



# Solomon Islands Justice Program Design Document

July 2017 to June 2021

This document outlines the proposed design of Australian Government's Solomon Islands Justice Program in Solomon Islands from July 2017 to June 2021. It was produced by Coffey International Development and the Whitelum Group.

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## ACRONYMS

|                 |  |
|-----------------|--|
| <b>ADB</b>      | Asian Development Bank   |
| <b>AFP</b>      | Australian Federal Police                                      |
| <b>AHC</b>      | Australian High Commission                                     |
| <b>AIMS</b>     | Automated Imprest Account Management System                    |
| <b>AOFM</b>     | Australian Office of Financial Management                      |
| <b>ASYCUDA</b>  | Automated System for Customs Data                              |
| <b>AUD</b>      | Australian dollar  |
| <b>BERT</b>     | Budget Entry Reporting Tool                                    |
| <b>CDF</b>      | Constituency Development Fund                                  |
| <b>CEWG</b>     | Core Economic Working Group                                    |
| <b>CSSI</b>     | Correctional Service of Solomon Islands                        |
| <b>DFAT</b>     | Department of Foreign Affairs and Trade                        |
| <b>EPBC Act</b> | Environment Protection and Biodiversity Conservation Act, 1999 |
| <b>EU</b>       | European Union   |
| <b>GBN</b>      | Government Broadband Network (Vanuatu)                         |
| <b>GDP</b>      | Gross Domestic Product   |
| <b>HR</b>       | Human Resources  |
| <b>HRMIS</b>    | Human Resources Management Information system                  |
| <b>ICT</b>      | Information and Communications Technology                      |
| <b>ICTSU</b>    | Information and Communications Technology Support Unit         |
| <b>IPAM</b>     | Institute for Public Administration and Management             |
| <b>ISIA</b>     | Institute of Solomon Islands Accountants                       |
| <b>LTA</b>      | Long-term technical assistance                                 |
| <b>MEL</b>      | Monitoring, Evaluation and Learning                            |
| <b>MOFT</b>     | Ministry of Finance and Treasury                               |
| <b>MP</b>       | Member of Parliament   |
| <b>MPS</b>      | Ministry of Public Service                                     |
| <b>NDS</b>      | National Development Strategy                                  |
| <b>NOL</b>      | No Objection Letter  |
| <b>OAG</b>      | Office of the Auditor General                                  |
| <b>OCO</b>      | Oceania Customs Organisation                                   |
| <b>PAC</b>      | Procurement Advisory Committee                                 |
| <b>PASAI</b>    | Pacific Association of Supreme Audit Institutions              |

|              |   |
|--------------|---|
| <b>PFM</b>   | Public Financial Management                                   |
| <b>PFMA</b>  | Public Financial Management Act 2013                          |
| <b>PFTAC</b> | Pacific Financial Technical Assistance Centre                 |
| <b>PICPA</b> | Pacific Islands Centre for Public Administration              |
| <b>PNG</b>   | Papua New Guinea  |
| <b>PV</b>    | Payment voucher   |
| <b>RAMSI</b> | Regional Assistance Mission to Solomon Islands                |
| <b>SBD</b>   | Solomon Islands dollar  |
| <b>SICHE</b> | Solomon Islands College of Higher Education                   |
| <b>SIG</b>   | Solomon Islands Government                                    |
| <b>SIGOV</b> | Solomon Islands Economic and Public Sector Governance Program |
| <b>SINU</b>  | Solomon Islands National University                           |
| <b>SOE</b>   | State-owned enterprise  |
| <b>SSGM</b>  | State, Society and Governance in Melanesia Program (ANU)      |
| <b>STA</b>   | Short-term assistance   |
| <b>TA</b>    | Technical assistance  |
| <b>TOR</b>   | Terms of reference  |
| <b>WCO</b>   | World Customs Organisation                                    |

|   |
|---|
| <b>Solomon Islands Justice Program</b>  |
| <b>Start date:</b> 1 July 2017 <b>End date:</b> 30 June 2021                        |
| <b>Total proposed funding allocation:</b> \$32m                                     |
| <b>Investment Concept (IC) approved by:</b> FAS PAD <b>IC Endorsed by AIC:</b> Yes  |
| <b>Quality Assurance (QA) Completed:</b> Independent peer appraisal and peer review |

### CONTEXT

Thirteen years after the Regional Assistance Mission to Solomon Islands (RAMSI) was deployed, the Solomon Islands justice sector remains fragile. RAMSI and the subsequent bilateral Solomon Islands Justice Program (SIJP) have made impressive gains in helping the Solomon Islands Government (SIG) rebuild the sector from near total collapse following the period of instability known as the Tensions. However, there is more to do. Engagement in the Solomon Islands justice sector is a 30-year plus engagement for Australia. Reflecting this, supporting stability is one of the three strategic objectives in Australia's Aid Investment Plan for Solomon Islands (2015–2019).

The next phase of the Justice Program has been designed in conjunction with the next phase of the Solomon Islands Economic and Public Sector Governance Program and the Australian Federal Police's bilateral Police Development Program that will succeed RAMSI. The three programs will have structures in place to ensure coordination and collaboration, and will work towards a common goal.

The context in Solomon Islands is challenging. Solomon Islands remains a post-conflict country. High levels of Australian and other development partner support since 2003 have led to significant progress in a number of areas. However, Solomon Islands institutions remain relatively weak, and government enjoys only limited reach beyond Honiara. Weak economic growth and increasing budget expenditure mean that there may be less SIG budget allocations to justice agencies in the short term. The departure of RAMSI is a symbolically important moment for Solomon Islands, and despite general confidence that there will be no return to pre-RAMSI instability, there is some nervousness in the community.

The Program is only four years from being under the RAMSI umbrella (which, at its height had almost 100 advisers in the justice sector), and just 13 years into a long term engagement to help rebuild the institutions of state (which we estimated, in the SIJP Delivery Strategy, could take at least 30 years). A number of lessons learned so far shape what can be expected of the new Program including a need to support the gains made under RAMSI, a legacy of reliance on long-term technical assistance (TA), and a requirement for gradual evolution rather than any radical shifts in direction. This evolution will involve doing more to increase service delivery in the provinces, continuing the trend away from reliance on TA and towards institution to institution links (e.g. twinning) and doing more to stimulate community demand for justice services.

With the departure of RAMSI, a high level of political visibility, public apprehension and expected international attention, it is crucial that previous gains made are maintained in the justice sector and the risks of any serious setbacks are minimised. New approaches to old problems must be explored, but alongside maintaining core support.

The Program needs to be flexible and responsive to changes in the context and the lessons which are learned during implementation. The Program will need to modify support modalities as the situation in-country evolves, and acknowledge that this may, at times, mean increasing involvement in an area where support had mostly been finalised. The design sets out structured mechanisms to consider if the Program is evolving sufficiently as the context and the requirements change. This

includes whether the evolution away from technical assistance is occurring at an appropriate pace. Linkages with the Governance and Police Development Programs will ensure that a cohesive approach is taken to problems that cannot be solved with the justice sector alone.

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## PROGRAM OUTCOMES

The Justice Program, along with the Police Development and Governance Programs, contributes to the overarching goal that *Communities in Solomon Islands are safer and experience better access to services*. This will occur through better government-led service delivery, greater community confidence in the justice system and police, and macro-economic stability.

The Program also works towards SIG's overall vision for the justice sector as expressed in the Justice Sector Strategic Framework *Communities in Solomon Islands have greater access to a credible justice system that supports the rule of law*.

The Justice Program's proposed end of program outcomes reflect SIG's Justice Sector Strategic Framework. They are:

- Justice sector agencies are increasingly capable of delivering core services;
- Legislation is supported by sound policy development, is clearly written and well understood;
- Access to justice for Solomon Islanders is improved; and
- Good practice in leadership, decision making, public sector management and community engagement is increasingly demonstrated in the justice sector.

The Program will deliver this through activities delivered under four components:

Component 1 is Justice Agency Strengthening, where:

- The Magistrates Court is operating more efficiently and effectively;
- Police prosecutors and public solicitors handle cases more effectively; and
- Correctional services are better managed and provide effective rehabilitation services.

Component 2 is Legal Policy and Legislation, where:

- Legal policy is more effectively developed;
- The Attorney General's Chambers provides timely and effective legal advice to SIG agencies; and
- The Attorney General's Chambers is better able to draft legislation.

Component 3 is Access to Justice, where:

- More court circuits proceed as planned;
- Family violence is reported more often, and systematically dealt with by appropriate authorities;
- Solomon Islanders have increased access to justice in rural areas;
- Public awareness of legal rights is increased; and
- Research and innovation provides new pathways for improving justice services.

Component 4 is Whole of Sector Strengthening, where:

- Gender and social inclusion are more explicitly addressed in the justice sector;



- The sector can access improved Continuing Legal Education (CLE) programs involving Solomon Islands Bar Association;
- The Legal Professional Bill is implemented;
- The Justice Information Management System (JIMS) is used widely and effectively and JIMS data supports decision making;
- Finance and human resources are better managed; and
- Better training, coaching and twinning in the sector.

All activities will comply with the Ministry for Development Planning and Aid Coordination's *Partnership Framework for Effective Development Cooperation*.

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## PROGRAM MANAGEMENT

A Joint Steering Committee comprised of the Australian Federal Police (AFP) and the Australian Department of Foreign Affairs and Trade (DFAT) will sit above the Governance, Police Development and Justice Programs, and provide high level oversight and ensure collaboration. An Advisory Committee of senior SIG officials in the justice and police agencies will also be created to provide strategic guidance to the Justice and Police Development Programs.

A Joint Monitoring, Evaluation and Learning Unit will sit across the Governance, Justice and Police Development Programs.

At the Program implementation level, the Justice Program will be overseen by a Head of Program, engaged through the Solomon Islands Resource Facility and reporting to DFAT. The Head of Program will manage a team of advisers, and oversee Program implementation in an effective, timely and efficient matter. While the Head of Program will be responsible for implementation, ultimately, DFAT is responsible for setting the strategic direction.

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## PROGRAM FLEXIBILITY AND EVOLUTION

The Program is designed to be flexible and able to adapt activities (and the budget) as new opportunities open up, or if the situation in a particular area substantially deteriorates.

Further, the Program is designed to steadily evolve. The Program will, over time, transition further away from capacity substitution in state institutions, to a program oriented more towards access to justice, and with greater provincial reach.. The budget reflects that ambition.

This evolution must be consistent with the aim to avoid any radical shifts. Among other things, the Program includes annual structured review and reflection mechanisms to enable this shift. Ensuring the program is maintaining sufficient ambition will also be a key consideration for the Joint Steering Committee, and Advisory Committee.

## 1. ANALYSIS AND STRATEGIC CONTEXT

This part sets out the strategic context for the proposed investment. It details the country and sector issues, the rationale for Australian investment, alignment with Solomon Islands Government priorities and the factors that help shape the design of the next phase.

### COUNTRY AND SECTOR CONTEXT

This section outlines the social, economic and policy environment in which this investment is to be made.

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#### SOCIAL

Solomon Islands is poor and geographically dispersed. It is an archipelago of more than 998 islands, with over 75 different language/culture groupings and many small and isolated communities, and is one of the most diverse, geographically distributed countries on earth. Over 80 per cent of the population live in rural areas however this is changing. While the overall population is growing at 2.5 per cent per annum, urban growth is estimated at 4.7 per cent per year. If this were to continue it would result in the doubling of the urban population by 2025.

SIG has achieved much over the last two decades through efforts to expand services. However, like other countries with similar characteristics, providing essential services to such a spread out population remains a challenge. The majority of the rural population, and especially women, youth, children and people with disability, face barriers to accessing adequate health care, education and law and order services. They also lack economic and political opportunities including formal employment opportunities.

Solomon Islands remains a post-conflict country. High levels of Australian and other development partner support since 2003 have led to significant progress in a number of areas. However, Solomon Islands' institutions remain relatively weak, and government enjoys only limited reach beyond Honiara and a handful of smaller population centres.<sup>1</sup> This inability of the state to extend its authority across the country means many people have little interaction or expectations of the state.

Solomon Islands remains highly aid dependent, with Australia being the largest development partner (AUD162.0m in 2016-17) responsible for almost three quarters of total official development assistance to Solomon Islands. Capacity is low with a low adult literacy rate of around 17 per cent and Solomon Islands ranked 156 out of 187 countries in the United Nation's 2014 Human Development Index.

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#### ECONOMIC

Solomon Islands spending on essential services will, at best, plateau in the short term. While the Solomon Islands' economy grew by 3 per cent in 2015, this was driven by high levels of government

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<sup>1</sup> S Dinnen and M Allen, *State Absence and State Formation in Solomon Islands: Reflections on Agency, Scale and Hybridity, Development and Change* Vol 47, Issue 1 2016, pp76-97. See also: *Justice Delivered Locally Systems, Challenges, and Innovations in Solomon Islands*, World Bank, August 2013; <http://documents.worldbank.org/curated/en/353081468308114790/pdf/812990WP0DL0Se0Box0379833B00PUBLIC0.pdf> accessed 25 August 2016

expenditure and record increases of log exports. Analysis suggests that Solomon Islands' fiscal situation is deteriorating<sup>2</sup> with recent high spending budgets drawing heavily on cash reserves. This trend may, over time, continue to deteriorate to the point of requiring difficult budget and expenditure decisions on the part of the SIG. It is unlikely that SIG justice agencies will see any increase in budget allocations in the immediate term, and may in fact have allocations reduced.

The new investment occurs at a crucial time for Solomon Islands. RAMSI will formally come to an end on 30 June 2017 and while considerable effort is invested in seamless transitional arrangements into a new bilateral Program, Solomon Islands will nevertheless be entering new waters. Some nervousness on the part of the general population is evident.

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## POLICY

The Solomon Islands National Development Strategy (NDS) 2016–2035 emphasises the importance of stable and effective governance and public order. Key relevant objectives are objective one - *Sustained and inclusive economic growth* and objective five *A unified nation with stable and effective governance and public order*. The NDS notes that maintaining security, law and order, peace and harmony remains a priority for Solomon Islands as it is necessary to achieving NDS objectives. A priority focus area is to build the capacity of the courts and other legal offices for efficient and effective justice services in Solomon Islands. The NDS also places a high priority on a whole of government approach.

The justice sector has developed a Solomon Islands Justice Sector Strategic Framework (2014-2020). The Vision of the Framework is that “all people in the Solomon Islands have timely and relevant access to a robust and independent justice system which they have confidence will support a safe and peaceful society”. The end of program goals for the Justice Program directly reflect the key outcome areas in the Justice Sector Strategic Framework.

In addition to the NDS, SIG has recently published a *Partnership Framework for Effective Development Cooperation* which outlines a strategy for the effective implementation of the *Aid Management and Development Cooperation Policy*. This describes mutually agreed actions that SIG and development partners commit to undertake to ensure the achievement of SIG's development plans. The Justice Program will continue to improve alignment with all of these SIG priorities.

Finally, the social, political and geographic features of the Solomon Islands impose demands which the country's common law system of justice (and Westminster System of Government) are poorly adapted to meeting. It is for the people and the government of Solomon Islands to debate and agree on how these governance institutions can be refined to better respond to these realities. The Australian Government will keep abreast of these developments and – through these programs or otherwise – offer assistance where appropriate.

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<sup>2</sup> <http://www.adb.org/sites/default/files/publication/188684/pem-july-2016.pdf>, accessed 24 August 2016

## DEVELOPMENT PROBLEM / ISSUE ANALYSIS

Thirteen years after the Tensions, impressive improvements have been made in the justice sector (see Figure 1 for an overview of the sector). Infrastructure has been improved, correctional centres meet UN standards, absences in the judiciary have been minimised, cases progress through the courts (albeit slowly), and the Public Solicitors Office has a presence in four provincial locations. However, the justice sector remains fragile, and still dependent on support in many areas.

SIG's vision for the justice sector states: "all people in the Solomon Islands have timely and relevant access to a robust and independent justice system which they have confidence will support a safe and peaceful society".

To realise this vision, the courts must function efficiently and effectively, lawyers must professionally represent their clients, correctional services must hold people securely but with maximum chance of rehabilitation, and laws must be clearly written, well-understood, and based on sound policy.

Annex A sets out a detailed analysis of the major challenges in the justice sector. There are four main themes:

- Justice agencies struggle to fulfil their core functions
- Legal policy development coordination capacity is weak
- Access to justice, particularly outside Honiara, remains a challenge
- Across the sector there are persistent challenges in gender and social inclusion, data collection and usage, and human resource and financial management.

