic? How did the activity level outcomes contribute to these high-level outcomes? What was achieved? Were expected outcomes realistic in light of the modality adopted and the level of aid provided?
3. **Efficiency.** Did the lack of a design affect the efficiency of the support? What lessons can be learnt from the way implementation occurred (including modality, policy dialogue, DFAT approach and use of Samoan financial systems)?
4. **Sustainability.** What Program benefits will/will not continue after Australian funding ceases? What are the immediate options (funding or otherwise) for the government of Samoa and its development partners to consider which will reinforce the sustainability of positive outcomes achieved to date? During design and implementation, how could sustainability have been enhanced?
5. **Monitoring and review.** Were outcomes and the theory of change clear? Did projects supported reflect this theory of change? Did monitoring enable assessment of progress towards outcomes and manage risk? Did reporting to the Steering Committee meet their needs and was the information used to effectively support achievement of high level outcomes and manage risk? Was the Steering Committee adequately supported in use of M&E information?
6. **Gender and disability.** To what extent did Australian aid funding to the sector consider and adequately address the different needs of men, women, boys and girls (including those with disabilities) to access justice and interact with the law and justice system? Were there different outcomes for different gender or for people with disabilities?
7. **Innovation and private sector:** did the program include any innovative approaches? If so, what lessons were learnt? How was the role of the private sector in the law and justice sector recognized? What lessons were learnt?

Questions 1 and 7 are considered low priority. Questions 2 (including 6), 4 and 5 are highest priority. Thus, the priority is:

1. Question 2 (including 6), 4 and 5;
2. Question 3; and
3. Questions 1 and 7.

Appendix B. Sources of data

Documents Reviewed

The following documents have been reviewed:

Audit Office, 2015. Independent Auditor's report for the period 1 July 2012 – 30 Jun 2014. Dated 27 Jan 2015.

AusAID 2013. Investment Concept for the SLJSP.

AusAID, 2008. Samoa Police Project. Number INF723, Draft Independent Completion Report. Dated November 2008.

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Charles Kendall & Partners, 2013. Assessment of the Independent State of Samoa. Law and justice sector procurement systems. Final report. Dated Jan 2013.

Clear Horizon, 2012. Samoa Law and Justice Sector. Theory of Change Workshop Report. August 2012.

Design Team, 2013. Aide Memoire Design Mission for the Samoa-Australia Law and Justice Partnership 20 March, 2013

AusAID, 2012. Assessment of the Law and Justice Secretariat Public Financial Management Systems. Samoa. Final Report. September 2012.

DFAT, 2014. Deed of Amendment between Commonwealth of Australia represented by DFAT and the Government of Samoa for Supporting the Law and Justice Sector (Samoa) Draft Agreement Number 60673.

DFAT, 2015. Aid quality check for INH405 SLJS Program. Dated 30 Apr 2015

DFAT, undated. Appendix A. Updated Program Risk Management Plan.

Government of Australia, 2010a. Arrangement between the Government of Australia and the Government of Samoa relating to an Accountable Cash Grant for Provision of support to the Law and Justice Secretariat in Samoa.. Arrangement. Number 53002.

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- Provision of support Law and Justice Sector Plan implementation 2010/2011. Arrangement. Number 57344
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- Government of Australia, 2009. Arrangement between the Government of Australia and the Government of Samoa relating to an Accountable Cash Grant for Assistance Regarding the Provision of Secretariat Establishment. Arrangement. Number 50699
- Government of Samoa, 2008. Samoa Law and Justice Sector Plan 2008 – 2015. Justice for a safe and stable Samoa.
- Government of Samoa, 2012. Strategy for the development of Samoa. 2012 – 2016.
- MJCAISP, 2006. Letter on Establishing a LJS. Dated Dec 2006.
- MoF, 2003. Sectoral planning guidelines (referenced in GoS, 2008)
- MoPP 2011, Re progress report on Stage one of “The neighbourhood watch program” as from the launching date of 25:05:2011 UNTIL THE 30:06:2011. Dated 13th July 2011.
- No author, 2008. Situation Assessment for the 2008 – 2012 LJS Strategic Plan
- No author, 2011. Situation Assessment 2011 for the 2012 – 2016 LJS Strategic Plan
- NZAID, 2006. Arrangement between the Government of New Zealand and Government of Samoa on Development Cooperation. NZAID Reference: GRA/613/1 Dated 12 October 2006.
- SLJS 2015. Samoa Law and Justice . Sector Plan 2012 – 2016. Mid Term Review Report.
- SLJS Steering Committee, various (39). Project update reports for 2011 – 2014.
- SLJS Steering Committee, various (56). Steering committee meeting minutes 2009 - 2014.
- SLJS Steering Committee, various (6). Six Monthly Reports covering the period Jan 2012 – Dec 2014

SLJS, 2012. M&E Framework. Samoa Law and Justice Sector Plan 2012 – 2016. (Final draft)

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SLJS, 2012. Objectives & Roles of the Secretariat

SLJS, 2012. SLJSP 2012 – 2016. Goals – Strategies – Activities list. (Final activities plan 2012_2014 6 November 2012)

SLJS, 2012a. Samoa Law and Justice Sector Plan 2012 – 2016. (Final draft)

SLJS, 2013. Samoa Law and Justice Sector Position Paper. AusAID design mission for the Law and Justice Programme in Samoa 2012 – 2016.

SLJS, 2014. Law and justice sector plan 2014 – 2016. Implementation plan.

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SLJS, 2015. SLJS – presentation to donors. May 2015.

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Other documents

Cox M., Duituturaga E., and Scheye E. 2012. Building on local strengths. Evaluation of Law and Justice Assistance. Commonwealth of Australia.

Smith, R., 2009. "“Samoanizing” Human Rights: A Generational Comparative of Views on Human Rights in Contemporary Samoa" . Independent Study Project (ISP) Collection. Paper 635. http://digitalcollections.sit.edu/isp_collection/635

USDS, 2013. Samoa 2013 Human Rights Report. Country Reports on Human Rights Practices for 2013, United States Department of State, Bureau of Democracy, Human Rights and Labor. <http://www.state.gov/documents/organization/220438.pdf>

World Bank, 2014. World Bank Governance Indicators. <http://info.worldbank.org/governance/wgi/index.aspx#doc>

Semi-structured Interview questions

Key evaluation question	Questions
2. Effectiveness/impact. What outcomes were expected, was this expectation consistent across stakeholders and was it realistic? How did the activity level outcomes contribute to these high-level outcomes? What was achieved? Were expected outcomes realistic in light of the modality adopted and the level of aid provided?	<p>For those involved in the sector in 2010:</p> <p>When the support commenced, what changes did you expect to see?</p> <p>What positive or negative changes have you seen in the L&J sector since 2010?</p> <p>(for each of these): what caused this change? (determine if linked to sector and map for ToC).</p> <p>Which of these changes (list those related to Australian support) do you believe was the most significant?</p> <p>For this change, what was it like before & after? Why was it significant?</p> <p>What linkages are there between SA? How has this changed in the last 5 years?</p> <p>Does your agency work with other agencies in the sector? What are some eg? How has this changed in the last 5 years? (also check planning, mgt, coord & monitoring)</p> <p>Does your agency work with other SA to seek additional funding? How?</p> <p>Has GoS funding to your agency/sector increased in the last 5 yrs? Why? (advocacy together)</p> <p>What changes have occurred in your agencies capacity & resources since 2012?</p> <p>What are the drivers of crime in Samoa? What is being done to address these since 2012?</p> <p>How are conflicts resolved in Samoa? How has this changed since 2012?</p> <p>Do you think that there have been any groups in Samoa did not receive good service from your agency in the past? (check gender, disability, location, chiefly status). How has this changed since 2012?</p> <p>Do you think the support had any negative outcomes for anyone in Samoa? (check gender, disability, location, chiefly status)? Why/why not?</p> <p>Do you think all people face the same L&J issues in Samoa (check gender, disability, location, chiefly status)? Why/why not?</p> <p>Do you think all people have equal access to justice in Samoa (check gender, disability, location, chiefly status)? Why/why not?</p> <p>Do you think all people benefitted equally from the changes in the Samoan justice sector (check gender, disability, location, chiefly status)? Why/why not?</p>

Key evaluation question	Questions
4. Sustainability. What Program benefits will/will not continue after Australian funding ceases? What are the immediate options (funding or otherwise) for the Government of Samoa and its development partners to consider which will reinforce the sustainability of positive outcomes achieved to date? During design and implementation, how could sustainability have been enhanced?	<p>What changes in the support would have addressed these issues? Specific questions off goal</p> <p>If yes: What caused this change? Then do sustainability questions</p> <p>If no: Why not? What would have been needed to be done to achieve this change?</p> <p>(from effectiveness) For each of the positive & negative changes identified:</p> <p>Who will benefit from this change (XXX)?</p> <p>Do you think XXX will still be continuing in 5 years? Why/why not?</p> <p>If not continuing:</p> <p>How will it not continuing change L&J in Samoa?</p> <p>Is this something you think should be sustained?</p> <p>What would need to be done now to make it sustainable?</p> <p>With hindsight, what could have been done in the last 5 years to make it sustainable?</p>
3. Efficiency. What lessons can be learnt from the design process and when should the design process have been stopped? What lessons can be learnt from the way implementation occurred (including modality, policy dialogue, Australian Government approach and use of Samoan financial systems)?	<p>Design process:</p> <p>Is there a design document for the Program?</p> <p>(If so) How is it used?</p> <p>Who was involved in the design process? (check for all agencies, gender, disability, matai/non, Sava'ii/Upolo)</p> <p>What was the process used to develop a design for the Program?</p> <p>What was good/challenging about this process?</p> <p>(If they were involved in the sector pre 2010) What differences are there in developing a design for an agency vs a sector?</p> <p>How would you recommend designs for support be developed in future?</p> <p>What other support did you receive/provide?</p> <p>Modality: can you describe to me how (inc. who involved):</p> <p>The sectors strategic direction was determined?</p> <p>The Projects to support was determined?</p> <p>Policy: What policy were determined in the L&J sector since 2010? (check if any relate/consider gender, disability, status, location)</p> <p>How are policy developed?</p> <p>Who influences policy decisions in Samoa?</p>

Key evaluation question	Questions
5. Monitoring and evaluation. Were outcomes and the theory of change clear? Did projects supported reflect this theory of change? Did monitoring enable assessment of progress towards outcomes and manage risk? Did reporting to the Steering Committee meet their needs and was the information used to effectively support achievement of high level outcomes and manage risk? Was the Steering Committee adequately supported in use of M&E information?	<p>Use of systems: Can you describe the process used for procurement?</p> <p>What was good about this process? What difficulties did it cause?</p> <p>Can you describe the process used for developing budgets, payments and financial management</p> <p>What was good about this process? What difficulties did it cause?</p> <p>Does (present draft ToC) reflect what you thought the support would do?</p> <p>What did you need to be able to monitor progress: against schedule/budget/towards outcomes?</p> <p>Did you receive this information? If so, when and in what format?</p> <p>How was this information used to change the way the Program was implemented?</p> <p>Who analysed this information and made recommendations about how it should be applied?</p> <p>Do you think that members of the PSC needed more support to use the information well? If so, what additional support was required?</p>
1. Relevance. Was Australia the appropriate partner to provide this support to Samoa, and whether the support provided aligned with the Sector Strategic Plan?	<p>What are the similarities/differences between the L&J sector in Australia and Samoa?</p> <p>What other countries have similar L&J systems to Samoa?</p> <p>How is the way Australia works with the L&J sector different to the way New Zealand works?</p> <p>Did the support align with Samoa's L&J Sector Plan? Why/why not?</p>
7. Innovation and private sector: did the program include any innovative approaches? If so, what lessons were learnt? How was the role of the private sector in the law and justice sector recognized? What lessons were learnt?	<p>Drawn from previous answers - nothing additional</p>

Interviewees

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Appendix C. Relevance

This section specifically considers whether support provided aligned with the Sector Strategic Plan and whether Australia was the appropriate partner to support SLJS.

Alignment with Sector Strategic Plan

Support provided was aligned with the SLJS Strategic Plan. At the highest level, Australia provided support to the sector as a whole rather than to specific agencies within the sector. This approach was relevant in Samoa's context given that all sector agencies and stakeholders interviewed agreed that law and justice challenges in Samoa require the coordinated attention of multiple agencies within the SLJS. There was universal agreement that these challenges cannot be successfully addressed by a single agency. Thus, providing support to the sector rather than an individual agency was appropriate.

Within this, expenditure was aligned with the SLJS Strategic Plan. However, as discussed in Appendix G, the breadth of the Strategic Plan meant that most activities within the sector would be captured by the Strategic Plan.

Support from Australia

Both Australia and Samoa have adopted a Westminster legal system and both have similar legislation. Because both legal systems have the same foundation, all sector agencies considered Australian support was relevant. In addition, sector agencies considered Australian support relevant in areas new to them, such as disability^{li}. In both cases, sector agencies recognised that because of the local context, approaches from any other system would need to be adapted before applying to Samoa. Those interviewed indicated that most technical assistance adapted the advice provided to suit local conditions^{lii}.

Several agencies expressed the opinion that relevance of support was maximised where Australia (or donors more generally) asked the SLJS what Samoa needs and wants and then provides this support rather than what the donor thinks Samoa should have^{liii}. Stakeholders identified that Australia generally does this. There was recognition that because the priorities of donor governments change, this cannot always occur.

Appendix D. Development of the SLJS

In the early 2000s, Samoa introduced a program of public sector reform. As part of this, there was an intent to improve performance management and monitoring at an agency and sectoral level. As a result, the Government of Samoa (GoS) introduced sectoral planning, with a sector defined as “a grouping of economic, social and administrative activities based on the type of goods or services produced” (MoF, 2003). This move to sectoral planning reflected broader moves across the Pacific. For example, in 2005, the Pacific Islands Forum endorsed The Pacific Plan for Strengthening Regional Cooperation which was based upon sectoral planning and included harmonisation of judicial, legal and law enforcement capacities.

On 13 April 2006, the Chief Executive Officers (CEOs) of all agencies in what is now the SLJS agreed to seek the establishment of the LJS through the 2008 – 2011 Strategy for the Development of Samoa (SDS). To support this, they created the Law and Justice Sector Steering Committee (comprising the CEO’s of all agencies) and a Working Group of senior officers to progress the establishment of the SLJS.

In 2007, GoS sought funding from Government of Australia (GoA) to support development and sector. Funding was provided and a series of workshops were held to determine the sector identity, purpose and direction (AusAID, 2008). These workshops were facilitated by an Australian Government-funded consultant (L Armytage). The Steering Committee agreed that the LJS should comprise three elements:

- › Law: All aspects of criminal and civil law.
- › Custom: Integrate and harmonise the ‘marriage’ of formal and customary justice.
- › Community: Address and reflect community interests and relations.

The Steering Committee identified two elements to the rationale for establishing the SLJS:

3. Improved service delivery: This was expected to be facilitated through:

- › Raising recognition of the importance of law and justice.
- › Improving the direction, planning, management, communication, coordination and monitoring of government services;

(c) Vertically: from national to agency levels,

(d) Horizontally: integrate and link services between sectors.

- › Harmonise service delivery, and improve the effectiveness and value for money.
- › Provided government owned priority setting mechanism for development.

4. Facilitate international development assistance to support GoS priorities. This would be by adopting an integrated, coordinated approach.

Over time, the five elements of this rationale have become the key functions of the Sector. The scope has broadened from government services to include all Sector Stakeholders; with a specific inclusion of community in driving priorities.

The SLJS agencies also considered that adopting a sectoral approach would:

- › Recognise their mutual interdependency.
- › Better enable support to each other.
- › Increase each agency's ability to tell MoF how to allocate needed funding.
- › Increase money allocated to the sector as the voice of the sector would be louder than that of individual agencies.

Following these workshops, development of a SLJS Strategic Plan commenced (2007). This was drafted by Australian Government Consultant (L. Armytage) following a consultation process^{liv}. The draft was prepared in October 2007 and agencies used this to inform their own Strategic Plan (AGD, 2008). The development of the Sector Strategic Plan was a slower process than anticipated. As a result, the Sector Strategic Plan 2008 – 2012 was not launched until May 2010 (SLJS, 2013; AGO, 2012)^{lv}.

In 2008, the Government of Samoa and Government of Australia entered into a Partnership for Development. This included an outcome in line with SDS Goal 6: "Improved governance". One of the planned approaches to this was through supporting an integrated approach to policing and law and justice sector reform. The output identified was a Sector Strategic Plan. The target results were improved Government Effectiveness and Rule of Law scores in the World Bank Governance Indicators and PASP Secretariat Evaluation Report. The document stated that an Implementation Strategy would be developed for this priority outcome.

In mid-2009, the SLJS requested funding from Australia to establish a Secretariat. This was considered essential to provide the administrative and management support required by the Steering Committee to ensure continuation of progress, centralise coordination of sector operations and ensure uniformity in support (AusAID, 2009; SLJS, 2013). The Secretariat was established following approval of this funding.

The SLJS Steering Committee was expanded in 2009 to include a representative of the National Council of Churches, the Samoa Law Society, the community (a senior and respected matai) and NGOs. At the same time, a Judicial Advisory Committee was established. This recognised the importance of provision of a mechanism for judiciary to contribute their views on the sector, without being involved in policy or decision-making. However, the Judicial Advisory Committee has not since contributed directly to the Steering Committee. The Australian Government attended Steering Committee meetings as an observer.

When the SLJS was established, many senior executive in SA did not have an understanding of what a sector-based approach was: "For the first few years, everyone was trying to understand what it was like to work as a sector"^{lvi}. The Australian Government also recognise that at the time they were commencing sector support to Samoa, they (both at Post and in Canberra) had little knowledge of the administration support a sector required. As one Australian Government officer explained "we learnt as we went along"^{lvii}. With a sector based approach being a new concept, both to the Australian Government and GoS, there was a sense that "sometimes you have to start so that people can see it, then either fix it or throw it out. Otherwise it is difficult to conceive what it will look like. Donors can see this as disregarding the rules and agreements."^{lviii} At the same time, there was a perceived rush to progress expenditure as a way to encourage sector agency to look at projects across the sector, rather than just for their agency. Consequently, when the sector commenced, there was no Medium Term Expenditure Framework or Performance Management Framework^{lix}. These were developed subsequently through support from Technical Advisers, but have not been used.

A series of Sub-Committees and Taskforces were established to manage the implementation of specific areas of work, for example, prisons review and crime prevention. Working Groups were established to manage the implementation of specific projects. These sub-Committees, Taskforces and Working Groups report to the Steering Committee (SLJS, 2015).

The SLJS developed their second Strategic Plan, to cover the period 2012 – 2016. This was done with funding from the Australian Government. The sector completed the Plan by June 2012. The launch was scheduled for July 2013. However, at the Australian Government's request, the launch was delayed until December to allow completion of four studies. The Australian Government further delayed the fourth (design) study until 2013. However, Australia confirmed that the Sector Plan should still be launched as planned. Following this, the SLJS Plan 2012 – 2016 was launched in December 2012, identifying five priority areas:

1. Community safety through improved crime management and prevention;
2. Improving access to justice, law and legal services;
3. Recognising customary based justice and harmonising with the formal justice system;
4. Promoting integrity and good governance in formal and customary processes and services;
and
5. Building sector agency capacity and improved service coordination.

The first four were the same as the goals in the previous Sector Strategic Plan. Capacity development was included as an additional priority.

The SLJS Secretariat developed a M&E Framework to support the 2012 – 2016 Sector Plan. This is not aligned with the original Performance Management Framework. The Secretariat also conducted a mid-term review of the 2012 – 2016 Sector Plan in early 2015. The Samoan Government commenced fully funding the Secretariat from October 2012.

The Australian Government has been the main donor in this sector since 2008. However, there has been support from other countries to agencies within the sector. For example, Government of New Zealand provided support to the Ministry of Police (training) and the Attorney General's Office (review the Criminal Laws of Samoa) (Barlow Shuster, 2012). The Government of New Zealand established an MoU with Corrections in 2013 and is increasing this support in coming years^{ix}. China constructed the new Court building and has committed to finding infrastructure work at the prisons. Support has also been provided by various other Australian agencies (AFP to Police) and programs (PACTAM to AGO; AYAD to MJCA and MWYCD). It is thus complicated sector in terms of support. None of this support appears to consider the SLJS Strategic Plan.

Appendix E. Australian support

Australia has supported the SLJS sector through aid funding administered by AusAID (and then DFAT) since 2007. The funding was provided with the aim of helping the law and justice sector in Samoa to achieve its targets in the Samoa Development Strategy (SDS) and as agreed in the Samoa-Australia Partnership for Development:

1. Improve governance in law and justice through improving the operation of the rule of law (SDS: Goal 6) and;
2. Reduce numbers of serious crime in Samoa (SDS Goal 6).

The partnership recognized the importance of an integrated approach to law and justice in the country. Australian aid funding assisted in the establishment of a coordination body (the Law and Justice Sector Secretariat). Following the establishment of the Secretariat, core funding was provided in support of the SLJS's key priorities as identified in its own sector plan (Table 1).

Table 2. Summary of Government of Australia's contribution to the SLJS^{lxi}.

Contribution	Value	Outputs/Outcomes
1. Initial Grant (2007/8)	\$0.3m	Produce the first SLJS Strategic Plan (2008 – 2012).
2. Three accountable cash grants.		
> Preparation phase(2008/2010)	\$0.399m	Refine the first SLJS Strategic Plan Establish the Secretariat Medium Term Expenditure Framework Performance Monitoring Framework HR and ICT Assessment across the sector
> Implementation of project activities under the Sectoral Plan in:		Implementation of project activities under the Sectoral Plan (subsequently amended to the Secretariat's operations and four projects
> 2010	\$0.5m	in support of the prison and its operations
> 2011	\$0.5m	and two projects to improve access to justice through supporting systems)
3. Direct Funding Agreement (2012)	\$2m	Implementation of project activities under the SLJS Strategic Plan for 2011/12 year ^{lxii} . Review of Sector Plan (2008 – 2012). Development of Sector Plan (2012 – 2016). Secretariat operations
4. Direct Funding Agreement (2013/4)	\$0	No additional funds received.

These funds were provided through grants to the Government of Samoa's Ministry of Finance who in turn oversaw disbursement of funds to the law and justice sector in support of agreed law and justice sector activities.

The Samoa-Australia LJ Partnership (SALJP) design mission occurred in March 2013 (Aide Memoire, 2013). The intent was that the new design would commence in July 2014. However, across the SLJS there was a lack of clarity as to the purpose of this design mission and the added value that the design (SLJS, 2013).

The design mission developed an underpinning Theory of Change (ToC) for the support. This ToC was: "If capacitated and resourced Sector Agencies and Civil Society Organisations (CSOs) coordinate planning, implementation and monitoring on a Sector-wide basis (in accordance with Samoan Government sector planning and implementation requirements); provide services in an equitable, just and inclusive way; and if drivers of crime are addressed and conflicts are resolved in appropriate forums - then people in Samoa will live in a safe and secure environment, with reduced risk of poverty and increased empowerment for its citizens." Interestingly, this ToC does not bear any correlation with that developed in the prior ToC Workshop (Clear Horizon, 2012).