The Justice Program is designed to respond to these four themes (see Program Logic and Outcomes Section, and Justice Program Components Section).

## RATIONALE FOR AUSTRALIAN INVESTMENT

This section situates the planned Justice Program in the context of Australia's aid program in Solomon Islands and, more broadly, in the context of Australia's overall relationship with, and interests in, Solomon Islands.

Engagement in the Solomon Islands justice sector is a 30-year plus engagement for Australia<sup>3</sup> that commenced with the deployment of RAMSI in 2003. Like many other areas of government, the justice sector effectively collapsed during the period of instability known as the Tensions. RAMSI helped Solomon Islands stabilise its law and order situation and rebuild the justice system. For the first ten years of RAMSI, the law and justice program was part of the overall RAMSI engagement. In July 2013, the law and justice program transitioned to a bilateral program administered by Australia. The current SIJP runs until June 2017.

Solomon Islands is one of Australia's nearest neighbours and Australia has important national interests at stake in supporting the development of a stronger, more capable state in Solomon

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<sup>3</sup> *Delivery Strategy – Solomon Islands Justice Program (SIJP)* July 2013-June 2017, p. v

Islands.<sup>4</sup> As Solomon Islands' nearest developed neighbour and the largest donor, the international community expects Australia to take a lead in Solomon Islands' development. Australia's international and regional credibility is tied to its role in Solomon Islands.

Supporting stability is one of the three strategic objectives in Australia's Aid Investment Plan for Solomon Islands (2015-2019). Specifically, the AIP states "Australian support for the formal justice sector will focus on enabling courts and justice agencies to exercise their core functions. It will prioritise functionality of the Magistrates court, including provincial courts. We will complement our focus on formal institutions with support to invigorate traditional justice structures".

Stability requires a functioning justice sector, both to ensure physical security (e.g. through correctional centre management) and the ability to resolve disputes without them escalating to the extent that it affects security. This is important for private sector development and economic growth. Businesses need confidence that disputes can be resolved in a fair and predictable way using clear rules (i.e. laws) that treat everyone equally (i.e. the rule of law). It is also important that people understand that if they do the wrong thing, there will be consequences and, conversely, that citizens have an opportunity to 'right wrongs'. A sense of unfairness, without outlets of redress, can drive instability. Finally, a well-functioning justice system with reach gives citizens a visible emanation of an effective state.

A functioning law and justice sector is also crucial to maintain the gains made under RAMSI. No matter how capable the police, public trust in law and order will quickly deteriorate if criminal charges cannot effectively proceed through the courts, prisoners are not securely and humanely held, and people do not trust the courts to resolve their disputes.

## OTHER DEVELOPMENT PARTNERS

Australia is the largest development partner in Solomon Islands and by far the largest in the justice sector. Details of other development partner activity is set out in Annex I.

## EVIDENCE BASE AND LESSONS LEARNED

This section draws on both international and Solomon Islands specific literature and experience to derive lessons and factors relevant for the design. These interrelated factors help shape the next phase of the Justice Program.

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### LONG-TERM BUT FLEXIBLE PLANNING

A fundamental lesson from international experience working in fragile and conflict-affected states is the importance of appropriately long-term planning and commitment.<sup>5</sup> While Solomon Islands has not seen a reversion to large-scale violence since the arrival of RAMSI in 2003, the lesson remains an appropriate one for this design. Accordingly, an evolution of existing support, not abrupt change, is recommended.

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<sup>4</sup> The 2016 Defence White Paper (p48) reads: "Instability in our immediate region could have strategic consequences for Australia should it lead to increasing influence by actors from outside the region with interests inimical to ours. It is crucial that Australia help support the development of national resilience in the region to reduce the likelihood of instability".

<sup>5</sup> <https://dfat.gov.au/about-us/publications/Documents/aid-fragile-conflict-affected-states-staff-guidance.pdf> accessed 25 August 2016

Given the dynamic nature of Solomon Islands context, important lessons have been learned about the need to be adaptive rather than rigid in Program implementation. Where there has been a degree of flexibility (for example through nimble mobilisation of TA, selection of different assistance modalities and flexible funding arrangements that can respond to changes in the political landscape), experience in Solomon Islands and abroad suggests that opportunities for innovation and improved development results are maximised.

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## SUPPORT THE GAINS MADE UNDER RAMSI

RAMSI was successful in re-establishing law and order in Solomon Islands. The formal justice sector is crucial to maintaining law and order, and SIJP and its predecessor programs have helped SIG maintain a basic level of functionality in the system. A decline in the functioning of the justice sector would risk the gains achieved since 2003.

The period immediately after the conclusion of RAMSI is particularly important. It will be crucial for the community's confidence in law and order that the drawdown of RAMSI is smooth, and that this does not lead to a resumption of the instability that occurred during the Tensions. Maintaining the gains is not a sufficient ambition in and of itself, but it is necessary to ensure there is a solid base to build on.

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## LEGACY OF HEAVY RELIANCE ON LONG-TERM TECHNICAL ASSISTANCE

RAMSI's engagement in the law and justice sector was characterised by large numbers of Australian funded advisers (or Australian government personnel) working in SIG justice agencies. Many of these were in-line roles, many more were capacity substitution roles (whether explicitly or not). At its height, there were hundreds of advisers working in SIG agencies.

The numbers have steadily declined – in 2007 there were 97 advisers in the justice sector; in 2012 there were 53. At the start of the current phase of SIJP there were 23; currently there are 16 advisers. However, it should be noted that it has only been three years since the transition of the law and justice program from a stabilisation program which was heavily laden with TA, towards a longer term development program. This type of interventionist program, while relevant and necessary, created dependencies which can be difficult to dismantle quickly – the ongoing transition shouldn't and can't be rushed.

Agencies have, understandably, been unhappy about losing advisers and are reluctant to have further reductions in the short term. In some areas SIG capacity is low or non-existent and recent experience of the Solomon Islands justice sector indicates that its functionality in certain areas continues to depend heavily on advisory support – further transitions need to be measured to allow time for this capacity to be built, and to reduce impacts to core justice functions. Agencies have grown used to highly qualified experts, often performing tasks that other staff were unable or unwilling to perform, and sometimes covering deep-seated operational deficiencies. This illustrates the risk that capacity substitution can crowd out locals who can do the job, and prevent local solutions emerging.

The Justice Program needs to be aware of these risks, as it will continue to use technical advisers

Many of the problems in the justice sector will not be solved by more advisers, so the Justice Program will also broaden activities from simple technical assistance. New approaches will be

piloted to old problems in addition to maintaining core support for the sector. In addition, overall numbers of long-term advisers should continue to decline over time and advisers should be shifting away from capacity substitution to capacity development (this will be at a different pace in different agencies). Assessments will continually be made to determine if advisers are being appropriately utilised, and building capacity. To ensure that all long-term adviser (LTA) and short-term adviser (STA) personnel work consistently with individual Ministry and team plans, joint capacity development plans developed during the inception phase of an STA/LTA's engagement will cross reference Ministry priorities, in addition to the overarching SIG framework.

The use of advisers will be a key consideration of the six-monthly Joint Steering Committee meetings and the annual Advisory Committee.

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## AGENCY LEADERSHIP IS CRITICAL

Many of the justice agencies have strong leaders, however some of these are due to retire in the short term. Across justice agencies, there is a dearth of experienced leaders who could readily replace the current agency heads. While there is cadre of strong professionals emerging through the system (many of whom have benefited from targeted mentoring under RAMSI and SIJP), they are at least three to five years away from being able to lead the relevant agencies without support.

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## INTEGRATED JUSTICE AND CORRECTIONS SECTOR

Coordination amongst the justice sector and between the justice agencies, Corrections Service Solomon Islands (CSSI) and Royal Solomon Islands Police Force (RSIPF) could be improved. The nature of justice services require that the key agencies coordinate at a minimum level, otherwise confusion could lead to serious problems in the system.

The system can only function efficiently and effectively if all parties perform their duties consistently. CSSI rely on the courts processing matters effectively so that citizens do not languish on remand. Courts rely on defendants, witnesses, prosecutors and solicitors appearing and being sufficiently prepared so that cases can proceed. The Office of the Director of Public Prosecutions relies on the cooperation of the Police Prosecutions Directorate. The community relies on the prosecutors prosecuting offenders effectively, and solicitors to defend them. Courts and lawyers rely on clearly written laws, developed with sound policy processes. The system relies on CSSI being able to securely hold prisoners, but also support their rehabilitation. RSIPF underpins all of this.

Given this, a justice program that aims to support SIG improve the justice system must consider how all elements of the system are working. Importantly, it means the Justice Program must also be very integrated with other programs including the Police Development Program.

Figure 1 sets out the SIG agencies involved in the justice sector.

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## CHANGE WILL NOT BE LINEAR

Development change is often not linear. Sometimes change will occur rapidly, other times there will be considerable work just to stay in the same place, and other times it will slip backwards. This is certainly true of the Justice Program. In many areas, Australia has been steadily transitioning away from capacity substitution (e.g. CSSI which had almost 50 advisers in 2007, and now has only two). In other areas, there are surges in progress, then setbacks which necessitate an increase in support (e.g. the Magistrates Court).



The Program needs to be more flexible and responsive to changes in the context and the lessons learned during implementation. Support modalities will need to be modified as the situation in-country evolves. This may, at times, mean increasing involvement in an area that had mostly been transitioned out of. However, over time, it should mean a move away from the primary modality of advisers in state institutions. The design sets out structured mechanisms to consider if the Program is evolving sufficiently as the context and the requirements change. This includes whether the evolution away from LTA is occurring at an appropriate pace.

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### SOME PROBLEMS CANNOT BE RESOLVED WITHIN THE JUSTICE SECTOR ALONE

Many of the problems in the justice sector are symptomatic of broader issues. Poor infrastructure, human resource and financial management, trouble attracting, retaining and developing skilled staff, and gender imbalances. These problems cannot be solved by a narrow focus on the justice system.

This investment has been designed in conjunction with the next phase of the Solomon Islands Economic and Public Sector Governance Program (SIGOV), which will work to improve overall public financial management and human resources. The programs will be systematically linked through a Joint Steering Committee, joint monitoring and evaluation and joint innovation activities. Those mechanisms will also link the Justice Program with the AFP's police development program.

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### GRADUAL EVOLUTION RATHER THAN RADICAL SHIFTS

The above factors point to a need for gradual evolution of the Program rather than any sudden shifts. The current phase of SIJP was envisaged as a gradual evolution away from the post-conflict stabilisation mission that was RAMSI.<sup>6</sup> Australia recognised that it was important to make the transition from RAMSI to SIJP in 2013 as seamless as possible.<sup>7</sup>

The Justice Program must strike a balance between ensuring it does not simply continue to do more of the same hoping for a different result, and not changing so dramatically that it risks the gains made, alienates key stakeholders, and reduces the level of technical assistance too quickly. An example of where this balance was tested occurred in 2015–16. In responding to the SIJP Mid-Term Review (MTR), the program moved to a 'sectoral' model. Instead of having advisers dedicated to individual justice agencies, those advisers supporting key cross-cutting issues (like finance, human resources, professional development and monitoring and evaluation) would move to a neutral location and provide advice across the whole sector. Additionally, as a result of the review and the declining SIJP budget, certain advisers were phased out.

While this was deliberately less radical than the Review's recommendation to develop exit plans for all advisers, the sectoral model still initially struggled to gain traction, and some agencies resisted the phasing out of trusted advisers. This hampered SIJP's activities in the early part of 2016, and was a reminder that the program must continue to evolve gradually. Sudden shifts can jeopardise relationships and impede progress.

Nevertheless, the program must evolve. This evolution will be iterative, informed by discussions with SIG and evidence of what is working well (and what is not).

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<sup>6</sup> *Delivery Strategy Solomon Islands Justice Program (SIJP)* July 2013-June 2017, p. iv

<sup>7</sup> *Delivery Strategy Solomon Islands Justice Program (SIJP)* July 2013-June 2017



Key points to ensure the evolution is progressing as planned include:

- Six monthly Joint Steering Committee meetings
- Annual Review and Reflection workshops (informed by Annual Advisory Committee meetings with SIG)
- The mid-term review of the Program.

Figure 1: The state justice sector in Solomon Islands



### 3. OVERARCHING GOALS

Whilst the Justice Program is an independent program with specific research and background providing the basis for this design document, it is nonetheless situated in the context of a portfolio of Australian aid programs that includes the Governance Program and the Police Development Program. The benefit of this portfolio of programs being designed collectively is that improvements under one program can influence and inform others.

Importantly, the Governance, Justice and Police Development Programs will share a single overarching goal:

***Communities in Solomon Islands are safer and experience better access to services***

The four program goals that the three programs will contribute to are:

1. Safer communities;
2. The community has greater confidence in the justice system and police;
3. Better government led service delivery; and
4. Macro-economic stability.

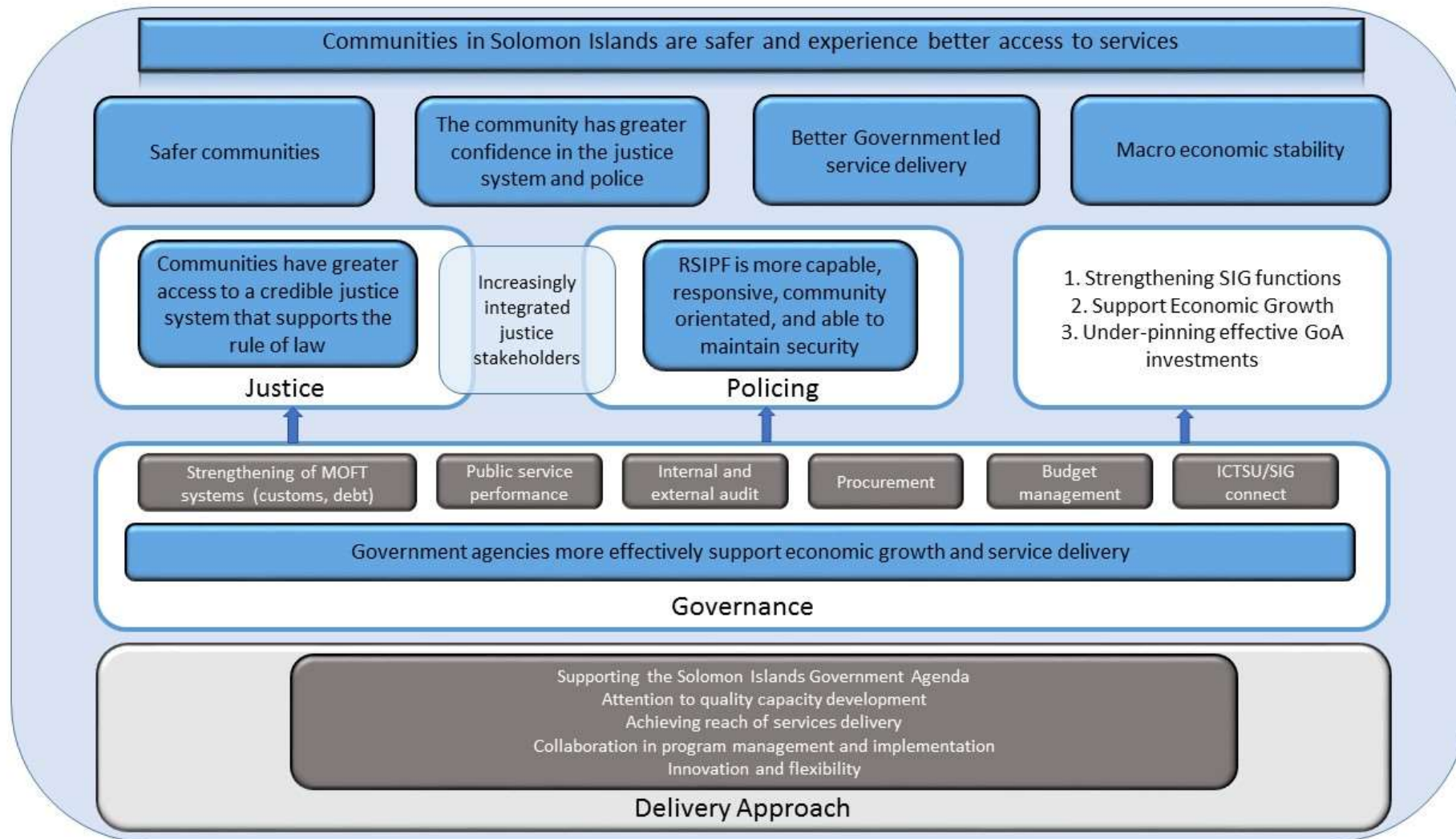
The three specific program goals are:

1. Communities in Solomon Islands have greater access to a credible justice system that supports the rule of law;
2. RSIPF is more capable, responsive, community orientated, and able to maintain security, and
3. Government agencies more effectively support economic growth and service delivery.