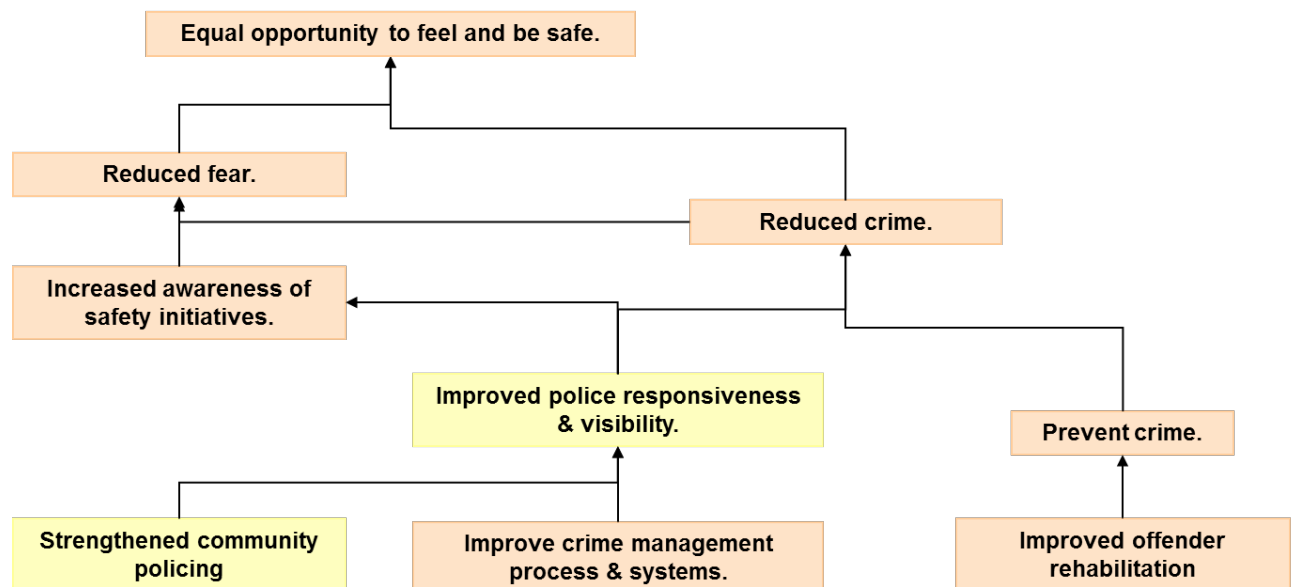
To achieve the ToC, the design draft proposed three Components: strengthening sector planning and implementation (achieved through a series of outputs that would support sector wide planning and implementation), enhanced delivery of justice and legal services; and research, M&E and analysis to inform policy development and implementation. A budget of \$4m over three years was proposed. The aide memoire identified a number of key issues that the design needed to address. These were:

- › Improved accountability for processes (to address non-compliance with Samoan Government procurement processes) and results (increase Steering Committee focus on policy dialogue and coordination rather than simply processes associated with expenditure of donor funding).
- › Evidence driven planning and programmatic implementation (data, M&E, analysis, reporting). Greater focus on linkages from activity through output, outcome and goal.
- › Strategic coherence across the sector. The design suggested that the Secretariat's role be clarified to have greater focus on strategic planning and decision making rather than only coordination. In addition, greater linkage between the Governments of Australia and Samoa funded activities in the sector.

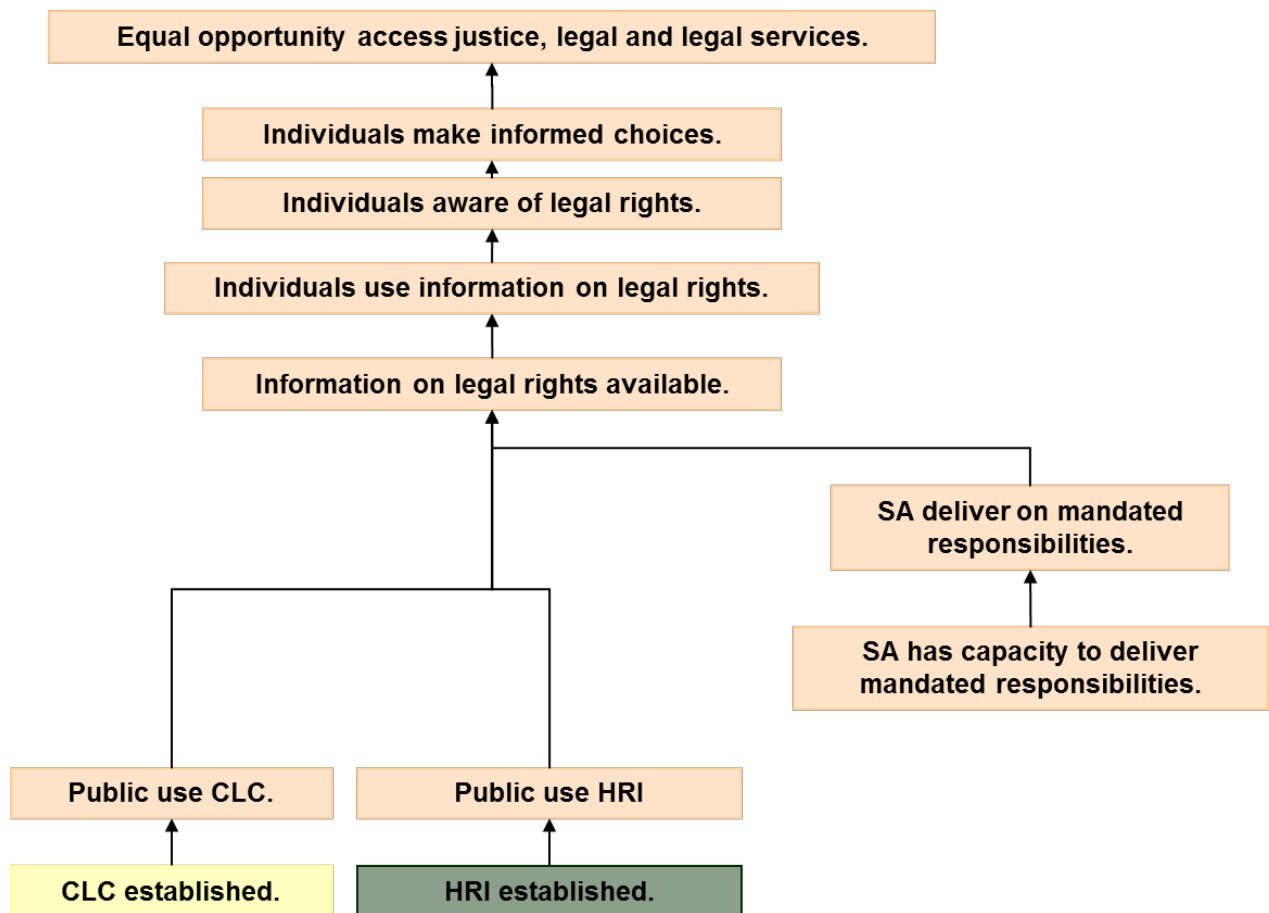
The details related to this design mission are discussed further in the section on efficiency. However, the Australian Government and the sector were unable to reach agreement on the direction proposed by the design team and mutually agreed to cease the design process. At high-level aid talks in December 2013 the Australian and Samoan governments agreed that further support for law and justice would be considered in the context of the range of aid program priorities when setting a new country strategy for Samoa. Subsequently, the Australian aid program globally through a period of change. In recognition of the need to consolidate Australian aid activities at the country level Australia is unable to commit to further broad-scale support to the SLJS. At high-level aid talks in December 2014 both governments agreed to jointly commission an independent review at the conclusion of the current funding agreement (December 2014) to assess the effectiveness of Australian assistance to the sector to date.

Appendix F.Theory of Change

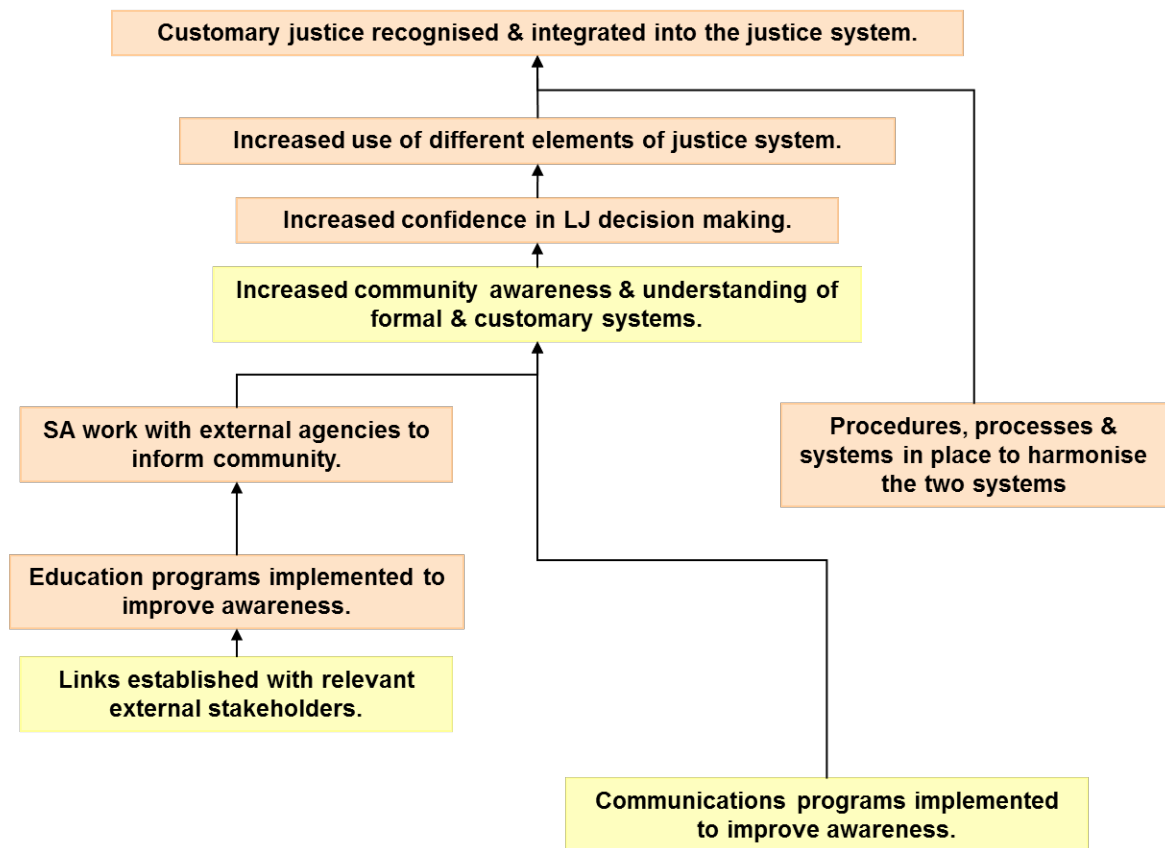
The following represent the implicit theory of changes underpinning the SLJS Strategic Plans to date.



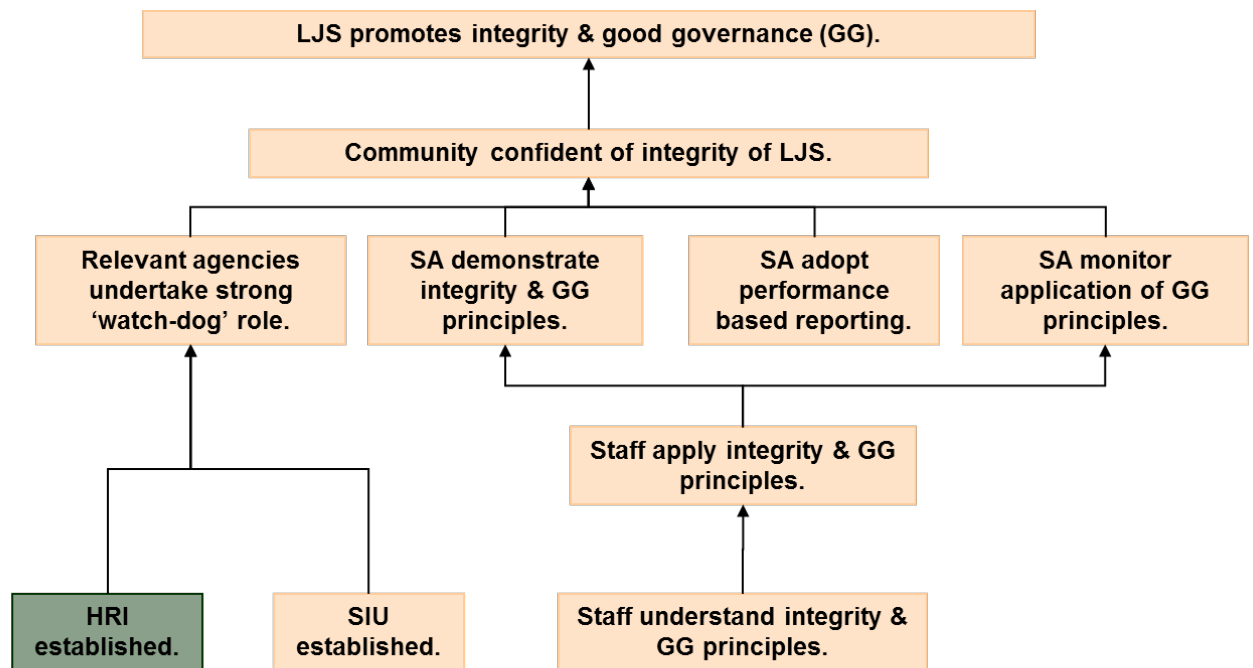
**ToC developed from SLJS Strategic Plan 2012 – 2016 for
Goal 1: Community Safety**



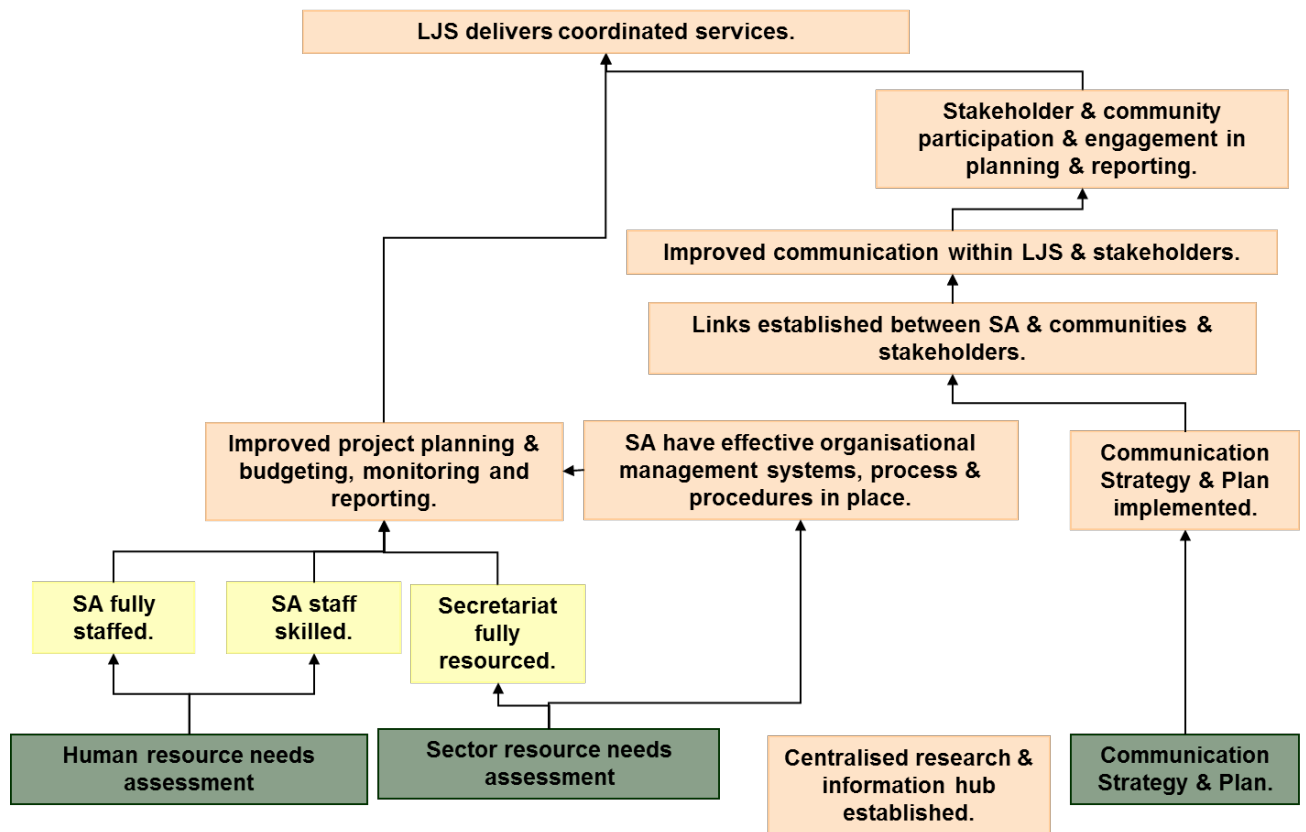
**ToC developed from SLJS Strategic Plan 2012 – 2016 for
Goal 2: Access to Justice**



ToC developed from SLJS Strategic Plan 2012 – 2016 for Goal 3: Customary/community based and formal justice system.



**ToC developed from SLJS Strategic Plan 2012 – 2016 for
Goal 4: Integrity & good governance across the LJS.**



**ToC developed from SLJS Strategic Plan 2012 – 2016 for
Goal 5: LJS capacity & service coordination.**

Appendix G. Principles to improve effectiveness of future Australian support

Australia has identified that it will not be continuing sectoral-based support to the SLJS. However, the Australian Government has indicated that they remain supportive of the SLJS. Consequently, the Australian Government would like to identify how to maximise the effectiveness of the limited support they may provide in the future. In line with this, this Appendix provides some principles that would improve the effectiveness of support provided.

- 1. Direct all Australian support to activities that are included in the SLJS Strategic Plan.** At present, much of the support provided by Australia and other donors does not consider the SLJS Strategic Plan. If donors believe that a sectoral approach is important, then they should base their own support on the SLJS Strategic Plan. If this is not done, the message conveyed is that the SLJS Strategic Plan is not important. In addition, it risks the donor driving the initiative rather than Samoa.
- 2. Use support to develop the SLJS.** This may impact the way in which support is provided. For example, provision of matched funding would encourage Samoan Government to fund the sector.
- 3. Support specific strategic elements of the SLJS Strategic Plan that require all SA to work together.** When the Crime Prevention Strategy is developed, the Australian Government may choose to support specific elements of this strategy within the broader Strategic Plan.
- 4. Support specific themes within the SLJS Strategic Plan that align with the Australian Government policy.** For example, support to initiatives designed to address family violence. However, if this approach is adopted, care must be taken to ensure that the support provided does not distort the sectors work. This could come about where there is a focus on a theme such as domestic violence or disability by multiple donors.
- 5. Support areas where Australia has relevant expertise not available in Samoa.** If the skills are available in Samoa, Australia adds little value in supporting these areas (unless the only missing element is funds). However, this review found strong evidence that coaches providing multiple inputs over a long period (thus establishing relationships based on mutual understanding and respect) were very effective as were workplace attachments to Australia and New Zealand.
- 6. Only support projects that fall into one of the three success groups** (too hard without sector approach, important items that have been desired for years but not eventuated, critical but not publically popular).
- 7. Ensure that support provided is underpinned by a relationship based upon mutual respect and understanding.**

Appendix H. Areas in which the SLJS can be strengthened.

While the Sector has been established, there remain a number of areas where it can be further strengthened. These include:

- › Improved strategic thinking and planning. Strategic thinking across the sector has improved over the period. This is reflected in SA Strategic Plans and at a sector level, and in the work being done by Committees and Task Forces at a project level (e.g. Crime Prevention Strategy)^{lxiii}. However, while it may occur at a 'whole-of-sector' level, there was little evidence of this during interviews or in documents. It was not reflected in the six-monthly reporting or the special six-monthly meetings of the SC (refer Clause 28 of the Agreement).
- › Improving monitoring. This is discussed in Section 7.
- › Integration of the SLJS Strategic Plan into the SA Strategic Plan. While all agencies refer to the SLJS Strategic Plan, few integrate the Sector Plan into their own agencies strategic planning^{lxiv}. At most, the projects included in the Strategic Plan are included in the agencies Strategic Plan as projects.
- › Increased consideration of other sector agency strategies when developing their own Strategic Plan^{lxv}.
- › Consideration of functions that could be shared across SA to increase efficiencies. For example, it may be possible to share some Corporate Services or M&E functions^{lxvi}.
- › Increasing the depth within each SA that understands a sectoral approach. The SLJS Strategic Plan is not widely known outside those who have participated in the Steering Committee and those who use the Plan to develop proposals for funding^{lxvii}. However, having said that, it is also likely that there is limited depth of knowledge of the sector agencies own Strategic Plans.
- › Reducing/removing barriers that exist between some elements of sector agencies and the sector. For example, until recently, MoP has indicated that they would not want AFP funding integrated into sector funding in case they lost some of it to other agencies^{lxviii}. However, realistically if other agencies had direct donor support, they are likely to feel similarly. Sharing of information between agencies also remains more difficult than may always be necessary^{lxix}.

Appendix I. Efficiency

Contractual matters

Agreements between the Governments of Australia and Samoa

As discussed in Section 2, when the SLJS was established, there was a lack of understanding among both the Australian Government and SLJS stakeholders about sector based approaches. Combined with the perceived pressure to progress expenditure as quickly as possible, much of the preparation that would normally be undertaken did not occur. For example, there was no MTEF or PMF for the sector; and no agreed design, ToC, expected outcomes, criteria for funding activities, or understanding of the Australian Government's role in selection of activities for funding^{lxx}. There were no guidelines on procurement processes in Agreements between the Samoan Government and the Australian Government until the Direct Funding Agreement entered into on 15 March 2012; five years after the first support was provided. This lack of clarity was not resolved over time because the Australian Government's focus was on sector ownership, therefore Australia did not want to drive the sector^{lxxi}.

The Direct Funding Agreement established in 2012 sought to clarify some of these elements. However, this Agreement did not improve clarity as the Principles and other Clauses could easily be interpreted in contradictory ways^{lxxii}. The Principles agreed in the Direct Funding Agreement state: "(i) implementation will be based on a partnership approach; (ii) GoS leadership and ownership of the Program is maximised; (iii) GoA support is aligned to the GoS needs and priorities" (2012, p. 2). GoS understandably interpreted this to mean that GoA would fund any activity in the Sector Plan the SC prioritised (up to the budget limit). However, Clauses 16 and 17 of the Direct Funding Agreement state that GoA would fund "activities detailed in the SC agreed 2011 – 12 Annual Work Plan GoS agrees to use GoA funding solely for the implementation of the Program and in accordance with the expenditures as detailed in the 2011 – 2012 Annual Work Plan ... unless there is a reprioritisation that is approved by the Steering Committee and endorsed by MoF and GoA".

The requirement for reprioritization wasn't well understood by the Steering Committee. Consequently, it was breached when the Australian Government did not attend a Steering Committee meeting which reprioritized activities. However, at a practical level this is more ambiguous. More broadly, there were specific problems with Clause 16 and 17. These include:

- › The criteria for determining projects that could be funded were unclear^{lxxiii}.
- › The Annual Work Plan was very general. It did not set out the items to be procured within each project. Because of the lack of detail in the Annual Work Plan, this review did not identify any procurement undertaken that would be considered too clearly fall outside the items in the Plan.
- › No specification of the MoF and Australian Government endorsement of changes required. The Samoan Government could reasonably have assumed that lack of MoF and Australian Government objection to a change at the Steering Committee was adequate endorsement.
- › The Agreement was never updated to reflect subsequent Annual Work Plans. Ideally, the Agreement should have stated "current approved" (or similar) rather than a specific year. The Australian Government advised that in subsequent years, the High Level Consultation

(HLC) Implementation Schedule provided guidance. In this case, the HLC Implementation Schedule should have been referred to in the Agreement. These documents were not reviewed as part of this review and therefore the level of guidance provided cannot be commented upon.