The Program architecture diagram (Figure 2) provides a visual depiction of how these three programs deliver their outcomes, contribute to goals and intersect. Key points to notes are:

- The Governance Program contributes to both its own end of program outcome, to achievement of outcomes across SIG and across all Australian aid investments, and to the outcomes achieved in the justice and police development programs.
- The Governance Program end of program outcome contributes directly to the economic growth goal in the Australian Government's Aid Investment Plan, as well as to the Australian Government-funded sector programs such as health and education.
- The Justice and Police Development Programs are discrete programs of the Australian Government, however the achievement of outcomes in these sectors is co-dependent, hence the need for increasing lines of intersection between the two programs.
- The delivery approaches are cross-cutting and foundational to achieving the best possible outcomes across all three programs.

Figure 2: Whole of Program architecture



## 4. PROGRAM LOGIC AND OUTCOMES

The Program Logic establishes a chain of reasoning and rationale for investments designed to achieve sector-wide goals. The Program Logic establishes: 1) goals, 2) End of Program Outcomes (EOPOs), and 3) Inputs (aligned to Program Activities). Each of these is discussed below.

The Justice Program is designed to contribute to the SIG's vision for the justice sector "All people in the Solomon Islands have timely and relevant access to a robust and independent justice system which they have confidence will support a safe and peaceful society".<sup>8</sup>

This vision will, in turn, contribute to the overarching goal of the Governance, Police Development and Justice Programs (see Figure 2). This will occur through:

- Better government led service delivery;
- Safer communities;
- Greater community confidence in the justice system and police; and
- Macro-economic stability.

The Justice Program works towards four end of program outcomes:

- Justice sector agencies are increasingly capable of delivering core services
- Legislation is supported by sound policy development, is clearly written and well understood
- Solomon Islanders have improved access to justice, and
- Good practice in leadership community engagement and public sector management is increasingly demonstrated in the justice sector.

These outcomes directly align with the Solomon Islands Justice Sector Strategic Framework (JSSF).<sup>9</sup>

The End of Program Outcomes balance the pursuit of individual agency strengthening, with the importance of ensuring effective sector coordination to ultimately increase access to justice for beneficiaries of the justice sector, particularly women. While these have been aligned with the JSSF, which only comprises the formal sector, the End of Program Outcomes will capture any work undertaken in the informal sector.

Figure 3 provides a complete representation of the Program Logic, from inputs through to End of Program Outcomes and goals (for the Justice Program and the higher order goals).

The Program's inputs are clustered into four components. While each component works primarily to one End of Program Outcome all components (to a greater or lesser degree) serve all End of Program Outcomes. For example, justice agency strengthening supports improved access to justice. Whole of sector strengthening helps the sector's planning and coordination.

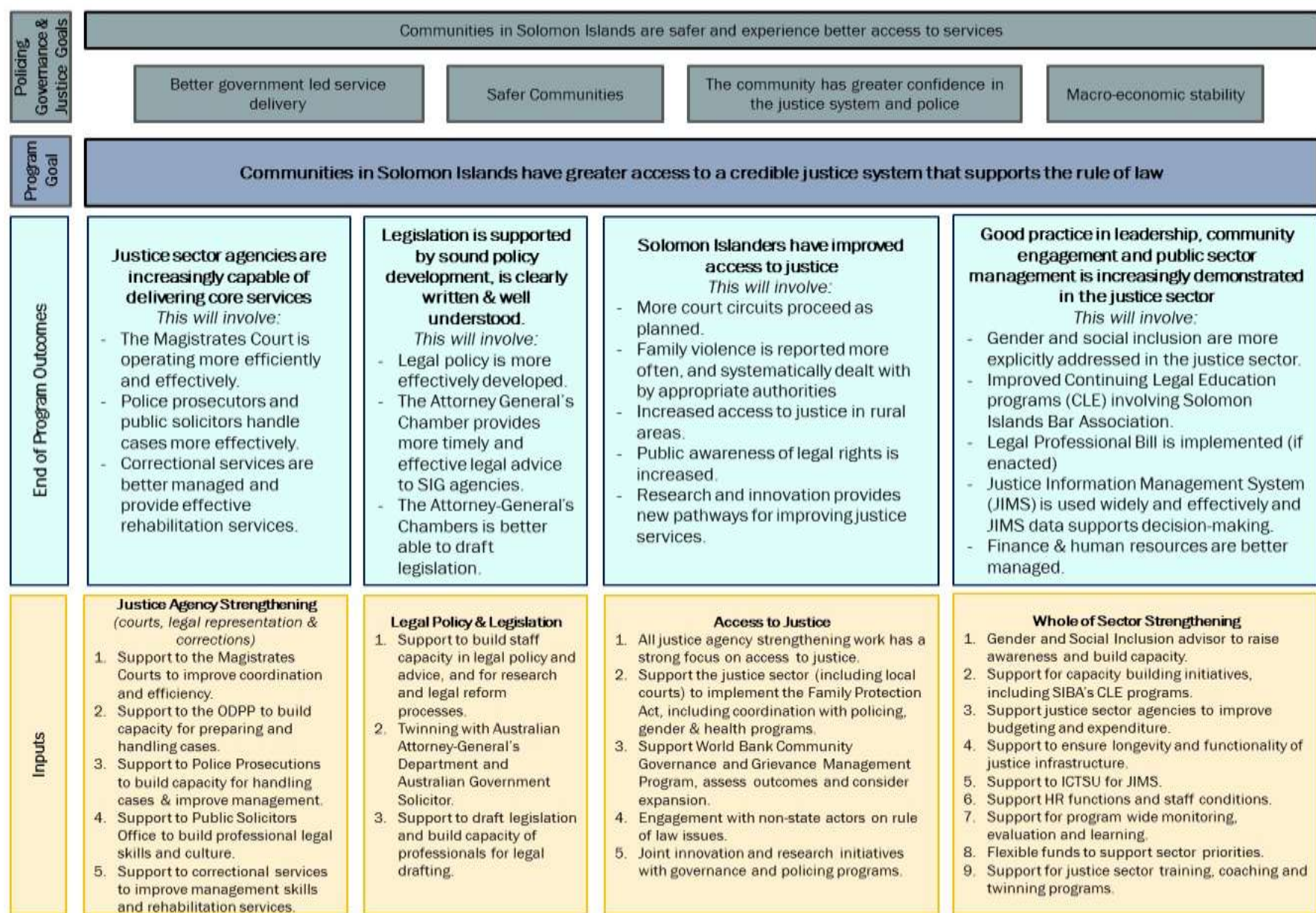
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<sup>8</sup> Justice Sector Strategic Framework 2014-2020

<sup>9</sup> The JSSF includes an extra outcome around justice agency collaboration. The program logic treats this as key to achieving the other outcomes. The Justice Program Outcome on legislation is not taken from the JSSF directly.



Figure 3 Program Logic



## THEORY OF CHANGE

The link between strengthening the justice sector, providing improved delivery of justice services and ultimately improving access to justice outcomes for individuals, is complex and non-linear in nature. Experience in Solomon Islands, and international and regional research, suggests that improvement in the rule of law in post-conflict countries takes significant time. The support for the formal justice system through Australian investments has produced substantial improvements, but has not yet addressed improved service delivery to more remote communities, accessibility to justice services for vulnerable sectors of the community, nor provided consistent, reliable and efficient justice services. In order to address issues of improved justice service delivery, a whole of justice sector approach must be undertaken, as well as a top down and bottom up approach. There must be a very strong focus on building the demand-supply relationship between state justice services, individual needs and the coordination mechanisms required for effective justice service delivery.

The Justice Program is therefore premised on the understanding that improved justice service delivery in Solomon Islands cannot take place in a solitary context where focus is only on individual, formal justice institutions in Honiara. The approach to this design is to distribute Program efforts across four key levers for change: Justice Agency Strengthening, Legal Policy and Legislation, Access to Justice and Whole of Sector Strengthening.

The purpose of the Justice Agency Strengthening Component is to support individual agencies to better deliver their core services. The purpose of the Legal Policy and Legislation Component is to improve sector-wide decision making, policy-making and the broader rule of law environment. The purpose of the Access to Justice Component is to support activities that build the relationship between citizen and state and enhance the demand for greater access to quality justice services. The purpose of the Whole of Sector Strengthening component is to enhance cooperation, cohesion and standards across the sector, these are integral to the delivery of justice services and rely on more than one state agency.

The Justice Program is an important mechanism through which individual, agency and sector capacity building will occur, however it will not work in isolation. Its success depends on other programs, such as governance and police development, to provide a conducive environment. For example, effective public service employment conditions for justice sector employees will be needed to promote and encourage commitment and professionalism, and policing support is needed to provide services at the front lines for the implementation of the Family Protection Act.

Solomon Islands citizens desire better justice service delivery, and SIG seeks to provide better justice services that will, in turn, encourage citizens' trust in justice institutions and justice processes. From this perspective, the Justice Program bridges these outcomes by dedicating a component of work to Access to Justice. The range of activities outlined in this Component for the commencement of the Program does not comprehensively address the gap between citizen and state in terms of ensuring better justice service delivery. As the Program develops and matures, DFAT and the Program leadership team, together with SIG, will seek out opportunities for increasing activities in the Access to Justice Component. These may include opportunities to connect isolated communities with

systems of justice; support to network, communicate and connect across the sector; and support to improve the sector's inclusiveness principles and ethics.

## JUSTICE PROGRAM OUTCOMES IN TWO, FOUR AND TEN YEARS

The Justice Program expects to see substantial gains over the coming ten years, and hence will need to shift in response to those gains. The End of Program Outcomes in the Program Logic set out what the Program aims to achieve over its four years.

The Program will evolve over the four years, to further reduce the number of advisers and invest more in knowledge building and professional linkages and twinning; invest less in Honiara and more at the provincial level; invest more in gender and social inclusion; include more national staff in the project team; and undertake more joint monitoring and evaluation of the Program with the relevant SIG counterparts.

The two-year mark will be important to assess if this evolution is on-track. Two years from the start of the Program, the Australian and Solomon Islands Governments could expect to see:

- Less advisers in capacity substitution roles. By 2019, the Program should involve only six LTA in SIG justice agencies, continuing the downward trend from the height of RAMSI.
- The Program is supporting SIG processes to tackle entrenched issues in the justice sector (e.g. delays, remand, court circuit coordination etc), and monitoring impact.
- Legal awareness in provincial areas is increased.
- The Solomon Islands Bar Association taking a stronger role in enforcing legal professionalism.
- The SIG Advisory Committee is functioning to hold the Program to account for performance.
- The Program's gender work is influencing policies and practices in the justice sector.

The four-year, End of Program Outcomes align with SIG's Justice Sector Strategic Framework. While these outcomes are in the sphere of the Justice Program's influence, they are not solely attributable to the Justice Program and will depend on factors beyond the control of the Program.

To ensure justice agencies are increasingly capable of delivering core services (End of Program Outcome 1), and increased access to justice is provided (End of Program Outcome 3) the Program will have succeeded if the following are realised:

- The Magistrates Court is operating more efficiently and effectively;
- Police prosecutors and public solicitors handle cases more effectively; and
- Correctional services are better managed and provide effective rehabilitation services.

To ensure legislation is supported by sound policy development, is clearly written and well understood (End of Program Outcome 2), and MJLA and AGC are delivering their core functions (End of Program 1) the Program will have succeeded if the following are realised:

- Legal policy is more effectively developed;
- The Attorney General's Chamber provides more timely and effective legal advice to SIG agencies;
- The Attorney-General's Chambers is better able to draft legislation;



- To ensure there is increased access to justice for Solomon Islanders (End of Program Outcome 3), legislation is being supported by sound policy development and being well understood (End of Program Outcome 2), and the sector exhibiting good practice in community engagement (End of Program Outcome 4) the Program will have succeeded if the following are realised: More court circuits proceed as planned;
- Family violence is reported more often, and systematically dealt with by appropriate authorities;
- Increased access to justice in rural areas;
- Public awareness of legal rights is increased; and
- Research and innovation provides new pathways for improving justice services.

To ensure there is an increasing demonstration of good practice in leadership, decision making, community engagement and public sector management (End of Program Outcome 4), justice sector agencies are better able to deliver their core functions (End of Program Outcome 1), legislation is being supported by sound policy development (End of Program Outcome 2), and access to justice for women, girls, people with disabilities and other marginalised groups is increased (End of Program Outcome 3) the Program will have succeeded if the following are realised:

- Gender and social inclusion are more explicitly addressed in the justice sector;
- Improved Continuing Legal Education programs involving Solomon Islands Bar Association;
- Legal Professional Bill is implemented (if enacted);
- Justice Information Management System (JIMS) is used widely and effectively and JIMS data supports decision-making; and
- Finance and human resources are better managed.

Indicators for these will be set out in the MEL Framework and where appropriate agreed with the relevant SIG agency. Specific indicators will be included in advisor work plans where applicable.

By 2027, (ten years from the start of the next phase of the Program), the Australian and Solomon Islands governments could expect to see: :

- No more international advisors in capacity substitution roles;
- Measurable improvement in service delivery in the justice sector;
- Magistrates Court and Magistrates Court Registry operating effectively within Honiara and in at least four Provincial Centres;
- Mechanisms to deal with family violence are working effectively;
- The justice system responds better to issues for women and girls, children and people with disability;
- Rural areas have access to appropriate dispute resolution mechanisms;
- The justice sector agencies use evidence derived from JIMS, and other data collection processes to inform legal policy and legal reform;
- An effective, sustainable, continuing professional legal education system; and
- A measurable increase in female leadership in the justice sector.

These changes will enable the Australian Government support to continue to shift efforts away from the centre and look to more direct support for services delivery outside of Honiara, particularly at the provincial centres and community level access to justice. The cadre of legal professionals will

provide a more substantial foundation for Australian aid investments to build – creating more entry points to work alongside champions within the sector.

## THEORY OF ACTION

The Justice Program’s approach is captured in a theory of action that, given the nature of justice sector change in Solomon Islands, is believed to be necessary to deliver more effective programming. This theory of action acknowledges that the quality of the Program’s approach, as well as what it supports, is important in determining success.

|   |   |
|---|---|
| <b>IF</b> justice sector change is complex, non-linear and requires coordination between capable justice sector agencies as well as strengthening access to justice outcomes for individuals... |   |
| <b>THEN</b>   | <b>... THEREFORE THE JUSTICE PROGRAM SHOULD</b>   |
| It may be hard to know in advance what will work  | Employ an evolutionary approach to reflecting and adjusting programming that minimises change short term and maximises adaptation in the long term.   |
| Opportunities for change will be unpredictable  | Respond to emerging opportunities and invest in scalable pilots.  |
| Facilitating coordination between SIG agencies will be necessary  | Empower all Program staff to look beyond individual agencies and to facilitate coordinated and joined up management arrangements within the Program and between other relevant stakeholder programs.  |
| Working within SIG agencies will be necessary   | Build on agency capacity and continue to shift focus from capacity substitution to capacity development.  |
| Different interventions may work in different settings  | Use a variety of modalities, appropriately adapted to context and engage skilled staff to deliver them.   |
| Citizen demand for services will be needed  | Embed a citizen-oriented approach to the provision of law and justice services in all activities, and look for opportunities to support the strengthening of citizen engagement and trust in the justice sector and broader access to justice outcomes. |
| The current profile of activities will evolve over the course of the life of the Program  | Embed a strategic reflection mechanism that enables the Program to assess and adjust its strategic trajectory and subsequent programming footprint.   |

To operationalise this theory of action, the Program will work closely with DFAT, AFP and the Australian Attorney-General's Department (AGD) to leverage all resources to ensure a focused program that targets specific justice stakeholders and functions for change.

### **An evolving theory of action**

While a single program design typically outlines an underlying theory of action for the duration of the Program, this theory of action explicitly envisages that the current profile of activity programming will shift during the life of the Program in response to the changing context in Solomon Islands. The current design represents a design appropriate for the first 12-18 months of the Program cycle – emphasising the need for continuity and mitigating risks associated to implementing too much change too quickly, which may have a negative impact on the justice sector.

However, the Program must slowly evolve into an increasingly innovative and adaptive rule of law program during the course of the Program cycle – in particular by shifting support beyond the formal justice sector to work more broadly on supporting the rule of law in Solomon Islands. A key mechanism to enable this shift will be **program reflection workshops**, held annually. These workshops will assess whether the strategic approach and subsequent implementation of the Program remains fit for purpose, and identify opportunities to shift the emphasis of the Program in accordance with evidence produced through monitoring, evaluation and learning. These workshops will be independently facilitated and may include (in the first instance) DFAT, AFP, AGD, the Program team leadership, and the Monitoring, Evaluation and Learning (MEL) Unit. DFAT may also choose to invite key senior stakeholders from SIG to participate. The objectives would be to:

- Review the Program using evidence and analysis produced through the MEL Unit;
- Agree on ratings and justifications to be included in the annual DFAT Aid Quality Checks (AQC);
- Develop recommendations to guide the next phase of implementation, and agree any changes needed to be implemented through the next annual planning process; and

A workshop should be held prior to the SIG annual planning process. SIG works on a calendar year planning process, so the workshops should ideally be held in September - October.

## **PRINCIPLES**

The Justice Program is informed by the following principles:

- Long-term planning and commitment;
- Building on what is already in place to minimise the sense of change;
- A focus on expanding beyond Honiara and beyond the 'trickle down' capacity development and service delivery models;
- A focus on increasing the integration between justice stakeholder and the RSIPF;
- A focus on identifying, understanding and addressing real impediments to justice service delivery;
- Utilising a demand-driven approach as opposed to a donor-led supply-driven approach;
- Flexible modalities;
- Continuing to shift from capacity substitution to capacity building; and
- Coordination, collaboration and coherence among the three programs and other AFP, DFAT, development partners and SIG programs.

## ASSUMPTIONS

A number of assumptions underpin the Justice Program. These include:

- There will be a reasonable level of continuity among the senior leadership cadre (Chairs, Commissioners, Permanent Secretaries and Undersecretaries) of key public service agencies;
- There will not be a serious deterioration in the internal security situation in Solomon Islands;
- The risk of corruption within SIG will remain high;
- The Australian aid program will remain broadly at forecast levels;
- Senior High Commission and senior justice sector personnel are able to meet on a reasonably regular basis to discuss the strategic direction of the Program and to resolve emerging and outstanding issues; and
- The senior Program management team will enjoy good access to relevant A-based staff at the High Commission.

These assumptions underpin numerous risks to the Program, and are dealt with as such in the risk section.

## 5. DELIVERY APPROACH

Australia's investment in the Solomon Islands justice sector since 2003 has focused on restoring law and order and supporting and developing the formal justice sector institutions. In later years it has also been focused on increasing service delivery to the provinces and remote communities. This new design for the Justice Program continues the shift towards a more diversified approach to aid by adopting problem solving techniques, focusing on and supporting innovation, improving coordination with AFP, and strengthening the notion of 'partnership with SIG'.

The design is informed by lessons learned from SIJP, and other Australian-funded law and justice programs (see Annex E). The design was also informed by a paper prepared by DFAT's Law and Justice Policy Section on the ten lessons following Australia's investment in law and justice programs in Solomon Islands.

### AID MODALITIES

This section looks at the various ways that inputs may be mobilised to support the Justice Program.

#### USE OF LONG-TERM ADVISERS AND SHORT-TERM ADVISERS

Development partners have rightly been criticised for taking an overly technical approach to rule of law assistance, ignoring the culture and context of conflict-affected countries, or looking for 'best practice' international approaches rather than local solutions. This can disempower and delegitimise counterparts. While Australian support to the justice sector has been largely in the form of LTA, with some flexible STA and direct funding of TA contracts in key areas, there are many reasons for this.

Solomon Islands adult education institutions are at very early stages of development. Legal practitioners usually receive their education in PNG or Vanuatu. The legal profession in Solomon Islands is small and still developing expertise. Currently the more skilled and experienced legal practitioners are quickly appointed to the judiciary, and therefore are not in a position to be available to provide their services as mentors and advisers.

However, over the term of the Program the legal practitioners will mature and gain more expertise, will be able to directly influence the skills and expertise of younger practitioners, and take up positions of authority and direction in various key agencies. Until such time, Australian support will continue providing LTA and STA.

Each adviser position will be clearly linked to the delivery of outcomes and each position description will have at least one indicator they are responsible for working towards. It will be critical that these technical advisers not only be skilled in their area of expertise(s), but also have highly developed relationship and problem solving skills, and a good understanding of the complex incentives and disincentives at play. Terms of reference and recruitment processes will reflect this. The primary purpose of advisers, in most cases, is to do themselves out of a job – to develop capacity such that their role is no longer needed. This will be reflected in all terms of reference and recruitment processes. The evolution of the Program may involve more twinning when an LTA has been phased out. The LTA can help establish these twinning arrangements. Promising areas will be identified in LTA work plans.

Another option for phasing out LTAs is to rely more on STAs, enabling some of the functions within justice sector agencies to 'graduate' to more independence. There are some lessons learned from

the two PNG governance programs, reviewing the use of LTAs as opposed to STAs, revealing that the agencies prefer LTA, or at least ‘returning’ TAs, i.e. periodic advisers. This has also been the feedback from Solomon Island informants. It may be that the best approach will be to have the first inputs as longer term so they can develop the relationships and understand the issues. Later inputs can then be shorter with remote assistance – home based if required – but using the same LTAs where possible.

However, as with all the recommendations that relate to the changed way of working, and the changed nature of managing justice sector work, the pre-requisite for this to be effective is a committed agency head/supervisor who makes sure the services of the adviser are used as needed and the national staff get the opportunity to practice. This is essential.

Because of the importance of working collaboratively across justice sector agencies, and across policing, justice and governance programs, it will be crucial for LTAs and STAs to take a common approach. They will need to focus on iterative problem solving, work in partnership with SIG to identify and implement opportunities for innovation, and ensure that there is a focus on relationship building and collaboration with SIG.

The entire adviser cadre needs to be regularly briefed on Program modalities, priorities and goals, provide feedback on lessons learned, and report on delivery of the Program and activities. This will be an important role for the Head of Program. Consideration could be given to establishing internal governance mechanisms within the cadre of advisers across police, justice and governance. This could, for example, be a mechanism where all advisers assemble quarterly to enable discussion and sharing, and where Program heads can provide information across the programs. Similarly, internal governance mechanisms can be established on cross-program thematic issues, which might also include national staff for issues such as the implementation of the FPA.

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## TWINNING AND REGIONAL PROFESSIONAL DEVELOPMENT

The Justice Program will continue current twinning programs and seek opportunities for additional twinning with regional entities where these are appropriate and cost effective. The Learning and Development Adviser will be tasked to explore and develop such professional relationships within the region. Possibilities include the Pacific Islands Law Officers Network (PILON) and the PILON Secretariat, including its Strategic Policy Working Groups.

The current SIJP has a twinning arrangement with two Darwin-based indigenous legal institutions. Up to four SIG justice officers work within these institutions for one month a year before returning and sharing knowledge learned. Officers involved in the last two missions have benefited greatly from the experience.

Institutional twinning exchange programs between SIG and Australian agencies have significant potential for agency-to-agency relationships and capacity development, as they build on existing relationships. The Australian Attorney-General’s Department (AGD) currently participates in these opportunities. If this type of twinning exchange is underpinned by a rigorous training and working program in Solomon Islands, complemented with a dedicated coordinator/facilitator on the Australian side, then the working experience can contribute to the Solomon Islander counterpart exposure to different legal system translating into potential reform in Solomon Islands and changes in professional legal culture. The effectiveness of twinning programs will rely heavily on the setting of realistic projects that are the subject of the twinning arrangement, and the provision of ongoing

support and mentoring in ensure that learnings can be translated to real change following the conclusion of the Program.

The Justice Program will leverage off existing relationships between Solomon Islands and the AGD and Australian Government Solicitor (AGS). The AGD will, through its annual two month twinning placement for a Solomon island justice sector official, continue to provide legal policy training and mentoring on designated and identified legal policy and law reform projects relevant to SIG, including providing follow up support for that particular project(s). AGS will provide training in Solomon Islands for legal officers on a range of identified legal skills, which may include topics such as legal reasoning, writing legal advice and research, statutory interpretation and advocacy and presentation skills. It is anticipated that this engagement will, over time, facilitate the development of a broader institutional and collegiate relationship between AGD/AGS and the relevant SIG agencies.

There are other regional arrangements in place from which the Justice Program can not only leverage other opportunities for learning, but by doing so also provide professional opportunities for developing relationships, shared learning and possible pooling of resources.

Some opportunities do exist for obtaining technical assistance within the region, for example on gender related issues twinning arrangements can be made with Pacific Women. It is a strong regional resource providing a range of focal areas, namely women's empowerment, leadership and decision making, ending violence against women, and monitoring and evaluation.

Given the concern expressed by some informants as to the quality of legal training provided to law students, the Program could take advantage of the New Colombo Plan. This would provide an opportunity for Australian law students to undertake placements in the Solomon Islands, benefiting the law graduates in the Solomon Islands and specific justice institutions such as the PSO. The Australian law students could be involved in working with specific projects and organisations as appropriate.

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## VOLUNTEERS

Australian Volunteers for International Development (AVID) have been placed in supporting roles within key Solomon Islands justice agencies for several years. The AVID program is managed by Australian Volunteers International (AVI). The volunteers perform a range of legal support, policy support and administrative duties, and complement and enhance the Justice Program's technical assistance support. In the past AVI has been able to recruit high calibre and enthusiastic volunteers with relevant qualifications and experience. Current and previous beneficiaries of the AVID placement support within the justice sector include:

- The Public Solicitor's Office;
- The Office of the Director Public Prosecutions;
- The Law Reform Commission;
- Correctional Services Solomon Islands; and
- The Registrar General's Office.

Justice sector agencies have had positive experiences with volunteers. In the new phase of the Program other justice agencies could benefit from volunteer placements, in particular:

- The Ministry of Justice and Legal Affairs;

- The Police Prosecutions Directorate;
- The Attorney General’s Chambers; and
- The National Judiciary (High Court and Magistrate Court).

This presents flexibility for the Program, in that both short-term and long-term volunteers can be utilised depending upon the activity. Volunteers should be better integrated into the Justice Program.

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## GRANTS THROUGH SIG SYSTEMS

Accountable Cash Grants (ACG) and Direct Funding Arrangements (DFA) have been previously used to deliver budget support to the SIG Justice Sector. With ACG and DFA support, the Ministry of Justice and Legal Affairs and National Judiciary have been able to employ additional personnel to maintain their core and administrative functions through this support. CSSI has also been able to better maintain its infrastructure. These personnel are then transitioned onto the SIG establishment (and payroll).

The ACGs and DFAs utilise the SIG’s financial, procurement and human resources management systems. This support has helped CSSI, NJ and MJLA to adhere to SIG procurement guidelines, and implement improved budget planning, preparation and execution, as well as better human resource management planning and recruitment.

Public Financial Management and Procurement assessments of the SIG justice sector have been undertaken. Recommendations from these assessments will guide the Justice Program’s future usage of ACGs and FRAs.

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## FUNDING OUTSIDE SIG SYSTEMS

The flexible funding under Component 4 (Whole of Sector Strengthening) will enable us to help justice agencies to deliver prioritised activities in their corporate and annual plans. This funding also allows DFAT to respond quickly and flexibly to SIG requests for assistance which often address unforeseen issues, or be due to changing circumstances.

This funding may also be used to support engagement with non-state actors on rule of law issues following a risk and fiduciary assessment if required.

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## FLEXIBLE FUNDING FOR RESEARCH AND INNOVATION INITIATIVES

Creating and supporting sustainable change in the justice sector is rarely linear or easily foreseen. Change requires the confluence of people (the right person, at the right time, with the right capabilities), power (the legitimacy, capacity and space) and politics (conducive incentives and timing). What is more, the rule of law relies only in part on formal state institutions, and also in large part on the interaction between the State and its citizens.

Innovation and research are important to take opportunities to identify, and then trial alternative methods of problem solving in the sector. This design allocates funding for innovation and research initiatives – opportunities that arise during the course of the Program but which are not currently planned. This can be used for justice specific projects, or projects in conjunction with the policing and governance programs.



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## LEVERAGING OTHER AUSTRALIAN GOVERNMENT INITIATIVES

As indicated earlier, the Justice Program is closely linked with both the Governance and Police Development Programs. Some of the areas in which collaboration and leverage could occur are:

- A task force<sup>10</sup> could be formed between the three programs, together with DFAT and relevant SIG officials, to articulate and trial ways to address the obstacles that impede service delivery outside of Honiara. For example, the Public Service Commission might agree to a trial that incentivises public servants to re-locate to the Provinces;
- Corruption: building upon what is already being done under the Governance Program; there is an opportunity for all three programs to work together in a strategic way to address corruption;
- Generic public sector skills development: the three programs can work together to offer skills development to staff across the sector in generic areas such as strategic planning, information gathering, policy development and implementation. The Governance Program includes work on supporting the SIG to develop gender aware policies, which would greatly assist the justice sector;
- Engaging non-state actors: The Justice and Governance programs can collaborate on enhancing public understanding of what services are available; and
- Alcohol and drug abuse: The Policing, Justice, Health and Gender Programs can collaborate on reducing alcohol and drug abuse, and the violence it causes.

There are additional possibilities for cooperation between the Justice Program and other Australian Government initiatives, including:

- Australia's gender and health programs, this includes a joint DFAT working group on implementation of the FPA, which coordinates the Gender Program's engagement on community awareness of the Act, the Health Program's support for gender based violence counselling with the Justice Program's support for the FPA. This complements the FPA Implementation working group, which includes Solomon Islands departments, RSIPF, AFP and DFAT. The Justice Program will also engage with the Gender Program around its work supporting advocacy for women's rights. There may be opportunities for pooling resources across programs on engaging non-state actors;
- Australia's economic growth program, particularly around the needs of businesses for law and order, a peaceful mechanism for resolving disputes and commercial dispute resolution mechanisms;
- Australia's scholarships. There are opportunities for justice sector advisers to assist in the identification, encouragement and preparation of appropriate counterparts for application for Australia Award scholarships on key skill gap areas. DFAT could consider providing TA to backfill positions made vacant by successful awardees in the justice sector; and
- Research. The Australian Government funds significant development research in the Pacific including through institutes such as the La Trobe Institute for Human Security and Social Change, initiatives such as the Pacific Leadership Program, Pacific Women and others.

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<sup>10</sup> Ideally it would be good to anchor that task force in an existing SIG agency or coordinating body; this is likely to be a long term activity and it is important to institutionalise it.

Targeted and program-oriented research can significantly enhance programming interventions, and inform important public information messaging. The Program should actively engage with various research initiatives, think tanks, and academic institutions in Solomon Islands, Australia and abroad to leverage this knowledge to inform activities.

## 6. JUSTICE PROGRAM COMPONENTS

The Program will include four components, encompassing a number of individual activities. Each component is outlined in detail below.

### COMPONENT ONE: JUSTICE AGENCY STRENGTHENING

This component advances all four of the End of Program Outcomes, but in particular End of Program 1 – Justice sector agencies are increasingly capable of delivering core services.

The component aims to realise the following:

- The Magistrates Court is operating more efficiently and effectively;
- Police prosecutors and public solicitors handle cases more effectively; and
- Correctional services are better managed and provide effective rehabilitation services.

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#### ACTIVITY 1.1: MAGISTRATES AND LOCAL COURTS

An LTA will be based with the Magistrates Court ('Court Adviser') and focus on improving coordination and efficiency by working with court registrars, administrative staff and sheriffs. The LTA will:

- Support NJ to establish proper procedures and processes within the registry both in Honiara and the provinces;
- Support NJ to develop processes for co-ordination between Magistrates and administrative staff for court business;
- Assist NJ to development processes for the Family and Juvenile Court (due to be opened in early 2017);
- Developing capacity in court administration;
- Support the use of JIMs;
- Support to NJ in developing strategies for implementing effective court-managed or court-annexed mediation (or other formal sector alternative dispute resolution mechanisms);
- Facilitate targeted professional development opportunities to support the above activities in a structured and sustainable way (working with the Professional Development Adviser and other judicial training providers as appropriate); and
- Through all activities, keep in mind the purpose is to improve justice services for Solomon Islands citizens.

The Court Adviser will also assist DFAT and SIG to closely monitor the performance of the Magistrates Court following the departure of the DFAT-funded Chief Magistrate. A local Chief Magistrate and Deputy Chief Magistrate will likely require support as they will be young and inexperienced in very demanding roles..

Where possible, the Court Adviser will also develop and embed regular and effective communications between Honiara and all provincial judicial centres, and work with the Human Resource adviser to assist in the development of job specifications for all positions in court administration.