Funding

Numerous inefficiencies were introduced as a consequence of the timing of provision of funding. Many of these are not unique to this initiative with MoF identifying that across many sectors, lack of predictability of donor funds is a major challenge.

When the sector was established, the discussions between the Australian Government and SLJS indicated that funding of up to \$20m would be provided over an extended period^{lxxv}. This provided a significant carrot for the establishment of the sector. Even in September 2012, reports indicated provision of \$8m over the next four years (AusAID, 2012). However, as a result of changes in Australian government priorities, support was not continued and ultimately ceased at some \$4m. This caused difficulty for sectoral planning and adversely impacted the perception of Australia among some in the SLJS.

Delays in payment of funds associated with the Direct Funding Agreement also caused inefficiencies. A delay of almost five months, delayed implementation of projects identified in the second SLJS Strategic Plan. The impact of the delay in payment was exacerbated by the short period of time after receipt of funds to the end of the Samoan Government financial year.

Efficiency was also adversely impacted by the lack of congruence in planning and funding periods. The planning period for SLJS was July 2012 – June 2016, which did not coincide with the Australian funding period (March 2012 – September 2013). This lack of alignment of planning periods made planning and reporting more difficult for the SC. In addition, initiatives were commenced with the reasonable expectation that funds would be forthcoming to complete these projects in subsequent periods. When subsequent funding was not available, the initiative was not able to be completed. This results in inefficient use of the original funds.

Design of support to the SLJS

Both the absence of a design (or more specifically, the lack of agreement on boundaries and process) and the approach used to develop a design for support to the second SLJS Strategic Plan created significant inefficiencies.

All support to the SLJS was provided without a design. As discussed in Section 3, the decision to provide support without a design reflected a lack of a clear understanding of sectoral support combined with a desire to quickly progress provision of support. There was a sense that partners needed to implement and experience sectoral support before they could properly design it. Given the information available to partners at that time, this thinking cannot be refuted; it is likely that the production of a traditional design may well have slowed support to the sector and not produced significant benefit given that the design template used at that time was not suited to sectoral support.

However, the absence of a design created a number of inefficiencies consequent on the lack of agreement on many of the details included in a design. For example, the agreed outcomes, criteria for applying Australian Government funds to projects and the Australian Government's

role (what is the role of an observer SC member). Had these issues been discussed, agreed and documented, it may have prevented the subsequent issues that emerged to adversely affect relationships.

Finding a balance in these two perspectives (valid reasons why a design was not developed and the need for agreed boundaries) in providing future support, particularly to new modalities, is essential. Possible approaches to this are presented in Section 9.

There was an intention that a design would underpin the support provided to implement the second Strategic Plan. However this did not occur, fundamentally due to poor initial planning leading to misunderstandings (Appendix J). The Steering Committee did not understand the purpose of the design, were concerned that the design may require changes to the Strategic Plan, were not involved in selecting the design team and consequently, had no ownership of the design process. This was compounded by the Steering Committee perceiving some design team members had a significant conflict of interest. Combined, these factors established a poor foundation for the design.

With this base, developing a design was always going to be difficult. However, the approach adopted by the design team exacerbated this further. The SC did not consider the approach collegial nor to consider adequately the Samoan perspective: the context, achievements or and feedback provided by the SC. The design team did not provide a written aide memoir while in-country and it is unclear whether there was a verbal debrief for the SC.

As a consequence of dissatisfaction and misunderstandings flowing from planning and implementation of the process to develop the design, the design process was not completed. Thus, the support provided to implement the second Strategic Plan was also without a design. More significantly, this process adversely impacted the relationship between the Australian Government and the SLJS for an extended period. Entrenched positions were established quickly and neither the Australian Government nor the SC seems to have 'stood in the shoes' of the other to consider how the other would interpret the situation. Significant work on both sides was required to restore a positive relationship, and those who contributed to this should be commended for their efforts.

Thus, as a consequence of poor planning and the lack of a collegial implementation approach, the design process was not efficient. As described by members of the SC, this was "a problem with the process rather than the content". To be both effective and efficient, the design should not have proceeded without the full involvement and ownership of the process by the SLJS. Their exclusion from the selection process should have halted the process. If this did not occur, the SLJS written advice that they did not understand the purpose of the design, should, as a minimum, have delayed the process. With the lack of SLJS ownership, any design produced was likely to be unsuccessful. Thus, efforts to resurrect the design process were unlikely to be effective in the long term. This is discussed further in Section 9.

SLJS Management

The Secretariat

Operation of the Secretariat used approximately 9% of the funding allocated to support the second SLJS Strategic Plan. However, increased expenditure on the Secretariat would have improved efficiency through enabling timely establishment of a database and strategic.

Those interviewed with experience of other sectors identified that the SLJS was more effective and more efficient than those sectors. This was reflected in clear, simple processes and procedures for proposing a project and the Steering Committee assessing proposals through the Working Group and then debating (rather than rubber stamping) projects^{lxxvi}. In addition, a number of stakeholders commended the SLJS for housing the Secretariat outside (under a different roof) to sector agencies so that there is no perceived conflict of interest. They believed this was a better approach than housing the Secretariat within one of the SA as standard practice in all other sectors, and recently adopted within the SLJS^{lxxvii}. However, there are a number of areas in which significant improvements in efficiency could have been achieved with greater support. These are discussed below.

The SLJS Strategic Plan identified the Steering Committee's role as one of leadership within the Sector. As such, it is tasked to provide strategic advice, support and advocate for appropriate interventions across the Sector. The Secretariat's role is identified as assisting the Steering Committee in the coordination of Sector programmes and activities, with responsibility for planning, budgeting and monitoring. The more detailed descriptions available of the Secretariat's role (SLJS, 2012d) are focussed at the project level and do not include supporting strategic level monitoring or planning. They also don't clearly identify the Secretariat's authority to act without specific direction. Consequently, the Secretariat has not supported the strategic level and there was some confusion among members of the Steering Committee and Secretariat on specific responsibilities and authority. For example, who had responsibility for ensuring regulatory compliance and whether the Secretariat could act without specific direction from the Steering Committee^{lxxviii}. This may have contributed to some of the issues identified later in relation to procurement.

The Secretariat has responsibility for monitoring. To support this, an effective sector database is critical. While the sector database (Auafa May) has been developed, it is not operational, apparently due to a small error in coding. As an Australian volunteer developed the database (but did not fully test it before finishing), there was no contractual mechanism to ensure it was completed as scheduled. Engaging a Samoan firm to develop the database using an output based contract with a maintenance period would have been more efficient, even though more costly. The firm would not be paid until the database was operating successfully.

In addition, the Secretariat staffing did not include team members with the capacity to support the monitoring role (and perhaps planning) effectively, particularly at the strategic level. As the development of the database progressed, inclusion of a person with IT skills to manage the database would have been beneficial. We strongly support the Steering Committee's current proposal to include such a person within the Secretariat.

Application of GoS procurement process

As noted in Section 6.1.1, the Agreement required that SLJS SC apply the GoS procurement process. However, although the procurement process was well documented and transparent, procurement did not always comply with the GoS procurement process.

Two cases of procurement that did not adhere to the GoS process were identified. Both cases occurred at the start of funding projects. In part, both were a consequence of attempting to establish activities as quickly as possible. In one case (digitization of LTC records), lack of full-compliance with the GoS procurement procedure did not adversely affect either quality or cost of the work^{lxxix}. In the other case (construction of female inmates cells), the Steering

Committee identified numerous quality and cost issues resulting from not contracting the works. The Steering Committee increased their own supervision of the works to try to address these problems. As a consequence, the Steering Committee concluded that all construction works should be contracted in future regardless of perceived benefits of one agency undertaking the work themselves^{lxxx}.

In both cases, there has been no suggestion of fraud or misappropriation associated with these activities. This is supported by the GoS Audit not identifying concerns with this expenditure. The process applied was clear in documents available at SC meetings and minutes. The breach in GoS procedures could have been identified by DFAT had they attended and actively participated in SC meetings regularly. Both cases were a learning experience for members of the Secretariat and SC. Both could have been avoided by improved practice from the commencement of Australian Government funding project support. Therefore, this review considers that while a breach of process, the focus should be on learning to avoid similar situations in the future. On this basis, a series of recommendations follow to help avoid this situation.

When the breaches of procedure were identified, this was not communicated effectively with the SLJS SC. As a result, this contributed to a loss of trust for both the Australian Government and the SLJS SC and adversely impacted their relationship.

Projects

Project proposal assessment

The Steering Committee applied a clear (though undocumented) procedure for assessment of proposals. The information submitted for each proposal was included in a very detailed, thorough form. Consequently, there was adequate information available to assess proposals. DFAT considered most of the projects proposed were sound and appropriate. However, there was no specific set of agreed criteria against which to assess or prioritize proposals.

There was an undocumented general understanding that Australian Government funding was for activities that benefit the whole sector (usually multi-agency responsibility) rather than single agency benefit (and usually responsibility). This understanding was reflected in the projects on which expenditure occurred (Appendix K). Significantly, projects included in the second Sector Plan period were more often cross agency than those included in the first Sector Plan. This reflects a growing acceptance of a sectoral rather than agency approach.

Despite this, a number of people interviewed expected that the funding was largely available to support activities related to a single agency. In all cases, this applied to the smaller stakeholders within the sector. In some cases, where the agency did not obtain significant funding for their proposed projects, this led to a perception of bias in the selection process. Other organisations were unclear whether CBO could propose projects. The establishment and communication of selection criteria would help avoid this situation.

Activities seen to be initiated by the Australian Government

Most activities were identified, planned, implemented and driven by the SLJS. However, some were seen to be driven by the Australian Government. These were either activities seen as

critical for the new sector or for the development of the new design. These activities were not efficient.

A series of studies were undertaken when the sector was formally established to support its implementation. These included development of a baseline, a Performance Management Framework, Communication Strategy, Information Technology Plan and Human Resources Plan. Each was developed by a short term specialist. While they worked with SLJS agencies, the agencies did not develop the documents. As a result, there was no ownership of the documents produced. In some cases, while the quality of the document was excellent, but they were unnecessarily complex (AusAID, 2012, p. 21) and the SLJS did not know how to apply it. As a consequence, none of these documents have been used. In contrast, SLJS has used all outputs they initiated and directed.

Similarly, stakeholders did not understand the purpose of the activities the Australian Government initiated related to development of the design. This includes the ToC Workshop, assessment of the public financial management and the procurement review. In one case (ToC report), the diagram of the ToC is unreadable which limits efficiency. In another (assessment of the PFM), the wording and formatting of the Executive Summary is likely to cause offence to any Samoan reader. This is also likely to have contributed to the poor foundation for undertaking the design. It is important to recognize that the same message could have been conveyed in a manner which would not create offence and would encourage positive action.

Appendix J. Lessons Learnt

Relationship

Relationships matter. A sound relationship based on mutual respect and understanding will support change and resolution of difficulties. Consequently, there is probably nothing more important to the provision of successful development assistance. The establishment of a “sound relationship based on mutual respect and understanding” takes time, it must be well established before it needs to be ‘used’.

To establish mutual understanding all parties must meet regularly and discuss progress, challenges and opportunities. This did not occur. Australia attended less than 30% of the Steering Committee meetings in the first year and 57% of meetings overall^{lxxxix}. Consequently, Australia did not develop an understanding of partner’s needs and expectations, at a sector, organisation or individual basis. It also allowed a divergence of understanding to develop.

More significantly, Australia’s absence from these meetings conveyed several unintended messages; that the sector was not important to Australia and that Australia was happy for the SLJS to use the funds as the SLJS saw fit. This created a misunderstanding of Australia’s position within the SLJS. In addition, it does not contribute to development of mutual respect. The lack of engaging the SLJS in the planning of the design also undermines mutual understanding and does not demonstrate or build respect^{lxxxii}.

Respect (Fa’aaloalo) underpins Samoan culture, determining much of what is culturally appropriate and inappropriate. Thus, actions which reflect disrespect, undermine relationships, and will always adversely impact development assistance outcomes. For example, adopting a policing rather than a collaborative approach to audits is likely to convey disrespect. Similarly, while the content of reports completed by technical specialists may be correct, the tone (conveyed through words, punctuation and formatting) often unintentionally conveyed disrespect. This is particularly evident in the executive summary of the assessment of both the law and justice secretariat public financial management and procurement systems^{lxxxiii}. The approach adopted to planning and implementing the design, and the tone of the design aide memoire was also interpreted as a lack of respect for Samoa^{lxxxiv}.

The reverse also applied. When the SLJS repeatedly did not provide the agreed monitoring information or comply with all elements of the procurement process, this was interpreted as a lack of respect for Australia. The perception by both partners of a lack of respect adversely affected the relationship^{lxxxv}.

When differences emerge, a relationship based on understanding and respect is more likely to lead to resolution of these differences through discussion. In the case of support provided through this initiative, differences that emerged appear to have immediately led to written rather than verbal communication. This did not assist to clarify each partner’s situation or resolve differences. Instead, it led each party to adopt an entrenched position and differences escalated^{lxxxvi}. Significantly, neither the Australian Government nor the SLJS appears to have stood in the shoes of the other and considered the situation from their perspective.

Lesson: Establishing and maintaining a relationship based on understanding and respect is critical. This requires a commitment of time and each partner to develop an understanding of the other's culture and needs.

Design

Shared understanding of needs and boundaries is essential. In general, the design process and facilitates this. Thus, it is important to develop the design through a participatory process in which all partners openly discuss and agree matters such as needs, expectations and boundaries. Without an open and frank discussion, differences are unlikely to be surfaced, potentially resulting in subsequent conflict.

Where there is no design, these discussions remain critical. Following discussion, partners should document the agreed position and discuss it regularly. This discussion should also consider emerging issues. The discussions may be every three months during the first year and then six monthly until a design is developed. In addition, where a partner representative changes, the agreed positions should be reviewed. Changes should only be made where there is mutual agreement to the new position, rather than the preference of an individual.

Lesson: Shared understanding of needs and boundaries must be established, documented, regularly reviewed and updated through a process of respectful discussion.

Sector wide approach

The Samoan Government drove development of sectoral approach as part of their public sector reform process. Australia provided funding to support the Samoan Government implement this reform. However, Australia was the only funder of the SLJS, there was no funding from the Samoan Government or other donors. This created many misperceptions and challenges including the perception among some that Australia, rather than the Samoan Government, was driving establishment of a SLJS. This misperception had to be overcome before these stakeholders began to own the changes. Consequently, it is likely that the pace of initial change was slower than may have occurred had there been visible Samoan Government support.

A sole funder presents challenges to sustainability; what happens when Australian funding ceases? In this case, the SLJS sector agencies funded priority activities, demonstrating strong ownership of the sector. However, had strong ownership not been quickly established, these funds would not have been available and the sector would have collapsed.

Lesson: Sector based approaches should be funded by multiple agencies, including the partner government, to maximise sustainability.

What works

The Australian Government's review of law and justice sectors (2012) identified that establishment of sectors is generally not effective and that "sectoral aid coordination structures may not be the right mechanism for addressing fragmented law and justice systems". However, in the SLJS, the Steering Committee was successfully established and has increased coordination across the sector. Given the more widespread lack of success of this approach, the factors that have facilitated success in Samoa are important.

There appear to be five critical factors that have underpinned the success of the sectoral based approach in Samoa:

1. Strong leadership from Chairman and other SLJS sector agency CEO. This leadership has consistently emphasised that the focus is on the sector and that projects funded must benefit the sector as a whole rather than individual agencies. This strongly contrasts the Australian Government's findings in countries where sectoral approaches were ineffective (AusAID, 2012).
2. Samoan ownership. This is a result of the strong Samoan leadership and the donor not taking a directive role during establishment.
3. Focussing on some big activities that needed the support of all sector agencies, in particular the Village Fono Act. This reflects the suggestion of the Australian Government review (AusAID, 2012) that sectoral based approaches may be most effective where law and justice agencies work together on a concrete, practical issue whose resolution requires the cooperation of all agencies. It also aligns with their finding that success was more likely where support focussed on "issues for which there were local constituencies for change, who could be mobilised and supported" (AusAID, 2012, p. 9).
4. Support focusing on improved practice rather than best practice. This also aligns with the findings of the Australian Government review which concluded that implementing "flexible, localised, 'good enough' solutions" rather international best practice was likely to be more effective (AusAID, 2012, p. 9).
5. The commitment of money by the Australian Government to support activities through the SLJS Strategic Plan.

At a project level, support provided by the Australian Government through the SLJS generally made a significant difference where the project met one of three criteria. These were that the planned change:

1. Was too hard to achieve without the support of all agencies in the sector. This was due to: the extreme range of perspectives on the change (the amendments to the Village Fono Act Box 1), potential conflict of interest (establishment of the Community Law Centre), need for all agencies to address in a consistent manner for success (Crime Prevention Strategy) or lack of willingness to allocate an agencies resources to something seen as a sector benefit (Human Rights Institute).
2. Was a prioritised and well researched item, but the sector agency had insufficient funds to undertake the work. The digitisation of records at the LTC was an example of this (Box 3).
3. Was critical but not publically popular. For example, the support established for returnees (people deported from other countries back to Samoa for an offence) (Box 4).

In each case, because the SLJS spoke with one voice, change was possible. It is questionable whether any of these changes could have been achieved where there was disunity in the proposed position.

Appendix K. Summary of Projects

SLJS Secretariat summary of status of implementation of projects in the 2012 – 2016 Strategic Plan (as at 30 June 2015).

Completed/ Achieved	Target or standard has already been achieved
On Schedule/ Target	Target or standard has not yet been achieved, but is on schedule to be achieved
Behind Schedule	Target or standard has not yet been achieved and is behind schedule
Critical Shortfall/ Delay	Target or standard will not be achieved unless corrective action is taken by management team of relevant Agency

Goal 1: Community Safety							
Strategy 1.1 Raise Community Safety through improved crime management and crime prevention							
Outcome: To improve Measures that promote Community Safety and Manage Crime							
Sub Strategy 1.1.1 – Community Policing							
Projects	Project Reference Number	Implemented Agency	Year Implemented	Key Performance Indicators (KPI's)	Traffic Light Progress Indicator	Outcome	Comments
Neighbourhood Watch Project (NWP) Phase II	1.1.1.1	MOPP	2012/13	Strengthened community engagement to reduce fear of crime <ul style="list-style-type: none"> Increased number of people reporting they feel safe in NWP area through three (3) yearly community perception surveys Increased reporting of crime Reduction of crime over 3 years from implementation 	Completed/ Achieved	*Increase domestic violence issues pertains to public awareness. *Increase partnership between community pilot areas/police and between community and community	*Phase II has now been completed and working towards Phase III The main goal of the MoPP is to act proactively to reduce crime by means of the project Neighbourhood watch programme the positive approach of the public that they look after each other to prevent crimes and help each other. *The project has other advantages for the community to be helpful to thy neighbours and to keep them safe and secure at all times that is by reporting any crime to police on a timely manner.
Sub Strategy 1.1.2 – Implement Crime Management Processes and Systems							

Narcotics Lab Testing at SROS	1.1.2.1	AGO	2012 /13	<ul style="list-style-type: none"> • Lab established by 2013 • Training of personnel at SROS • Numbers of exhibits tested 	Completed/Achieved	<ul style="list-style-type: none"> *Improve efficiency in obtaining analysis reports of testing narcotics. *Improvement in prosecutions in narcotics related offendings. *Less delay in court hearings for matter relating to narcotics. *Improved law enforcement decision making on charges due to readily available forensic evidence. *Improve court decision makings on bail applications due to readily available forensic evidence. *Trained local scientists to ensure long term sustainability of the testing services. 	We have basically completed Phase 2 of the Narcotics Lab. Working together with SROS has helped progress this project quickly. The second phase training of the scientists are completed. The AG's Office had to go and seek NZAID assistance to complete the second phase of the lab. NZAID and NZ Police were the main supporters for this second phase of the lab.
Sub Strategy 1.1.3 – Offender Rehabilitation and reducing re-offending.							
Leadership Samoa Rehabilitation Program	1.1.3.2	MOPP/Leadership Samoa	2012 /13	*Increased number of intervention programs prevent further offending.	Completed/Achieved	*Less or No reoffending	Programs involving honey making, elei and tilapia farming completed. Conducting these programs have helped develop skills for young offenders at Olomanu.
Sub Strategy 1.1.4 – Crime Prevention Activities							
Development of National Crime Prevention Policy	1.1.4.1	MJCA	2012 /13	<ul style="list-style-type: none"> *Set up Inter-Sectoral Crime Prevention Taskforce. *Policy drafted and finalised. *Policy launched by June 2013. *Increase coordination of programmes and activities for crime prevention. *Review of Criminal related legislation 	Behind Schedule	*Development of a Crime Prevention policy will help guide, control and monitor crime rates in Samoa.	Project Deferred to FY 14/15. There is a taskforce already established with a Draft of the Policy in place. Review of Criminal Related Legislation already completed in 2012.
Samoa Returnees Charitable Trust	1.1.4.2	AGO	2013 /14	<ul style="list-style-type: none"> *Number of cases processed/criminal deportees registered in the trust and re integrated successfully in the trust. *Reduction in number of registered deportees reoffending. 	On Schedule/Target	<ul style="list-style-type: none"> *Successful transitional process into adequate housing for criminal deportees in the facility. *Adequate links with family and/or social services. *Successful reintegration into the Samoan Community leading to a reduction in the risk of criminal activity by deportees. 	Registry of Deportees already in place. On-going Rehabilitation programs to community and outreach awareness programs to schools.
Goal 2: Access to Justice							

Strategy 2.1: Improve access to justice, law and legal services							
Outcome: Increased awareness of the community of their legal rights all available legal services and how they can be accessed.							
Sub Strategy 2.1.1 – Increase Legal services to the public							
Projects	Project Reference Number	Implemented Agency	Year Implemented	Key Performance Indicators (KPI's)	Traffic Light Progress Indicator	Outcome	Comments
Community Law Centre	2.1.1.1	MJCA	2012/13	*Community Law Centre Established by June 2013	Critical Shortfall/ Delay	*Free or easier Public access to legal services/advice.	The community Law Centre Bill has been referred to the Select Committee after its second reading in Parliament in October 2014. It is currently open for public comments and submissions. Any changes that arise will be done to the Bill before its third reading and passing this year 2015. The process of setting up of Community Law Centre is currently in progress.
SVSG Personalised Support Officer at Courts	2.1.1.3	SVSG	2012/13	*A new service for victims available January 2013. *Officer to be recruited by December 2012. *Number of users of the new service.	Completed / Achieved	Victims are well supported at Courts.	Full time Court Support Officer recruited in April 2013. Court support accessible 5 days a week at the court. A total number of 1,170 users of this service since the project began.
Sub Strategy 2.1.2 – Strengthen Systems and Processes							
Review of Traditional Knowledge and Expressions of Nature Legislative	2.1.2.1	SLRC	2012/13	*Carry out relevant legislative review. *Draft necessary new or amended legislation. *Number of new legislation amended and	Behind Schedule	An appropriate legal framework for the protection of the traditional knowledge and expressions of culture for Samoa	Final Report to be completed 2014/2015 to determine whether a new legislation is drafted

Review Draft Legislation				new legislation drafted.			
Digitization of the Land and Titles Court Records	2.1. 2.4	MJCA	2013 to 2015/16	<ul style="list-style-type: none"> *Information Management System Established. *Number of digitised records. *Number of Records and Reports accessed via computerised integrated information system. * Recruitment & Selection of additional and new staff. *Digitization project established in Savaii by December 2013 	Completed / Achieved	<ul style="list-style-type: none"> *Proper Index library of Records that will assist with timely provision of records and information to the Samoan Judges for their work as well as to staff and members of public request copies. *Secured records of the Land & Titles Court as in Electronic form the Ministry will be able to make back-up copies for storage, preservation and future usage. *Improved public access to the Land & Titles Court records as public will be able to view scanned images of records on computer monitor and make copies if need to. * Increase productivity of Records staff in searching files, retrieving information and making records of the Land & Titles Court available in a timely manner unlike the previous practice. 	Digitisation Project first implemented in February 2011. The Project Team fully recruited and started working on file repair and maintenance in July of the same year awaiting arrival of equipment, followed by installation of machines in November 2011. We have now completed the scanning 25,080 files, and stored a total to 1,139,789 pages into the Docsvault System as at 30th November 2014. The system serves a very important role to the Ministry of Justice and Court Administration of not only preservation of all LTC Records in fully indexed electronic form, but also created backup copies of all files in the event of natural disaster. It will also improve access by the public, particularly the interested parties enabling easy viewing of these vital documents via computer monitors. It also facilitate easy access to records much faster.