In the provincial centres the Local Court administrative staff share the same registry as Magistrates Courts staff, and therefore the Court Adviser when in the provinces will similarly work with Local Court administrative staff.

During consultations with SIG, support for the Customary Land Appeal Courts was raised. The Courts Adviser could look to see where support could be provided, however it is noted that there is a draft Bill on customary land which would dissolve this Court. Progress on this Bill will be monitored to ensure support is provided in the most effective areas.

Following improvements in the Magistrates Courts and Local Courts operations, the Court Adviser may shift focus during the lifecycle of this Program to working across both the Registries (Magistrates and National Judiciary) to develop a mentoring system between court administration staff in the National Judiciary and those in the Magistrates Courts. Institutionalising professional mentoring relationships will help build relationships and capacity across the sector, but may be a long-term project that should be assessed during the mid-term review.

The Gender Adviser will work together with the Court Adviser to help raise awareness across the Magistrates Court, Family and Juvenile Court, and Local Court on issues of family and domestic violence, and women's experiences of courts and the justice sector. Over the life of the Program, it is anticipated that this will enable the development of improved practices and processes in relation to court administration of women's cases.

Resources needed to support this activity:

- One LTA over the life of the Program (Court Adviser), initially situated within the Magistrates Court (and Family and Juvenile Court) and then moving between the Magistrates Court and National Judiciary; and
- Selected inputs from the Gender Adviser, HR and Professional Development Adviser.

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#### ACTIVITY 1.2: OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The Program will have an LTA in the ODPP to assist staff to prepare cases, and with research and advocacy skills. The extent to which this LTA will be able to appear in court will be the subject of consultation between DFAT and SIG. The first 18 months of focus will be on developing the professional legal skills of staff, with assistance from the Professional Development adviser to develop management and communication skills.

The LTA will:

- Work side by side, mentor and shadow professional staff within the office to assist in research, provide case strategy advice and assist in developing case theories for prosecutions;
- Work with professional staff and the Professional Development Adviser to develop and deliver training on management and leadership with a justice sector agency, ethics and integrity;
- (if agreed) Provide some assistance in court when there are complex matters;
- Develop processes and procedures within the ODPP with the assistance of the Professional Development Adviser so as to formalise communication strategies, continuing legal and professional education and development;

- Work with the Gender Adviser and professional staff to develop an awareness and understanding of specific issues that relate to the prosecution of gender-based violence and vulnerable witnesses;
- Work to support the implementation of JIMS; and
- Through all activities, keep in mind the purpose is to improve justice services for Solomon Islands citizens.

Resources required for this activity:

- One LTA over the life of the Program based within the ODPP but with a review occurring mid-term (two years in) considering the appropriateness of an exit strategy; and
- Selected inputs from the Gender Adviser and Professional Development Adviser.

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### ACTIVITY 1.3: POLICE PROSECUTIONS

A full-time LTA will continue to be based in the Police Prosecutions Directorate to provide support to prosecutors on case preparation, advocacy and research, as well as internal corporate and management development. The extent to which this LTA will be able to appear in court will be the subject of consultation between DFAT and SIG.

The LTA will:

- Work side by side, mentor and shadow prosecution staff within the office to assist in research, provide case strategy advice, and assist in developing case theories for prosecutions;
- Work side by side with management staff within the office to develop and implement corporate procedures and policies;
- Coordinate the advisers from the Police Development Program to maximise support to the Directorate;
- Work with the Professional Development Adviser to prepare and deliver professional skills and management training;
- Work with the Gender Adviser to prepare training materials that are relevant and raise issues of gender-based violence and working with vulnerable witness and victims;
- Work with police prosecutors in order to assist with the case flow within the office;
- (if agreed) Provide some assistance in court when there are complex matters;
- Identify and train police prosecution staff who can be supported to train (train the trainer) prosecutors within provincial centers;
- Work with the Professional Development Adviser to prepare and deliver train the trainer modules;
- Work to support the implementation of JIMS; and
- Through all activities, keep in mind the purpose is to improve justice services for Solomon Islands citizens.

Resources required for this activity:

- One LTA for the life of the Program, a review of the suitability of this arrangement will be undertaken at mid-term (two years); and
- Selected inputs from the Gender Adviser and from the Professional Development Adviser.

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## ACTIVITY 1.4: PUBLIC SOLICITORS OFFICE

There will be one LTA based within the PSO, who will assist professional legal staff and paralegal staff with the development of their legal skills, advocacy and interviewing, as well as case management and time management. The LTA will not appear in court (unless otherwise agreed with DFAT), focusing rather on developing a culture of professionalism, relationship building within the agency and across justice sector agencies, including the Solomon Islands Bar Association. The role should assist a new Deputy Public Solicitor.

The LTA will:

- Incentivise PSO staff and embed a culture of professionalism and development through working closely with staff, embedding procedures and policies and providing opportunities for sharing lessons learned and learning from each other;
- Provide advice on court matters;
- Work with the Professional Development Adviser to develop and deliver appropriately required training modules that will form a basis for continuing legal education in the office, such modules being graduated to cater for different levels of experience;
- Develop processes for succession planning, management and leadership, embedded communication and other organisational policies such as privacy, confidentiality. This could be assisted by the Human Resources Adviser;
- Seek to encourage PSO to develop relationships with other justice sector agencies, especially the Solomon Islands Bar Association to instill a culture of belonging to a profession<sup>11</sup>;
- Explore opportunities for the use of volunteers for specific task related activities;
- Explore opportunities for twinning or exchange arrangements with other legal community centres within the region;
- Work with the Gender Adviser to ensure that issues that pertain to the representation of women, girls and boys, and men, and people with disability is undertaken with a strong awareness of the issues, and with a view to improving structures, methodology, and processes so that access to justice for these groups are effective and timely;
- Work with the Gender Adviser and the Professional Development Adviser when developing any specific training required, especially with respect to the implementation of the FPA and gender-based violence issues;
- Work to support the implementation of JIMS; and
- Through all activities, keep in mind the purpose is to improve justice services for Solomon Islands citizens.

Resources required for this activity:

- One full-time LTA, a review of the suitability of this arrangement will be undertaken mid-term (two years). The full-time position may transition to STA with the 'freed-up' funds

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<sup>11</sup> The Solomon Islands Bar Association will have greater traction if the proposed legislation is passed, and will be provided with a framework that will assist in the regulation of legal practitioners, and compulsory legal education. A relationship between PSO and the Bar Association will assist both organisations, by providing a place for young practitioners to undertake pro bono work and gain experience, as well as assist the PSO in the overload of work currently in the office. Further, it contributes to the building of professional networks across the justice sector.

shifted to support for twinning or regional exchanges. There may also be opportunities for the use of volunteers for specific tasks both professionally and non-professionally; and

- Selected inputs from Gender, Human Resource and Professional Development Advisers.

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#### ACTIVITY 1.5: CSSI REHABILITATION ADVISER

There will be one full-time LTA based within CSSI who will assist management and operational staff both within Honiara and in the provinces as to the principles and policies, and best practices of rehabilitation services both within correctional services facilities. If appropriate and possible later in the life of the Program, assist with strategies and structures for rehabilitation services for prisoners on their release into the community.

The LTA will:

- Coordinate with the CSSI Management Adviser on relevant tasks;
- Work with management and operational CSSI staff to develop and implement various rehabilitation programs within correctional facilities both within Honiara and provinces;
- Shadow and mentor staff that deliver these services so as to ensure they understand the importance of the programs, their impact and issues related to reduced rates of recidivism, and the challenges faced by prisoners upon release;
- Assist management to prepare programs that address issues that relate to the rehabilitation of youths, women and people living with disabilities;
- Work with other advisers on policy recommendations regarding diversionary sentencing;
- Work selectively with the Professional Development Adviser on the suitability of the training materials;
- Work with the CSSI Management Adviser and the Gender Adviser with respect to the development of appropriate training modules for CSSI staff and the developed rehabilitation programs that are relevant, and raise and address issues of gender, gender-based violence and working with vulnerable witness and victims; and
- Through all activities, keep in mind the purpose is to improve rehabilitation services for inmates and the broader Solomon Islands community.

Resources required for activity:

- One full-time LTA for the life of the Program, a review of the suitability of this arrangement will be undertaken mid-term (two years); and
- Selected inputs from the Gender Adviser and Professional Development Adviser.

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#### ACTIVITY 1.6: CSSI MANAGEMENT ADVISER

This will be one LTA position based within CSSI, who will assist management staff with the development of professional skills with respect to management, communication, leadership and working collaboratively. The work will focus on developing senior and middle management cadres so that the functionality of the CSSI can continue to be led well.

The LTA will:

- Work closely with the Professional Development Adviser to develop and implement ways in engaging with management officers with CSSI to develop a culture of management, leadership and strategic development;

- Work closely with the Professional Development Adviser and the Police Development Program advisers to source, develop and deliver appropriate training modules that will incentivise CSSI staff to a culture of professionalism and leadership;
- Explore opportunities for regional exchanges for CSSI management staff to enable further learning from like institutions within the region;
- Work with CSSI staff to develop policies, codes of ethics and integrity that enhance professionalism;
- Develop and oversee the introduction of communication strategies, and decision-making processes that can be embedded in the management operations;
- Work with the Gender Adviser in order to consider ways that women can be attracted to work with CSSI and how female CSSI staff can be supported within the CSSI and with advancement through CSSI management;
- Work with the Gender Adviser with respect to the development of appropriate training modules for CSSI staff that are relevant, and raise and address issues of gender, gender-based violence and working with vulnerable witness and victims;
- Work to support the implementation of JIMS; and
- Through all activities, keep in mind the purpose is to improve correctional services for inmates and the broader Solomon Islands community.

Resources required for this activity:

- One full-time LTA for the life of the Program, a review of the suitability of this arrangement will be undertaken mid-term (two years). The position may transition to STA with the 'freed-up' funds shifted to support for twinning or regional exchanges. There may also be opportunities for the use of volunteers for specific tasks both professionally and non-professionally; and
- Selected inputs from the Gender Adviser and Professional Development Adviser.

## COMPONENT TWO: LEGAL POLICY AND LEGISLATION

This component advances all four of the End of Program Outcomes, but in particular End of Program 2 – Legislation is supported by sound policy development, is clearly written and well understood.

The component aims to realise the following:

- Legal policy is more effectively developed;
- The Attorney General's Chambers provides timely and effective legal advice to SIG agencies; and
- The Attorney General's Chambers is better able to draft legislation.

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### ACTIVITY 2.1: MINISTRY OF JUSTICE AND LEGAL AFFAIRS

A full-time in line LTA will be based in the MJLA to provide continued support to the Ministry, build the capacity of staff on legal policy; collaboration with other justice agencies and undertake legal research and make recommendations as to legal reforms and policies.

The LTA will:



- Work with the MJLA staff, mentoring and shadowing staff in how to research and provide recommendations on policies. The primary purpose of this role is to develop capacity such that this role is no longer needed;
- Work with MJLA through mentoring and shadowing with respect to time management, allocation of tasks, and communication skills;
- Work with MJLA through mentoring and shadowing with respect to collaboration with other justice agencies;
- Engage with the Solomon Islands Bar Association and potentially formulate links with the Law Council of Australia;
- Support effective community consultations as part of policy and legislation development processes;
- Work with the Court Adviser to develop strategies and ways of working with the JSCC to enable greater governance across the sector, working closely with the Chief Justice (as the JSCC Chair);
- Work with the LTA in the AGC (though the AGC adviser will take the lead in this activity), and the Professional Development Adviser to develop and deliver training on legislative drafting modules (for staff in MJLA, AGC and Law Reform Commission);
- Work with the Gender Adviser to prepare training materials and legal policy documents and strategies that are relevant, and raise and address issues of gender, gender-based violence and working with vulnerable witness and victims, and
- Support MJLA to engage with Solomon Islands Bar Association with respect to the effective regulation of the legal profession.

Resources required for this activity:

- One full-time LTA for the life of the Program, a review of the suitability of this arrangement will be undertaken mid-term (two years); and
- Selected inputs from the Gender Adviser, Professional Development Adviser, the Court Adviser and the Legislative Drafting Adviser.

Australian Attorney-Generals' Department (AGD) will also have inputs under this Component:

- One Solomon Islands Law and Justice official to be included on AGD's annual legal policy twinning program (two-month placement in Canberra) – includes legal policy training, working on a crime or policing policy/law reform project (mentored by AGD lawyer) and making linkages with other relevant Australian government agencies; and
- There would be a follow up visit, involving policy development training for wider SIG public sector audience and justice sector audience which will be coordinated through the Legal Policy LTA, and the Courts Adviser (see Component 1) working through the JSCC.

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## ACTIVITY 2.2: TWINNING WITH AUSTRALIAN ATTORNEY-GENERAL'S DEPARTMENT

Australian Government Solicitor (AGS) from the Australian Attorney-General's Department (AGD) will provide twinning to improve the ability of Attorney General's Chambers lawyers to provide advice to SIG agencies:

- AGS will provide two lawyers to undertake two trips to the Solomon Islands of one week per year, to train up to 25 Solomon Island legal officers, selected from the AGC and other justice

agencies (and potentially private practitioners) on basic legal skills tailored for Solomon Islands law and legal practice, such as statutory interpretation, legal reasoning, legal writing skills, writing legal advice, presentation skills and contracts; and

- These courses would be adapted from the successful pro bono training program conducted by AGS over a number of years in PNG. Further courses could also possibly be developed, if other particular areas of need were identified.

It is anticipated that this engagement will, over time, facilitate the development of a broader institutional and collegiate relationship between AGD/AGS and the relevant SIG agencies.

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### ACTIVITY 2.3: LEGISLATIVE DRAFTING – ATTORNEY-GENERAL’S CHAMBERS AND LAW REFORM COMMISSION

This will continue to be an in-line LTA based within the Attorney General’s Chambers, working with staff to assist with legislative drafting. The focus will be to provide drafting skills to staff within the Attorney General’s Chambers.

The Adviser will:

- Work with the Attorney General’s Chambers’ staff, mentoring and shadowing staff in how draft legislation, regulations, and statutory interpretation;
- Work with the Legal Policy Adviser (see Activity 2.1) and the Professional Development Adviser in the preparation of training materials and delivery of training on legislative drafting modules to staff from the MJLA, Attorney General’s Chambers and the Law Reform Commission;
- Engage with the Solomon Islands Bar Association and potentially formulate links with the Law Council of Australia;
- Work with the Gender Adviser to prepare training materials and legal policy documents and strategies that are relevant, and raise and address issues of gender, gender-based violence and working with vulnerable witness and victims; and
- Assist in developing a working relationship between the Solomon Islands Bar Association and the Attorney General’s Chambers – with the possibility of internships and clerkships being developed.

Resources required for this activity:

- One in-line LTA for two years with a review mid-term to assess whether the position can shift to STA (or LTA that is no longer in-line); and
- Selected inputs from the Gender Adviser, Professional Development Adviser and Legal Policy Adviser.

### COMPONENT THREE: ACCESS TO JUSTICE

This component advances all four of the End of Program Outcomes, but in particular End of Program 3 – Solomon Islanders have improved access to justice.

The component aims to realise the following:

- More court circuits proceed as planned;

- Women, men, girls and boys have increased access to justice through the Family Protection Act;
- Increased access to justice in rural areas;
- Public awareness of legal rights is increased; and
- Research and innovation provides new pathways for improving justice services.

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### ACTIVITY 3.1: STRENGTHENED FOCUS ON ACCESS TO JUSTICE IN JUSTICE AGENCY STRENGTHENING COMPONENT

Component 1 on strengthening the ability of the courts, prosecutors, PSO and CSSI to deliver core services should, if done well, increase access to justice. However, that cannot be presumed. Therefore, the Program will ensure that work under Component 1 is undertaken with an eye on the overall purpose of increasing access to justice. Terms of references for LTA will reflect this, as will work plans and performance discussions. The Joint MEL Unit will also track this.

No separate resources are required for this.

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### ACTIVITY 3.2: SUPPORT TO IMPLEMENT THE FAMILY PROTECTION ACT (INCLUDING LOCAL COURTS)

Assisting SIG to implement the FPA will be a priority for the Justice Program. Component 1 (particularly the prosecutors and the PSO) and Component 4 (particularly the Gender Adviser) will assist.

The Program will also leverage work in DFAT's health and gender programs through an internal working group which coordinates the approach to implementation of the FPA. The Program will continue to support SIG's FPA Implementation Working Group (chaired by the Police Commissioner).

The Program will engage with Local Courts to assist with implementation of the FPA as needed. Considering the challenges to engaging with the Local Courts, any future training provided to Local Court Judges will be initially trialled in one geographic region, with strong monitoring and evaluation systems. If the training is found to be effective, it will be rolled out to other regions.

The Program will also provide support to increase the number of Magistrate Court circuits to rural areas, to deal with more serious cases.

Resources required for this activity:

- This will be determined in consultation with SIG.

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### ACTIVITY 3.3: COMMUNITY GRIEVANCE AND GOVERNANCE MANAGEMENT

An existing funding arrangement with the World Bank for the Community Grievance and Governance Management (CGGM) Project will be continued until its current end date of 2018/19. Opportunities for further support will be assessed and based on sustainability of the Project.

The CGGM Project arose out of the Justice for the Poor research and aims to demonstrate a cost-effective and locally accepted model for managing community grievances. The program is currently being piloted in Makira and Renbel and encompasses the use of Community Officers (CO) across the two provinces. The early success of the COs and the considerable buy-in from local authorities is

showing impressive early results. This model could possibly be replicated in other parts of the Solomon Islands over the long term.

The Project intends to expand the COs to a further two provinces before 2019. The World Bank is conducting a sustainability analysis on the program to inform potential further expansion. This will help inform any decision as to further funding beyond 2019. The data generated by the CGGM pilot could be integrated into the MEL Framework.

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#### ACTIVITY 3.4 ENGAGEMENT WITH NON-STATE ACTORS ON RULE OF LAW ISSUES

This activity focuses on stimulating demand for better legal services and increasing the awareness of Solomon Islanders about the law and justice services that should be available to them. Projects could include communication and activism training for non-state and public awareness campaigns.

This activity will be measured as raising awareness of legal services is likely to increase demand on a system which is currently struggling to handle current workloads.

The exact nature of this activity is not yet determined.

It can be difficult to find appropriate civil society partners in Solomon Islands. There are limited international and national NGOs. Organisations with reach (such as the church) often lack financial and reporting systems that can easily manage grant funding. One option may be a small grants process to 'test the market'. Promising ideas can then be further funded. The indicative budget therefore has the funding for this activity increasing in years 3 and 4.

Over the course of the program, DFAT will also consider ways to create space for communities to use the law to further extend rights and contest wrongs. Focusing on vulnerable groups (women, children, people with disabilities) will be important.

Resources required for this activity:

- Flexible funding, potentially for grants.

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#### ACTIVITY 3.5 INNOVATION AND RESEARCH

Innovation and research has the capacity to contribute to all End of Program Outcomes identified in the Program Logic. Alignment with the Program Logic will be determined on a case by case basis as part of the development of proposals.

The budget will be shared across the portfolio of programs and ideas for its allocation to particular activity opportunities, innovation and research will be collated by the Monitoring, Evaluation and Learning Team together with the team leadership of each program and in consultation with SIG and key Program staff.

The objective of the Innovation and Research component will be to allow the Australian Government, through the Justice Program, to:

- Inform the Program's evolution through a better understanding of the political economy of Solomon Islands and of 'what works' in Solomon Islands and why;
- Trial new and innovative approaches and initiatives aimed at better service delivery that can be incorporated into the Program;
- Respond to emerging opportunities for reform; and

- Build its relationship with SIG through shared decision making.

The following criteria could stipulate that proposed initiatives should:

- Be consistent with SIG priorities and, where possible, promote cost-sharing with SIG;
- Have a clear and well-articulated link to the issue of better service delivery for citizens;
- Activities must be incorporated into the Program, and enhance the Program's ability to achieve outcomes (i.e. not just research for research's sake);
- Harness local Solomon Islands talent and build local capacity (e.g. in the case of research proposals);
- Pilot solutions in particular geographic regions and evaluate the effect before considering scale up;
- Be well-defined and specific in scope, and the risks well-understood;
- Incorporate a clear gender and social inclusion perspective; and
- Do no harm.

In the Justice Program, opportunities with potential for innovation/research may include:

- Trialling a SIG justice trainee program (recruitment of final year law students on Public Service Casual Contracts, with a view to developing a pipeline of junior law recruits, and inculcating strong ethics and practices into potential junior officers). This trial program would work closely with the DFAT Australia Awards Program;
- Commissioning research to inform programming decisions;
- Consideration of possible demand driven activities through civil society (bearing in mind, however, the well-established risks of fostering the development of donor-dependent organisations, and the limited capacity of most Solomon Islands CSOs – the experience of Transparency Solomon Islands is instructive in this regard); and
- Other activities that may enable an increased effectiveness of the Program, for example facilitation of a community of practice for capacity building Program staff and their counterparts.

Resources needed to support this activity:

- Budget to allocate to jointly agreed initiatives.

#### COMPONENT FOUR: WHOLE OF SECTOR STRENGTHENING

This component advances all four of the End of Program Outcomes, but in particular End of Program 4 – Good practice in leadership, decision making, community engagement and public sector management is increasingly demonstrated in the justice sector.

The component aims to realise the following:

- Gender and social inclusion are more explicitly addressed in the justice sector;
- Improved Continuing Legal Education programs (CLE) involving Solomon Islands Bar Association;
- Legal Professional Bill is implemented;
- Justice Information Management System (JIMS) is used widely and effectively and JIMS data supports decision making;
- Finance and human resources are better managed; and

- Better training, coaching and twinning in the sector

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#### ACTIVITY 4.1: GENDER AND SOCIAL INCLUSION

This is a cross cutting and thematic issue across all components. One full-time LTA will be based within the Management Office.

The Justice Program will work towards this position being a national position within an 18-month period. With this in mind during the recruitment process, an assessment should be conducted of the local, regional and international market for adequate skills. If an international gender adviser was recruited, then up to two national staff could also be employed from inception so that the capacity of the two national staff members could be increased, with a view to one or both of them ultimately taking over the role in the long term. The rationale for two local staff in this capacity is that having more than one extends reach and capacity from inception and heightens the chance of retaining at least one suitable candidate at the end of the 'training' phase (noting the difficulty of securing good quality staff from a small talent pool).

The LTA will:

- Work with all justice sector agencies to ensure that work undertaken, and policies developed acknowledge gender and social inclusion;
- Be the focal point for all work undertaken with the implementation of the FPA and assist justice sector agencies, including RSIPF, with any issues that arise from implementation;
- Be proactive in engaging with the Ministry of Women, Youth, Children and Family Affairs, and develop outreach and awareness raising activities for the implementation of the FPA;
- Support the justice sector with any issues that relate to gender equality;
- Work with Seif Ples to mentor the new management and develop strategies and training where required;
- Work with the Family Support Unit in the PSO and provide support to their work;
- Work with justice sector advisers on gender and social inclusion issues; and
- Engage with the Governance Program adviser, Police Development Program adviser and DFAT's gender and health programs to ensure all Australian aid supported gender and social inclusion work is coordinated.

Resources required for this activity:

- One full-time LTA.

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#### ACTIVITY 4.2: PROFESSIONAL DEVELOPMENT AND TRAINING

This is a component that works across all agencies within the justice sector. One LTA will be based within the Management Office. The Professional Development Advisor will work with the sector to identify appropriate training opportunities. Over the course of the program, we expect an evolution, with less fund dedicated to LTA, and increased funds dedicated to training and twinning.

The LTA will:

- Support training and professional development work undertaken across all justice sector agencies;

- Be proactive in engaging with justice sector agencies to develop appropriate training materials;
- Develop a working relationship with the Solomon Islands Bar Association and assist in the development of a continuing legal education program and mechanisms to promote professional ethics;
- Work with the Gender Adviser to support and review training materials that relate to gender and family based violence;
- Work with the justice sector to identify training opportunities and/or professional development plans for high calibre men and women who could be future leaders. This could include:
  - Twinning with the Northern Territory Justice Agencies;
  - Twinning program with Queensland Corrections; and
  - Support costs for pro-bono training from the Australian Government Solicitors and the Law Council of Australia
- Work with the justice advisers to develop activities as noted throughout other components.

Resources required for this activity:

- One full-time LTA.

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#### ACTIVITY 4.3: FINANCE AND BUDGET SUPPORT

The Finance and Budget Support LTA, based in the Management Office, will work across the justice sector agencies to support improved public financial management. Currently, a lack of budget planning, issues with budget execution and a range of other challenges limit the sector's ability to provide justice services.

The focus of this position will be on providing support and advice across all justice sector agencies, with a particular focus on improving links between the justice sector and MOFT. This position is also intended to assist the sector to liaise with central government agencies and Governance Program advisers on challenges with central financial systems and processes that are contributing to inefficiencies, and to work on appropriate solutions.

The LTA will

- Provide advice and support to counterparts to improve budget development and management. This will involve mentoring Financial Controllers through the Solomon Islands Government budget process and budget cycle;
- Provide strategic advice and support on financial management and oversight to the Permanent Secretary and Heads of Justice Agencies; and
- Advise on the development, implementation and continuous improvement of financial management systems and processes, with an emphasis on expenditure being used to promote service delivery.

Resources required for this activity:

- One LTA, a review of the suitability of this arrangement will be undertaken mid-term (two years).

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#### ACTIVITY 4.4: INFRASTRUCTURE ADVISER

An Infrastructure LTA will work across the justice sector providing assistance and support to ensure the appropriateness of infrastructure investments, maintenance and construction.

The LTA will:

- Work in ways that maximises capacity development of national staff at all times;
- Work with justice sector agencies to develop strategic plans for building and construction;
- Assist in developing maintenance schedules and work plans for buildings across the justice sector;
- Assist in developing financial plans and accountability for construction works and maintenance;
- Provide mentoring and develop the skills of local staff to enable them to take responsibility for some of the tasks;
- Ensure the potential effects of climate change are considered in all SIG Justice sector infrastructure projects;
- Ensure SIG Justice sector infrastructure projects are disability accessible; and
- Develop processes for whole of SIG input to the development of justice sector projects.

Resources required for this activity:

- One LTA over the life of the Program, though this should be re-assessed mid-term with a view to considering whether the inputs could be task focused, and capable of being converted to STA around particular projects, and that some work (i.e. planning, development of plans and schedules) can be undertaken remotely.

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#### ACTIVITY 4.5: JIMS TECHNICAL SUPPORT AND HELP-DESK

One LTA will be based in ICTSU to provide technical and implementation support for JIMS in Honiara and the provincial centres.

The LTA will:

- Work with SIG counterparts in ICTSU to build capacity to develop and manage JIMS;
- Work with users of JIMS to ensure they know how to use the system and its capabilities;
- Work with the users of JIMS to ensure that data entry is understood, and reports on data collection can be obtained;
- Install and maintain all necessary equipment, hardware and software;
- Identify risks associated with JIMS and plans to mitigate them. Risks may include needs for additional programming, managing add-ons, foundational requirements including internet and electricity, privacy, data security and level of buy-in by SIG individuals and agencies;
- Assist the Help-Desk in establishing support for JIMS;
- Work with the Professional Development Adviser for the development of appropriate training to be delivered to users of JIMS and ICTSU;
- Develop and disseminate recommendations on policies to incentivise the use of JIMS; and
- Coordinate with all other advisers working to support the implementation of JIMS across the Justice Sector, Governance and Police Development Programs to ensure activity alignment and efficiency.



A facility will be established within the current ICTSU Help-Desk for users of JIMS, with a particular focus for remote provincial centres that do not have easy access to IT support. A grant will be provided to the ICTSU in order to establish this position on the Help-Desk. The LTA will oversee this position to ensure it is providing an appropriate function.

Continuing programming support will be required for JIMS while it continues to develop functions and be rolled out in the provinces. A local contractor will be engaged to provide this support and develop the skills within ICTSU to provide this support in the long term.

Resources for this activity:

- One LTA, a review of the suitability of this arrangement will be undertaken mid-term (two years), a grant to the ICTSU (to be reviewed after the first year), and contractor support for ongoing development of JIMS.

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#### ACTIVITY 4.6: HUMAN RESOURCES ADVISER

One LTA will be based in the management office to provide support and assistance to the justice sector to improve human resource management practices by addressing issues including absenteeism, establishment management, workforce budgeting and employee/industrial relations.

The LTA will:

- Support heads of agencies to improve workplace culture and to reward and recognise motivated and dedicated staff. This will include providing advice on managing staff for high performance. They will also assist heads of agencies to implement development and promotion processes which are equitable, ethical and accountable;
- Support justice agencies to develop staff succession and workforce plans;
- Support and assist HR managers and corporate staff to establish and communicate clear roles and responsibilities between agencies and build effective relationships within the sector; and
- Support improved communication with central government agencies (particularly the Ministry of Public Service) on human resource management issues in the justice sector.

Resources for this activity:

- One LTA, a review of the suitability of this arrangement will be undertaken mid-term (two years).

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#### ACTIVITY 4.7: MONITORING, EVALUATION AND LEARNING UNIT

The Justice, Governance and Police Development Programs will adopt a joined MEL structure. The AFP will contribute one full-time officer for MEL, with the Justice and Governance Programs each contributing half of the costs for one additional MEL Specialist LTA.

Resources required:

- Co-Funding one full-time LTA for the life of the Program with the contribution from the Justice Program being 50 per cent.

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#### ACTIVITY 4.8 FLEXIBLE FUND

The Program will allocate a flexible pool of funding for ad hoc activities that are priorities for SIG and DFAT, but which do not fit the criteria for the innovation and research fund. Such ad hoc activities can create quick, tangible benefits for the sector (and goodwill between SIG and DFAT), often for little expenditure. Decisions on the use of the fund will be signed off by DFAT and SIG.

The amount allocated to the flexible fund in the indicative budget is low. However, experience shows that LTA costs are often underspent due to vacancies or recruitment delays. Any funds saved in this manner can be used to supplement the flexible fund.

Flexible fund activities may be implemented through SIG systems (provided the correct risk controls are in place) or via the managing contractor.

## 7. MONITORING, EVALUATION AND LEARNING

Monitoring, evaluation and learning (MEL) is an integral part of DFAT's approach to programming. DFAT has a number of guiding strategies which inform MEL, including the Gender Equality and Women's Empowerment Strategy 2016, Development for All 2015-20, and the Australian Aid Policy (*Making Performance Count: Enhancing the accountability and effectiveness of Australian aid* 2014).

This section sets out the foundations for an MEL Framework and Plan for the Justice Program, which will guide their completion during the inception phase of the Program. In addition to the above-mentioned strategies, the MEL Framework and Plan will be guided by the current SIJP Performance Assessment Framework, and the Solomon Islands Sector Assessment of Justice Monitoring and Evaluation 2016.

### PURPOSE

The primary audiences for MEL under this Program are DFAT management teams, the Program team and decision makers, and the relevant SIG agencies.

The MEL Framework and Plan will guide the measurement, monitoring, evaluation and learning activities for the Program. The purpose of the MEL Framework and Plan is to:

- **enable accountability** to DFAT (including reporting against the aid policy, on how the funding was invested and what it achieved) and inform SIG and DFAT of the Program's performance;
- **inform the on-going delivery of the Program**, including its strategic direction, activity profile and assessment of how the Program is positioned to engage and support SIG justice sector development; and
- **enable learning** from the Program to lead to improvements, by iteratively applying MEL understanding to inform the ongoing evolution of the Program. (Please refer to Chapter 3 Program Logic for further information on the proposed evolution of the Program).

### KEY EVALUATION QUESTIONS

Five key evaluation questions guide the MEL activities for Governance, Policing and Justice Programs. They have been developed to enable reporting on shared areas of interest (such as impact on the reach and quality of government service delivery) and concern (such as quality of technical assistance management). The key evaluation questions are:

1. **What impact is the Program having on government service delivery in the Solomon Islands?** (consider equity of access to services – geographic, gender and social inclusion – quality of services – timeliness, spread, and more);
2. **How well has SIG's capacity and credibility been built through the Program?** (consider organisational and individual capacity, the fact that capacity development is a process, and the performance of technical assistance);
3. **Is the modality for each activity appropriate** (consider if TA is building capacity as intended, are there options other than long term TA to achieve SIG's desired objective);
4. **In what ways is the relationship between SIG and the Australian Government changing?** (consider SIG ownership of Program activities and direction); and

**5. In what ways are the joined up approaches of the three programs adding value to the overall investment?** (consider efficiencies, effectiveness, other benefits/challenges).

During the process of developing the MEL Framework and Plan, additional questions and/or sub-questions may be identified.