SamLII Project	2.1. 2.5	MJCA	2013-14	<ul style="list-style-type: none"> * Information Management System established & launched. * Improved public access to Legal Information. * SamLII successfully hosted and located in Samoa by June 2014 	Completed / Achieved	<ul style="list-style-type: none"> * Public access will pave the way and promote good governance, in terms of transparency and accountability in the law. * This project will improve access to justice, law and legal services. * Development of a Samoan Jurisprudence which integrates customary and Community based justice with the English Justice System as a result of the access and the exposure of the public to online legal information. * Judges, lawyers and those in the legal profession will have easy access to legal information provided by the SamLII. * Students will have easy access to legal information provided by this project to aid them with their studies. 	<p>The implementation of the SamLII Project was divided into four (4) Phases. The launch of SamLII in June 2012 marks the completion of Phase 1. To maintain momentum, the Sector Coordinator and ACEO Courts continued to play a major role into the other phases. To date, we continue to work with PacLII and AusLII on data flow and judgement template refinements as part of the ongoing uploading and updating SamLII. The implementation of the final three (3) phases has been placed on hold due to the unavailability of funding assistance from AUS AID now known as DFAT. The impacts of this project has been improved access to Justice; (i) Free access to Samoan Legal Information by Court users but also the public. (ii) Most updated legislation and Court decisions are available.</p>
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MJCA Recording	2.1. 2.6	MJCA	201 2/1 3	*Improved Public Access to Legal Information. *Recording System procured & Installed by June 2013	Completed / Achieved	* Timely provision of accurate transcript of evidence is an integral part of the Ministry's Court taking and Case Management Responsibility. *Extending this service to other Courts and Court users is an effective and efficient manner ensures that the public access to justice and to good quality service is enhanced. *Challenges and difficulties currently faced by the judiciary, court staff and court users regarding the demand for transcript, its accuracy and availability is reduced.	The project is being launched in January 2015. Installation has been completed for all the twelve (12) Court Rooms in the Court House. Design of operational manuals, training and managing any problems that may arise is an ongoing task. The project is expected to improve the quality of the Courts Services and records management. The Public will also have access to accurate information within a reasonable time and contributing to overall access to Justice.
Coroners Ordinance 1959 Legislative Review Draft Legislation		SLRC	201 1	Final Report Legislation drafted	Completed / Achieved	An improved and updated legislation governing the role of the Coroner subject to the Commission's recommendations where the overall goal is the progressive realisation of separating the Coroners Court from the Judiciary. It also includes the need to extend the eligibility criteria when appointing Coroners.	Final Report tabled April 2012 Coroners Bill drafted by Attorney General
National Heritage Board Legislative Review Draft		SLRC	201 3	Final Report	On Schedule/ Target	Setting up a National Heritage Board to preserve Samoa's various significant heritage sites.	Final Report tabled May 2014 awaiting outcome of Final Report to determine whether a new legislation is drafted

Legislation						
Child Protection Legislation Legislative Review Draft Legislation	SLRC	2011	Final Report Legislation drafted	Completed / Achieved	A Bill to consolidate provisions governing the care and protection of children.	Final Report sent for tabling to Legislative Assembly December 2014 Child Care and protection Bill drafted and completed currently with MWCSO and Attorney General
District Court Act 1969 Legislative Review Draft Legislation	SLRC	2013	Final Report Legislation drafted	Completed / Achieved	Part of a broader review and reform of legislation governing the courts of Samoa	Final Report tabled August 2014 District Court Bill sent Legislative Assembly 20 October 2014
Civil Procedure Rules (Magistrate & Supreme Court Rules) Legislative Review Draft Legislation	SLRC	2013	Final Report	On Schedule/ Target	Part of a broader review and reform of legislation governing the courts of Samoa. This is the review of the Supreme Court (Civil Procedure) Rules 1980 and the Magistrate's Court Rules 1971	Issues Paper 1 approved by Cabinet 2012 Issues Paper 2 approved by Cabinet Dec 2014 Final Report to be completed 2015/2016 to determine whether a new legislation is drafted.
Media Regulation Legislative Review Draft Legislation	SLRC	2013	Final Report Legislation drafted	Completed / Achieved	Setting up an appropriate regulatory body for media in Samoa	Final Report tabled June 2014 and Media Council Bill tabled in August 2014
Prisons Act 1967 Legislative Review Draft Legislation Draft Regulation	SLRC	2013	Final Report Legislation drafted	Completed / Achieved	An improved and updated legislation for the prisons which supports rehabilitation	Final Report tabled June 2014 Prisons and Corrections Act 2013 passed The Draft Regulation is drafted and finalized by Attorney General

Goal 3: Customary and Community-Based Justice							
Strategy 3.1: Promote and Integrate customary & Community-based justice							
Outcome: To recognise customary and community-based justice in Samoa and integrate or harmonise it with the formal justice system.							
Sub Strategy 3.1.1 - Improve linkages harmonisation and integration between formal and customary and community-based justice systems.							
Projects	Project Reference Number	Implementing Agency	Year Implemented	Key Performance Indicators (KPI's)	Traffic Light Progress Indicator	Outcome	Comments
Review of Village Fono Act Legislative Review Draft Legislation	3.1.1.1	SLRC	2012/13	*Carry out relevant legislative review. *Draft necessary new or amended legislation	Completed / Achieved	An improved legislation that will look into extending the authority of the village council in economic, social and hygiene affairs of villages. The Bill also includes registration of village by-laws and penalties to ensure justice and good governance is practiced within the village councils.	Final Report tabled 2013 Amendment Village Fono drafted. Bill currently with MWCSD and Attorney General
Sub Strategy 3.1.2 - Increase community awareness of formal and customary and community based justice systems.							
SLJS Annual Awareness Campaign	3.1.2.1	SLJS	2013 to 2016	*Number of consultations and workshops on linkages between the formal and customary based justice system. *Number of attendees (Matai, Gender, Youth, Vulnerable groups) at consultations and workshops.	Completed / Achieved	Increased public awareness on the linkage of the two Justice Systems through media campaigns.	A LJS website was launched in 2013 followed by an inaugural Open Day conducted in October 2013 which was attended by more than 300 participants ranging from students to senior citizens on the theme "Alone, we can do so little, Together, we can do so much" (Helen Keller). Other media campaigns (LALI program & Advertisements), newsletter, posters, brochures, bumper stickers, banners and presentations were also

							carried out.
Mid-Term Review of SLJS Plan	3.1.2.3	SLJS	2014/15	*Mid-term Review conducted. *Number of attendees	On Schedule/Target	The sector will be able to review its current plan to identify its key achievements, challenges, lessons learned and a way forward.	Mid-Term Review is being conducted on the second week of January 2015.
Goal 4: Integrity & Good Governance							
Strategy 4.1: Promote Integrity and Good Governance informal and Customary processes and services							
Outcome: A Law and Justice Sector that fully comprehends and implements principles of good governance and integrity							
Sub Strategy 4.1.2 – Strengthen "watchdog" mandate							
Projects	Project Reference Number	Implemented Agency	Year Implemented	Key Performance Indicators (KPI's)	Traffic Light Progress Indicator	Outcome	Comments
Establishment of the National Human Rights Institute (NHRI) at Ombudsmans Office	4.1.2.2	OMB	2013/14	*NHRI to be established by June 2014	Completed / Achieved	*The creation of a short term communications strategy that will form the basis of a longer term strategy. * The creation of a short term (one year) organisational strategy. * Discussion of the NHRI in national media and on radio.	*The NHRI was officially launched in December 2013. * A Human Rights Education & Communications Officer funded under the Sector for the first 6 months was recruited in April 2013 to set up the NHRI before it was officially launched in December of the same year. *The NHRI was later granted a budget under the Ombudsman Office

							for the FY 2013/14 to establish the positions of Investigations and Legal Officer; Communications and Education Officer; and Human Rights and Good Governance Officer.
Goal 5: Capacity Building							
Strategy 5.1: Sector Capacity Building and Service Coordination							
Outcome: Improved Capacity of the Sector to support, facilitate and coordinate the implementation of the Law & Justice Sector Plan							
Sub Strategy 5.1.1 – Strengthen Sector Human Resources Capacity							
Projects	Project Reference Number	Implemented Agency	Year Implemented	Key Performance Indicators (KPI's)	Traffic Light Progress Indicator	Outcome	Comments
Development of Statistics Database/ICT Committee Activated	5.1.1.1	SLJS/ ALL	2013/14 to 2014/15	*ICT Committee activated. *Assessment of Sector Agencies database systems completed by June 2014. *Improvement of Sector Agency database systems. *Central Sector database established at the Secretariat by Mid-2014. *Improved reporting of statistics by Sector Agencies and attention to gender, age and geographical location. *Improved analysis and recording of SLJS	On Schedule/ Target	*Improved research analysis of crime statistics of the Sector. *Improved and reliable Sector Agencies database system. *Pool of expertise on ICT share amongst the sector.	ICT Committee was established in early 2013. *A total of 14 meetings/trainings were conducted in 2013 and 4 meetings in 2014.