## PRINCIPLES

The following principles inform the way in which the MEL activities should be planned and delivered:

1. **Socially inclusive:** to enable data to be collected, analysed and reported disaggregated by gender, age (that is – recognising impacts on youth and children),<sup>12</sup> people with disability and provincial reach. MEL activities should be conducted in a gender and socially inclusive and sensitive way. This means recognising the power dynamics, enabling participation of women and others and ensuring that people are not adversely affected by taking part in the MEL activities;
2. **Adaptability and flexibility:** to be able to change in light of the evolution of the Program and integration of new opportunities, and to respond to SIG requests for evidence; and
3. **Learning focused:** ensuring that M&E contributes to learning and supports Program evolution.

## PERFORMANCE MEASURES

The MEL Framework provides a series of potential indicators to track Program performance for the Justice Program. The Performance Measures identified here contribute to high level effectiveness and management indicators. These proposed indicators should be adjusted during the development of the MEL Framework with a view to ascertaining the most efficient and effective method for tracking the performance and impacts of the Program. In addition, indicators and measurement methods will need to be developed for the end of program outcomes.

Data sources and measurement methods for these performance indicators will be articulated in the inception phase as part of the elaboration and development of the MEL Framework. They are likely to include:

- ICTSU collected data regarding JIMS usage;
- Program TA assessments;
- Progress against capacity building plans;
- National Development Goals Tracker (Pilot) Survey (see Governance Design);
- RSIPF community survey (see Police Development Program);
- Justice agency records (e.g. court records);
- Annual assessment of selected budgets;
- MOFT reports on financial tracking;
- HR data (e.g. vacancies, status of women, performance, etc.) from all justice sector agencies; and

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<sup>12</sup> Some agencies in the Solomon Islands' justice sector are already disaggregating data by age, and is being analysed by donors like the United Nations (UN Women) recognising the importance of understanding impacts on various demographics.

- Family Protection Act statistics.

These, and potentially other, data sources will be supplemented by the Program evaluation activities and those of the Governance and Police Development Programs. Please note that indicators may vary from agency to agency and program component to program component. For example, where number of cases may be an effective indicator for demonstrating justice administration outcomes, qualitative indicators may be preferable in some instances. This should be carefully determined during the development of the MEL Framework and Plan.

Table 1 below sets out the Results Framework. Each Performance Area relates to the End of Program Outcomes (EOPOs) set out in the Justice Sector Program Logic. These EOPOs relate to Justice Agency Strengthening, Legal Policy and Legislation, Access to Justice and Whole of Sector Strengthening align with the SIG Justice Sector Strategic Framework 2014. The subsequent development of the MEL Framework and Plan must take account of relevant agency corporate plans and priorities.

**Table 1: Results Framework**

| Performance area  | Indicators   |
|---|--|
| <b>Justice sector agencies are increasingly capable of delivering core services</b>   | <ul style="list-style-type: none"> <li>• Number of cases disposed of, disaggregated by location</li> <li>• Average time taken to finalise cases</li> <li>• Evidence of organisational capacity</li> <li>• Length of stay for prisoners on remand</li> <li>• Recidivism rate</li> </ul>   |
| <b>Legislation is supported by sound policy development, is clearly written and well understood</b>                                 | <ul style="list-style-type: none"> <li>• AGC produced legislation independent of LTA</li> <li>• Regularity and quality of JSCC meetings</li> <li>• User satisfaction with AGC advice</li> </ul>  |
| <b>Solomon Islanders have improved access to justice</b>  | <ul style="list-style-type: none"> <li>• Population satisfaction rates over time; population reports on frequency and quality of contact with justice services</li> <li>• Number of court sittings that proceed as scheduled (local and circuit)</li> <li>• Number of police safety notices, and protection orders issued under the FPA</li> </ul>   |
| <b>Good practice in leadership, decision-making and public sector management is increasingly demonstrated in the justice sector</b> | <ul style="list-style-type: none"> <li>• Number of position vacancies in sector, and time to fill</li> <li>• Number of JIMS system users per year</li> <li>• Quality and use of government agencies data and extent of disaggregation</li> <li>• Number of women in senior management</li> <li>• Average levels of education and training, and uptake of Continuing Legal Education</li> </ul> |

## APPROACH

Implementing the MEL Framework and Plan will be the responsibility the joint program MEL Unit. The MEL specialist will coordinate existing data sets and baselines study to inform the final MEL Framework and Plan. MEL needs of the Justice Program will span multiple agencies and involve

multiple audiences (Government, individuals, communities and civil society). This means that the Results Framework Performance Area indicators will need adaptation to specific agency and activity.

As part of the development of the MEL Framework and Plan, the MEL Unit will review the Justice Sector Results Framework to ensure its ongoing relevance to both SIG and Australia. Once finalised, the MEL Unit will develop the collection, collation and analytical tools that will be used, ensuring maximum cross-program efficiencies and synergies can be achieved. The design and implementation of data gathering tools will require the input of technical advisers across all three programs, and their support in embedding and monitoring their usage in counterpart institutions.

The development of the MEL Framework will likely identify data gaps; these could be addressed through additional research projects managed by the MEL. For example, the MEL unit could manage a number of targeted community perception surveys over the life of the program to measure improvements in service delivery.

The MEL Unit will draw on the MEL outputs (data, results, findings, reports, etc.) produced under the three programs to provide progress reports, undertake trend analysis, and also feedback to SIG and Australia to help inform future decision making.

It should be noted that it is essential that all MEL activities are selected, designed, delivered and reported in a socially inclusive and gender sensitive way. It is expected that the monitoring and evaluation results and findings will enable reporting on the impacts of the Program on all program participants, including socially excluded groups, young women and men, women, people with disabilities and others.

The evidence produced from the implementation of the Results Framework will be supplemented by a mid-term review. The mid-term review should be led by an independent individual/team but include Program staff and at least one MEL Unit staff member. In addition, the MEL Unit may put forward a case to team leader(s) to fund targeted evaluations on specific issues or interventions. For example, an evaluation of the performance and potential for improvement of technical advisers is an area of interest for all three programs and may be the subject of an independent review (or similar).

The focus for any targeted evaluations (case studies, reflection workshops, pilot evaluations) should be discussed and agreed by the three programs through the MEL Unit. The selection for the focus of these evaluations should be informed by selection criteria that benefit the Program as a whole.

Any problems with data collection should be visible through the reports provided by advisers to their respective managers (as set out in the reporting section of this Design) and addressed collaboratively between the Program advisers, counter-part agencies, and the MEL Unit.

The Head of Program will include MEL data in each six monthly report, and as required, will share data with DFAT between six monthly reports. This reporting will allow the Program to make adjustments to changes in contexts, the relationship with SIG and to effectively performance manage the contracted TA. Furthermore, the monitoring activities will need to be set up to allow for monitoring data to be produced in a disaggregated way.

Please refer to Program Cycle Key Dates in Part 8 (Implementation Arrangements) for additional relevant reporting requirements.

## LEARNING

Drawing on the results and findings produced by the MEL Unit, the Program team, DFAT managers, and the Joint Steering Committee will be in a position to reflect on the following areas:

- What is working and not working, in relation to how the programs are engaging with SIG, recruiting and managing technical assistance, etc.
- What is being learnt about SIG, in relation to its capacity, need and support for the Program, etc.
- How does the Program need to be working differently to be more effective and efficient, and working more effectively with other Australian Government investments?

The MEL Unit reports to the Steering Committee (six-monthly) and the Advisory Committee (annually) will include recommendations for Program changes where these are necessary, for example, where progress is less than anticipated a new approach to triggering reform may be required. Learning through MEL will be fed into the Program in the following ways:

1. The MEL Unit **reports will be tailored** and provided to SIG counterparts to ensure broad-based learning across the programs. Non-traditional approaches will be utilised to ensure good uptake of the information, including **briefs, snapshots, case studies and info-graphics**. The MEL Unit will also **host an annual outcomes presentation** that provides audiences with evidence and analysis emerging from data and encourage dialogue. Key products could be produced for the public and/or media (with SIG's approval) to better inform public discussion about the justice sector, key achievements and remaining challenges.
2. The MEL Unit will, in addition to providing data and analysis on a regular basis (as set above), will conduct regular **Reflection Workshops** with key Program staff/advisers and their counterparts (where appropriate). The Reflection Workshops will provide an opportunity for whole of Program learning and will therefore draw upon the MEL information to date. They will also facilitate a solutions-orientated approach to addressing the priority areas that have emerged through M&E data and analysis – leading to action points that will be taken up by nominated person(s) responsible. It is anticipated that Reflections Workshops will occur annually. Throughout the life of the Program 'once-off' workshops may be implemented to address specific issues and areas of concern. For example, an annual Reflections Workshop on the implementation of the FPA may assist in joint problem solving.
3. Learning through MEL outputs and activities will support adaptation of the programs over time, enabling the programs to learn and evolve over their four-year life. This current Investment Design Document represents a design appropriate for the first 12-18 months of the Program cycle – emphasising the need for continuity and mitigating risks associated to implementing too much change too quickly, which may have a negative impact on the sectors. However, the programs must slowly evolve to continually make the shifts discussed in this design document. The mechanism proposed to enable this shift to occur is an augmentation to regular DFAT AQC.

The Program can utilise the AQC effectively by undertaking a facilitated workshop process that includes (in the first instance) DFAT, AFP, AGD, the Program team leadership and the MEL Unit. DFAT may also choose to invite key senior stakeholders from SIG to participate. The objectives would be to:

- review the Program utilising evidence and analysis produced through the MEL Unit;
- agree on ratings and justifications to be included in the AQC; and
- develop recommendations to guide the next phase of implementation.

This workshop should be held prior to the Annual Planning process, so that outcomes inform the annual plan which will operationalise the changes.

The Program Logic framework provides a pathway from the end of program outcomes, to outputs and inputs. The heads of the respective programs will be responsible for ensuring that each of the Program inputs (whether they be technical advisers, grants, research or other), has a clear Terms of Reference that links the required outputs to the End of Program Outcomes, and makes clear the pathway to the end of the program outcome. Terms of Reference will also be used to support the Program delivery approach, including by ensuring technical advisers pay attention to the quality of their relationships and diversity of their approaches to capacity development.



## 8. IMPLEMENTATION ARRANGEMENTS

This section outlines the implementation arrangements for the Justice Program, including budget requirements, resourcing requirements and governance arrangements.

### BUDGET

The budget for the Justice Program will be AUD32 million, approximately AUD8 million per annum over four years. In addition to the four components that make up the Program, budget allocations are included for the establishment of a MEL unit (within Program Management) as well as management fees. The primary modality for expenditure is the use of LTA and STA to provide strategic and embedded advice to agencies, oversee key activities, and in limited circumstances occupy inline positions.

**Table 2: Summary Budget**

| Program Component                             | Indicative cost (AUD) over four years |
|---|---------------------------------------|
| Component One: Justice Agency Strengthening   | \$7,620,000                           |
| Component Two: Legal Policy and Legislation   | \$3,090,000                           |
| Component Three: Access to Justice            | \$5,810,000                           |
| Component Four: Whole of Sector Strengthening | \$9,280,000                           |
| Program Management and MEL                    | \$6,300,000                           |
| <b>TOTAL</b>                                  | <b>32,000,000</b>                     |

The budget is designed to include enough flexibility to respond to emerging risks and opportunities, and to assist the evolution away from LTA

As discussed in the Program Logic and Outcomes section, the program will transition over the life of the program. The joint DFAT and AFP Steering Committee, the Program Advisory Committee, and the reflection workshops all provide opportunities to drive program evolution. The mid-term review will consider all aspects for the program and consider whether a different program contracting mechanism would be more effective. The mid-term review will coincide with a formal assessment of LTA positions, to see which can be phased out. Depending on the changing operating context, we intend that over time the Justice Program have will have less focus on components one, two and four, and greater focus on component three.

## GOVERNANCE AND MANAGEMENT ARRANGEMENTS

### PROGRAM MANAGEMENT STRUCTURE

The Governance, Police Development and Justice Programs will be governed by a joint high level AFP and DFAT Steering Committee, and informed by an Advisory Committee consisting of senior SIG officials.

At the Program implementation level, the Program will be overseen by DFAT via a contractual relationship with a managing contractor, led by a Head of Program. The Head of Program will be responsible for overseeing Program implementation in an effective, timely and efficient matter. The Head of Program will be directly responsible for the Innovation and Research Initiatives oversight and will work with the Governance and Police Development to provide strategic direction to the operations of the MEL Unit.

The Head of Program will be supported by a Deputy (who, subject to availability of an appropriate candidate, will be a Solomon Islands national) and operational staff as required, including for functions such as communications, security, finance, project management and other regular Program needs.

The Head of Program, program staff and advisors, will be recruited through the Solomon Islands Resource Facility (SIRF). More detail on the respective roles of the Head of Program, program office, DFAT and SIRF are below. While the Head of Program will provide strategic advice, DFAT has responsibility for the program strategy. DFAT is ultimately responsible for ensuring that the mix of activities will lead to the program outcomes.

This is appropriate because issues around law and justice can be sensitive and, at times, highly political. Understanding the political dynamics, and how these impact on opportunities is critical to the overall strategy of the Program. Understanding, and engaging with, these political dynamics is core business for DFAT, and this will be increasingly important as RAMSI departs. Therefore, it is not effective or efficient for the Justice Program to be wholly outsourced to a managing contractor at the commencement of the Program.

This model has resource implications for DFAT and continual assessments will be made to ensure that this model continues to be the best approach, given the political complexities, and Post's resources. This will be a key question in the proposed mid-term review of both the Governance and Justice Programs.

### PROGRAM MANAGEMENT STAFF ROLES AND RESPONSIBILITIES

The **Head of Program** is responsible for all aspects of Program implementation and achievement of outcomes. They will be responsible for high-level management of the Program and TA; liaison with DFAT and SIG; and delivery of timely and high quality strategies, plans and reports.

The position will manage the team of advisers, ensuring they are well supported in their role, are engaged in whole of Program strategy development and continuous professional development, and have opportunities for reflection and forward planning.

The Head of Program should have experience in justice development, highly developed skills to work collaboratively with counterpart governments, and exceptional adviser management skills. Head of Program must:

- Build strong relationships with DFAT, AFP and SIG;
- Ensure processes for lessons learned, reporting and sharing information;
- Bring coherence and collaboration to the Justice Sector Program as well as across all three programs; and
- Embed processes for strong communication and collaboration with SIG counterparts, providing opportunities for regular consultation, sharing of information, strategy planning and planning for innovation and opportunities.

The **Deputy** will support the Head of Program in implementing and managing activities to keep them on track to ensure the Program achieve its outcomes. The Deputy will ensure the achievement of quality results in a timely manner; build and strengthen relationships between the Program staff, DFAT, AFP and SIG counterparts; support monitoring, evaluation and learning activities across the Program; and coordinate annual planning and reporting activities. They will:

- Maintain strong relationships across the Australian Government portfolio of programs to ensure the Justice Program is supporting them to achieve their outcomes;
- Support Innovation and Research activities including by working with the Governance and Police Development Programs to identify concepts, and working with SIG and other stakeholders to design the approved activities;
- Facilitate cross-program learning and professional development, particularly in relation to effective capacity building methods;
- Build relationships between the Program and other stakeholders such as civil society organisations, universities and so forth; and
- Facilitate and find solutions on specific issues and problems, and manage Program risks together with the Head of Program.

The **MEL Unit Specialist** will work collaboratively with the AFP MEL Officer to jointly develop the MEL Framework for all three programs, and support its implementation across the programs. The MEL Unit Specialist will support knowledge generation and sharing with target audiences including SIG, advisers and DFAT.

They will promote an evidence-based learning culture throughout the Program and with SIG; undertake reporting and ensure the data needs of key stakeholders are met, including disaggregated data; ensure key principles underpinning the MEL approach (see MEL section) are adhered to at implementation; and identify key evaluations that promote the development outcomes of the Program. The MEL Unit Specialist will also take responsibility for ensuring results related to gender equality; social inclusion and diversity are systematically captured and reported.

The program office may require **local staff** to assist to manage day to day implementation of the Program.

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## DFAT ROLES AND RESPONSIBILITIES

DFAT will have responsibility for the strategic direction of the Program, strategic relationship with SIG and AFP, and monitor Program performance. DFAT's role includes:

- developing and maintaining relationships with senior SIG personnel, working together to negotiate strategic direction of the Program;
- managing contractual arrangements;
- liaison with global and thematic areas of DFAT, other Posts and whole of government;
- developing global policy and strategic direction for the Program in alignment with the Department's and SIG's priorities and policies;
- contributing to and approve all strategy and planning documents, budgets, etc.
- contributing to MEL and manage independent reviews and evaluations;
- trouble-shooting on security, adviser performance, and relationships; and
- liaison and relationships with political stakeholders.