				<p>statistics by the Secretariat.</p> <p>*Increased use of data information in project design.</p>			
Annual Judges Retreat	5.1.1.2	MJCA	2013-2016	*Number of Sector Staff trained.	On Schedule/Target	<p>*Greater Ownership through shared contribution approach to planning and decision making.</p> <p>*Provides a forum for internal performance management and discussions of issues relevant to their work.</p> <p>*Enhanced knowledge and awareness of Judiciary's developments both new and ongoing.</p> <p>*Uniformity and efficiency in work practices.</p>	<p>This activity has been implemented. A retreat was held in October 2011 and in November 2012. It was decided in the 2012 retreat that it would be a bi-annual meeting. It was not conducted in 2014 due to the unavailability of funds from the Australian Government for the Law and Justice Sector. Both retreats were a success and resolutions from both have been actioned. Presentations on issues ranging from Code of Judicial Conduct, Judicial Disqualification, Judicial Training, Judicial Orientation, Sentencing, Land & Titles Court Act, Lands & Titles hearing at First Instance and Appeal, Judgement writing to name a few were well received. It was also an opportunity to discuss and share</p>

							ideas on developments for the Judiciary.
Customary Mediation Training/Accreditation Course	5.1.1.3	MJCA	2013/14	*Number of trained mediators. *Number of accredited mediators	Completed / Achieved	Implementing the training course and having qualified and accredited mediators will; (i) Increase public confidence in mediators and mediation. (ii) Provide a platform and outline for ongoing mediation training for Lands and Titles Courts Staff.	The Ministry of Justice, Courts & Administration in partnership with the University of Otago conducted the inaugural Samoan Customary Mediation Training in December 2013. Twenty one (21) members made up of 16n Ministry staff and 5 from its stakeholders graduated. Despite the unavailability of funds from the Australian Government to the Law & Justice Sector for the activity in 2014, the Ministry sought funding approval from Cabinet on the understanding that it be reimbursed when Law & Justice Sector funds become available. This was approved and the Second Samoan Customary Mediation Training was held in September 2014 followed by a graduation of twenty one (21) Ministry staff one Representative form the Ombudsman Office. The impact of this activity has been an increase in the pool of qualified mediators, further set of skills for the staff and an

							increase in the reported number of cases resolved through mediation. Of the 814 cases mediated during the 2012-2013 Financial Year, only 38% proceeded to Court for litigation.
Mentoring Government Lawyers	5.1.1.6	AGO	2013/14 - 2015/16	*Number of Sector Staff trained.	On Schedule/Target	*Improve efficiency and effectiveness of legal work in the Government Sector through technical and professional capacity for the lawyers employed in AGO. *The legal processes and procedures used by AGO will also be improved and strengthened through this mentoring program.	Fourteen (14) Mentoring programs carried out on a need basis by the AGO and the availability of Senior Councils from overseas.
Training SPCS senior management, existing staff and new recruits	5.1.1.7	MOP P/SPCS/NZ DOC	2013/14 - 2015/16	*Number of Sector Staff trained.	Completed / Achieved	*Enhanced knowledge and skills of staffs working for the new Prisons & Correction services.	*Approximately 55 staff trained after the first 4 deployments.
Sub Strategy 5.1.3 – Improved communications between sector agencies and with the community							
Development of Samoa Law & Justice Sector Website and Communications Strategy	5.1.3.1	SLJS	2012/13	*Website launched by December 2012. *Communication Strategy completed by December 2013	Completed / Achieved	*Improved and easier public access awareness on Sector Activities. *Easier communications between the Sector Secretariat and Sector Agencies.	*The website was up and running in 2012. *Communications Strategy was finalised and approved by the Steering Committee in May 2013.

Abbreviations and glossary

AusAID	Australia Agency for International Development (now DFAT)
ACEO	Assistant Chief Executive Officer
CEO	Chief Executive Officer
CLC	Community Law Center
CSO	Civil Society Organisation
DFAT	Department of Foreign Affairs and Trade (previously AusAID)
GoA	Government of Australia
GoNZ	Government of New Zealand
GoS	Government of Samoa
KEQ	Key evaluation question
LJS	Law and justice sector
M&E	Monitoring and evaluation
MJCA	Ministry of Justice & Courts Administration
NHRI	National Human Rights Institute
PACTAM	Pacific Technical Assistance Mechanism
SA	Sector Agency
SALJP	Samoa-Australia Law & Justice Partnership
SDS	Strategy for the Development of Samoa
SLJS	Samoa Law and Justice Steering Committee Secretariat
The Secretariat	Samoa Law and Justice Steering Committee Secretariat
The Steering Committee	Law and Justice Sector Steering Committee
ToC	Theory of change

Glossary

The Agreement	Government of Australia and Government of Samoa, 2012. Direct Funding Agreement between the Government of Australia as represented by AusAID (then DFAT) and the Government of Samoa as represented by MoF in relation to the SLJS Program. AusAID Agreement Number 60673. Dated 15 March 2012.
Sustainability	The continuation of benefits after major assistance from a donor has been completed. (AusAID, 2000, p. 1).

Endnotes

ⁱ Australian aid to the sector was administered by AusAID until AusAID and DFAT were merged in October 2013. For ease of reading and to avoid confusion the terms GoA, Australian Government or Government of Australia are used throughout this report. Where these terms refer an Australian Government agency, the reader should interpret the terms to mean AusAID prior to October 2013 and DFAT thereafter.

ⁱⁱ The Mid-term review states that the Plan was approved by cabinet Nov 2008.

ⁱⁱⁱ Ref 24

^{iv} Ref 19a

^v Ref 20

^{vi} Ref 46

^{vii} Ref 22a, 30, Six Month Progress Report Jan – June 2013

^{viii} Ref 7a

^{ix} Ref 4a, 12a, 15, 21

^x Ref 4a, 9

^{xi} Ref 17

^{xii} Ref 23a

^{xiii} Ref 23a, 24, 35a

^{xiv} Ref 12a, 17, 19, 21a, 23a, 24, 37a

^{xv} Ref 12a

^{xvi} Ref 23a

^{xvii} Ref 18

^{xviii} Ref 28

^{xix} The budget for projects in the Strategic Plans was 9.1 million SAT and AUD 5.8 million was received to support project implementation. A further 2.5 million SAT was received for support to the Secretariat.

^{xx} While project funding occurred from 1 Jan 2012, funds were only made available in May.

^{xxi} These categories are largely aligned to various conventions and the way in which marginalised were categorised by those interviewed. However, marginalisation seems to be primarily on the basis of: not being part of a community (usually banished), low income or education (and consequently don't have the knowledge or finances to access support), rural location, disability and victim of family violence.

^{xxii} One person identified that the broad prison population was marginalised in terms of law and justice (Ref 16a).

^{xxiii} Ref 8

^{xxiv} Ref 4a, 36a

^{xxv} Ref 9

^{xxvi} Ref 4a, 14

^{xxvii} Ref 4a

^{xxviii} Re 37

^{xxix} Ref 4a

^{xxx} Ref 25, data from the Secretariat.

^{xxxi} Ref 25

^{xxxii} However, the actual quality of the outcome could be improved in many cases through improved monitoring and responding to strengths and weaknesses identified through the monitoring.

^{xxxiii} Ref 60, 62

^{xxxiv} Ref 5

^{xxxv} Ref 8a

^{xxxvi} Ref 40

^{xxxvii} Ref 40

^{xxxviii} Ref 40

^{xxxix} MJCA and the NZAID funded Samoa MJCA ISP had previously obtained quotes for this work. These quotes ranged from 10 - 15m Tala. The cost of the work funded by the SLJS was 1.4m Tala, significantly less. The quality of the work is at least as good. In addition, MJCA is now planning to use the equipment to also establish electronic copies of other Court records – thus gaining added value from the investment.

^{xl} Minutes 30 Nov 2012

^{xli} Charles Kendall & Partners, 2013; DFAT, 2012.

^{xlii} Correspondence between DFAT, MoF and Steering Committee between 20 June and 22 July 2013.

^{xliii} Ref 11b, 12, 14, 57b

^{xliv} Clear Horizon, 2012

^{xlv} Charles Kendall & Partners, 2013; DFAT, 2012.

^{xlvi} This is because:

› The changes are not statistically significant (nor are there statistically significant changes over the 10 years of available data).

› There does not appear to have been any consideration of whether the planned support would influence the individual variables used to calculate each measure.

› This research has not been able to identify which data sources were used to make the calculation. The PASP Secretariat Evaluation Report has only been completed once during this period. It is therefore not helpful in assessing change.

With the wisdom of hindsight, these indicators were not appropriate. They measure change over too long a period to be useful for the support, assessment of contribution is not possible, and as only a small number of data sources are used for Samoa (3 – 4 for government effectiveness and 4 – 6 for rule of law), changes in the number of data sources have a large influence on the figures. Consequently, while annual changes in World Bank Indicators should be very small, for Samoa (and most Pacific Island nations), they are highly variable and the standard error is large. Consequently, only long term trends can be considered.

^{xlvii} Risk is only identified in the minutes of one meeting (February 2012). This reference was for the need to undertake a review of risk, but there was no further reference.

^{xlviii} Ref 9, 22, 57

^{xliv} Ref 4, 14, 18b, 19, 21, 27b

ⁱ While well defined, this support initially introduced too many indicators (almost 100). Initially, use of a small number of KPI is advantageous (less than 10). These can then be expanded as partners gain confidence and capacity. [This may involve M&E in only one area of the support or it may be introducing a number of end outcome indicators and only one immediate outcome indicator that is common across many areas of the support.] The experience of the authors of this report is that M&E is usually most effectively introduced when partners rather than donors demand M&E. This has occurred when partner's capacity to plan and implement the plans has been developed and demonstrated. At this point, partners have demanded improved monitoring as this information is needed to determine if what was planned is being achieved and how to make improvements. This required donors to 'wait' for two or three years before the demand for M&E emerges. These authors are not aware of ANY example of successful development of M&E capacity resulting from a single short term activity (such as short term adviser input or funding partners to attend training). All the examples of successful M&E capacity development of which we are aware involve prolonged support. This may include a workplace attachment to an agency that is using M&E well, multiple inputs of on-the-job training, funding

attendance at relevant conferences to see how M&E information is used and then present papers based on data that has been analysed as part of the supported activities.

M&E must be well resourced if it is to be undertaken. Where a sectoral approach is taken, this is likely to necessitate funding a dedicated person in the Secretariat to address M&E. Our suggestion would be that this person have responsibility for developing capacity of agencies within the Sector and focus on one aspect at a time (in this case, perhaps the Village fono Act as this involved all agencies) and then coordination.

For DFAT, it should not be assumed that the DFAT Officer will have the required skills – M&E is a specialist area and only one technical area about which a DFAT Officer must have a basic understanding. Training such as introduced in Indonesia and Vanuatu may be useful. Alternatively, engaging a part-time M&E Specialist to provide advice across the program may assist.

^{li} Ref 36, 38, 40

^{lii} Ref 15, 16, 36, 38

^{liii} Ref 36

^{liv} The development of the SLJS Strategic Plan was planned to be completed over a two-month period. This is a very short period for consultation given the introduction of a SLJS was a new concept.

^{lv} The Mid term review states that the Plan was approved by cabinet Nov 2008.

^{lvi} Ref 24

^{lvii} Ref 19a

^{lviii} Ref 20

^{lix} Ref 46

^{lx} Ref 22a, 30, Six Month Progress Report Jan – June 2013

^{lxi} Source: GoA, 2009, 2010 a and b, GoA 2011

^{lxii} Receipt of these funds were delayed due to a change in funding arrangements. Consequently, effectively no funds were received in 2011/12. This delayed project implementation by approximately one year.

^{lxiii} Ref 40

^{lxiv} Ref 3, 6a

^{lxv} Ref 3, 6a

^{lxvi} Re 23

^{lxvii} Ref 4

^{lxviii} Ref 2

^{lxix} Ref 37a

^{lxx} Ref 20

^{lxxi} Ref 5

^{lxxii} Ref 49, 52b

^{lxxiii} Ref 20.

^{lxxiv} Ref 8a

^{lxxv} Ref 17b, 23b, 62

^{lxxvi} Ref 40

^{lxxvii} Ref 40

^{lxxviii} Ref 40

^{lxxix} MJCA and the NZAID funded Samoa MJCA ISP had previously obtained quotes for this work. These quotes ranged from 10 - 15m Tala. The cost of the work funded by the SLJS was 1.4m Tala, significantly less. The quality of the work is at least as good. In addition, MJCA is now planning to use the equipment to also establish electronic copies of other Court records – thus gaining added value from the investment.

^{lxxx} Minutes 30 Nov 2012

^{lxxxi} This is based on the attendance recorded in the minutes of SC meetings. In addition, AusAID officers identified that they adopted a “hands off” management approach which limited their involvement in discussions (Ref 9, 11b). SC members also identified that AusAID should attend the SC regularly to gain a sound understanding of the sector’s needs etc (Ref 14b).

^{lxxxii} Ref 46b, 52,

^{lxxxiii} Charles Kendall & Partners, 2013; DFAT, 2012.

^{lxxxiv} Ref 14b, 52

^{lxxxv} Ref 52, various AusAID emails June 2013.

^{lxxxvi} Ref 11b, 14, 23b, 57b, various correspondence between AusAID, MoF and the SC following the Design Aide Memoire (May – July 2013).