DFAT will facilitate joint GoA/SIG annual planning processes, and ensure SIG involvement in Program decision making throughout the life of the Program.

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## SOLOMON ISLANDS RESOURCE FACILITY

DFAT has established a Solomon Islands Resource Facility (SIRF) that can recruit, mobilise, contract and provide support services for TA for programs. The Facility is also able to support DFAT with small scale procurement for programs. The current SIJP advisers are all recruited and contracted through SIRF. DFAT currently envisages recruiting the Head of Program, Deputy and all other advisers through SIRF.

Over the course of implementation, DFAT will continually assess if the Program management structure (including involvement of SIRF) is appropriate or could be improved. Key points to assess this will be at the facilitated reflection workshop as part of the AQC process (discussed above).

SIRF, through either Facility staff or Head of Programs, will:

- manage the recruitment, mobilisation, training and in-country management and support for advisers;
- ensure compliance with DFAT policies and Program standards;
- develop (with DFAT and SIG input) the full suite of required strategies, plans and reports that are detailed in this design;
- provide ongoing operational, logistic and technical support to advisers;
- develop and manage the budget and allocation of funds; and
- provide support for annual planning processes, events, monitoring visits, etc.

Efficient and fit-for-purpose systems and processes will be adequately resourced to deliver quality human resource management, administration, finance, grants, logistics, security and marketing and communications. DFAT will consider ways to incentivise SIRF performance, possibly through performance payments.

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## REPORTING

The reporting cycle for the Program will be determined by DFAT. An indicative outline of key reports is as follows:

### **Progress Reporting**

Progress reports will be submitted six-monthly, aligned with the annual planning processes to ensure information and learning is used to inform the Annual Work Plan. Progress Reporting will address Key Evaluation Questions as set out in the MEL Framework and Plan.

Progress reports will include the following:

- Highlights from previous period;
- Update on progress against the Annual Work Plan targets;
- Progress against the Performance Indicators (see MEL section) and analysis demonstrating progress towards outcomes including:
  - Achievements against capacity building plans;
  - SIG systems and process strengthening achievements;
  - SIG service delivery outside of Honiara (increases / decreases and why);
  - SIG cross-agency coordination and collaboration;
  - Diversity and inclusion data;
- Health checks on the relationships with SIG counterpart ministries and agencies;
- Innovation and Research Initiatives and outcomes;
- Risks and Mitigation Strategies;
- Future directions; and
- Financial report.

Progress reports will include data broken down at annual and six monthly intervals.

### **Adviser Reporting**

Advisers will be required to submit reports at regular intervals (to be determined by DFAT and the Head of Program). The reports will outline, among other things, key achievements against the assignment Terms of Reference, challenges, opportunities (including innovation), lessons learned and recommendations for future directions. This information will guide ongoing support and inform on changes in approaches to implementation and planning for future assignments. At least once a year, a summary adviser report developed in consultation with SIG counterparts will be submitted that includes references to gains made against capacity development plans.

### **SIG Inclusive Reporting**

Although SIG is not obliged to report to DFAT on the Program, it is advised that SIG be invited to conduct regular health checks of the relationship between SIG and advisers, and be formally invested to provide an update and regular progress report to DFAT regarding the Program. This will assist in ensuring SIG has formal input into the ongoing management and direction of the Program.

### **Financial Reporting**

The Head of Program will provide DFAT with regular financial updates to enable ongoing up-to-date management of expenditure and forward commitments.

## **TRANSITION, INCEPTION AND IMPLEMENTATION**

### **TRANSITION STAGE**

The transition to the new Program must be as smooth and seamless as possible. A decision as to which positions, if any, will be novated to the new Program is yet to be taken (and will be informed by DFAT procurement processes and consultations with SIG).

The aim of a seamless transition is that there should be no gap in support to SIG.

DFAT intends to recruit the Head of Program in early 2017, to cover the last months of the existing SIJP and then carry over into the new Program. The Head of Program can then assist with the transition, liaise with SIG on ToR for new LTA, and assist with recruiting the LTA/STA team.

The Program would plan LTA recruitment in early 2017 and aim to have as many LTA as possible in place by 1 July 2017. The Head of Program will engage with SIG to agree the Terms of Reference of all advisers.

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## INCEPTION & PLANNING

The Head of Program will develop:

- MEL Framework and Plan (led by the MEL Unit);
- Gender and Inclusion Strategy (with the Gender Adviser);
- Annual Work plans (with advisers);
- Capacity Development Change Management Plan (see Annex E for more detail); and
- A risk management process linked to the risk register at Annex C.

These documents may involve a series of planning workshops and roundtables. The outcome will be to agree the strategic direction for the Program and a pathway for implementation, and immediately will set the tone of the relationships moving forward. The Inception phase process will be governed by the following overarching principles:

- Transparency and integrity;
- Listening and understanding SIG perspectives;
- Working together to develop an inception and implementation program, with agreed outcomes, plans and delivery strategies;
- Focus on cross justice sector agency collaboration so that all seven agencies are involved throughout the process; and
- That personnel from senior executive, senior, middle and operational level are involved in the processes at relevant and appropriate stages.

It is hoped that this will assist and support the justice sector agencies to develop shared visions and goals and to draw them together to enable closer collaboration between each other and with the Program.

## 9. RISK MANAGEMENT

The Justice Program works close to the heart of government in Solomon Islands and therefore in an inherently politically sensitive context. As mentioned above, the challenge of coordination amongst SIG's justice agencies is complex, and the Program risks identified in the risk matrix will need ongoing scrutiny and careful management. This section outlines some key risks faced by the Program. Please refer to Annex C for a full list of risks, implications and proposed treatment options.

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### POLICY COHERENCE AND POLITICAL INTERFERENCE

A key risk identified in the risk matrix relates to the potential for political decisions to interfere with decision making in the law and justice sector. A lack of policy coherence in decision making may also create disincentives to achieving the outcomes identified and agreed in the Justice Program. Poor, unrealistic or inconsistent policymaking is a risk.

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### FRAUD

Fraud against the Australian aid program remains a risk in Solomon Islands although controls in place over recent years and particularly since 2013 appear to have been effective in mitigating this risk. DFAT's Aid Investment Plan for Solomon Islands identifies fraud as a key risk and this will remain one of the key focus areas for the Justice Program. Please see 'Safeguards' for further information about fraud controls.

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### HEAVY RELIANCE ON ADVISERS

At the Program level there are a range of (both generic and specific) risks in managing a large pool of in-country advisers whether short term or long term. These risks can be classified into the following categories:

- Performance (the risk that advisers under-perform in the key task of capacity building);
- Coherence (the risks that advisers, or adviser teams, do not coordinate adequately across programs); and
- Behaviour (the risk that personal conduct issues damage relationships, or the reputation of the program or of Australia).

The MTR refers to the difficulty in either moving on or responding to underperforming advisers. This is a complex risk and requires specific attention. In some situations, the issues will be varied, for example:

- Lack of clear direction from management;
- Lack of clear lines of authority and accountability;
- Lack of clearly defined person specifications, and roles and responsibility;
- Lack of a direct counterpart for capacity development;
- Poor communication re change of reform agenda such that advisers needed to change how they work;
- Change in performance managing not communicated to key managers; and
- Relationship between DFAT and SIG deteriorated and therefore impacted on the work of the advisers.

The primary purpose of advisers, in most cases, is to do themselves out of a job – to develop capacity such that their role is no longer needed. This will be reflected in all terms of reference and recruitment processes.

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## CHANGES IN LEADERSHIP

Whilst it is not within the scope of the Justice Program to mitigate, a significant contextual risk relates to potential changes in the leadership of crucial interlocutors for this Program. Changes to justice sector agency leaders who currently drive and support Program elements are possible. So too are changes in the judiciary and also at the political level given the ever present potential for votes of no confidence and shuffling of ministerial portfolios.

Changes in leadership may impact the Program's ability to sustain momentum and buy-in from crucial interlocutors, and ultimately impact the ability of the Program to achieve its outcomes and the changes intended. To mitigate this risk, active and outreaching donor coordination will be needed and deliberate expansion of Program relationships will safeguard against crucial SIG and judicial leaders no longer being involved in the sector.

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## IMPLICATIONS FOR THE PROGRAM

- Senior Program staff must be politically sophisticated and nimble. Simple technical proficiency may be necessary but it is not likely to prove sufficient alone, especially at the more senior levels;
- Relationships between Program staff (advisers), Program management and the High Commission must be open and based on high levels of trust and information exchange. Advisers working in senior positions should be managed at a strategic, not a day-to-day level. Their roles will be dynamic and whilst their Terms of Reference should clearly stipulate performance expectations, it is expected that they will also be opportunistic in identifying potential quick wins and long term strategic endeavours as they emerge in this dynamic environment;
- Expectation of the mandate, performance and behaviour of advisers must be made clear by Justice Program leaders. This includes in relation to the shift of emphasis away from in-line towards capacity building, as well as in relation to protecting the reputation of the Program and Australia Government more broadly;
- The Program should focus on realistic and achievable objectives; and
- An element of flexibility and adaptability is included in the Program design and budget to allow it to respond to opportunities as they may arise over time. What is not politically possible today may be possible in two or three years' time.



## 10. SUSTAINABILITY

This section should be read in close conjunction with the section on Risk.

The sustainability of change brought about through the Justice Program cannot be assumed; it will depend on the following factors:

- Commitment and buy-in on the part of the SIG (at both the political level and the public service, and police and National Judiciary). SIG commitment (or lack thereof) may manifest in a variety of ways: the absence of support for policy/legislative reform; failure to provide financial resources to support otherwise declared policy priorities; failure to fill critical public service vacancies; failure of appropriate support and resources for legislative and legal policy reform, failure to relate to and with DFAT and/or adviser, failure to cross justice sector agencies to work together and support each other;
- Appropriate programming on the part of the Australian aid program: change will not be sustainable if solutions are not appropriate to the Solomon Islands context. That is, solutions cannot be over-elaborate, overly-dependent on adviser input, or implemented in isolation from political realities. Such solutions are easily dismantled or ignored;
- Poor quality or inappropriate skilled and experienced advisers will result in a poor relationship with SIG and the justice sector, and further a lack of well driven and organised programs and activities. This could result in poor outcomes. The inclusion of a Head of Program, and a range of Whole of Sector Strengthening advisers, is designed to build and maintain effective relationships with SIG, to ensure the performance of advisers is optimal, and to ensure the Program is working in a unified approach towards sector strengthening; and
- Managing expectations is important to maintaining momentum. Development is rarely if ever linear. It is therefore not reasonable to expect significant improvements across all outcomes and justice sector agencies, at all, and certainly not at the same time, or in similar stages of development. It may well be that improvements will be variable both within agencies and across agencies. The Program has been designed for flexibility so that it can respond to varying rates and directions of progress.

## 11. GENDER AND SOCIAL INCLUSION

The Australian Government Gender Strategy establishes three priorities that will guide the Program's work on gender equality:

- Enhancing women's voice in decision making, leadership and peacebuilding;
- Promoting women's economic empowerment; and
- Ending violence against women and girls.

The Justice Program will work with Police Development and Governance Programs to support SIG's implementation of the Family Protection Act via coordinated Program implementation. There is currently a SIG Implementation Working Group chaired by the Commissioner of the RSIPF, attended by representatives from all agencies who are involved in the implementation of the FPA. This provides a solid basis on which to proceed.

Other SIG Gender and Social Inclusion laws, policies and plans include the following:

- Solomon Islands Gender Equality and Women's Development (GEWD) Policy (2010) – under review;
- Solomon Islands Ending Violence Against Women Policy and Plan (2010) – under review;
- National Strategy for the Economic Empowerment of Women and Girls (2015) ;
- Solomon Islands National Youth Policy (2010);
- National Policy on Disability Inclusive Development (2013-2018) – awaiting Cabinet endorsement; and
- National Action Plan Against Human Trafficking and People Smuggling 2015-2020 – currently being drafted.

This new design for the Justice Program has included a whole of sector gender adviser who will take responsibility for working with each of the justice sector agencies to understand gender and social inclusion issues, and to take action to improve outcomes.

It should be noted that if the Child and Family Welfare Bill 2013, The Penal Code (Sexual Offences) (Amendment) Bill 2015 and the Juvenile and Youth Offenders Bill are passed they may also present possible entry points.

## 12. PRIVATE SECTOR ENGAGEMENT

The limited functionality of the legal system is a constraint on economic growth. The MTR noted the following:

*“Private-sector representatives explained how they required certainty that disputes would be addressed in an effective and timely manner. All respondents noted that this was not currently likely in Solomon Islands. Small-scale business owners spoke about the difficulty of accessing police and then the long time it takes to settle criminal issues such as robbery and assault through the court system.”<sup>13</sup>*

Effective civil and administrative procedures enhance investor confidence, particularly in relation to contract enforcement and transparency in government licence processes. Without sufficient capacity to engage in reliable, accessible and transparent commercial mediation and arbitration, businesses often identify operating in jurisdictions where the rule of law is weak as an impediment to business that is serious enough to undermine incentives to invest. Failures of law and order in the criminal system increase the cost of doing business in developing jurisdictions and further undermine investor confidence.

The current civil society and private sector in Solomon Islands is reasonably nascent. DFAT has invigorated attention to private sector development and economic growth and will be directing more funds towards these objectives over the coming years.

Further comments made in the MTR noted that land disputes were one of the most significant barriers to lawful and sustainable resource development, that Rennell was a “powder keg,”<sup>14</sup> that service delivery to citizens and the private sector was insufficient, and that the future programs should give careful consideration to the role of law and justice in nation building, and in so doing should engage with the private sector.<sup>15</sup>

The opportunities for the Justice Program to support the economic growth agenda are numerous and will require that the respective team leaders of each program include cross-program objectives and work-planning to ensure this is implemented. Specific opportunities to explore include

- Supporting the development of relationships between formal State justice institutions and non-State justice organisations including the South Pacific Lawyers Association, Solomon Islands Chamber of Commerce and Industry, and legal professional development bodies; and
- Supporting Solomon Islands institutions to engage with the private sector on specific projects so as to gain access to knowledge and increase trust and engagement between the State and business sector. For example, where law reform has business implications, significant focus should be placed on adequate policy consultation or where prosecutions or investigations may involve financial crime, relationships should be developed with banks and other financial entities who are the gatekeepers of evidence and deterrence.

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<sup>13</sup> Mid Term Review of the Solomon Islands Justice Program (August 2015), p. 11

<sup>14</sup> Ibid p. 19

<sup>15</sup> Ibid. p. 35

## 13. SAFEGUARDS

DFAT Safeguards for the Australian aid program are applied to environmental protection, displacement and resettlement and child protection. The Program will need to remain cognisant of, and to adhere and apply these safeguards. Program management will refer to the DFAT website for the most up to date versions of DFAT Safeguards.

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### CHILD PROTECTION

The Justice Program will apply the Australian Government Child Protection Policy for the Australian Government's aid program, originally released January 2013 and reprinted June 2014, and any updates released throughout the course of the Program.

The Child Protection Policy applies to all contractors and agencies funded by the Australian Government aid program. The Policy recognises the shared and collective responsibility of all adults to prevent child exploitation and abuse and DFAT's own responsibilities as the Australian Government's overseas aid agency, to working with its partners to prevent and respond to child exploitation and abuse.

It further recognises that child sex offenders often seek employment or volunteer placements in organisations that work with children in Australia or overseas in order to access vulnerable children and therefore the policy is designed to protect children across the world from (or from further) exploitation and abuse and sexual, physical and psychological violation.

The goal of the policy is to protect children from exploitation and abuse of all kinds in the delivery of Australia's overseas aid program.

The guiding principles of the policy are:

- Zero tolerance of child exploitation and abuse;
- Recognition of the best interest of the child;
- Sharing responsibility for child protection;
- Risk management approach; and
- Procedural fairness.

The Justice Program is obliged, under DFAT's Child Protection Policy, to have a DFAT compliant child protection policy. It currently consists of nine standards that provide a framework for managing and reducing the risks of child exploitation and abuse. The policy applies to any managing contractor as well as its personnel, partners and subcontractors who are using DFAT funds.

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### DISPLACEMENT AND RESETTLEMENT

The Justice Program will be required to adhere to DFAT's Displacement and resettlement of people in development activities, July 2015 (or its subsequent updates). Displacement may be physical or economic, and may occur as a result of development activities such as the building of economic or social infrastructure.

Displacement occurs where ever communities are required to move, or when their access to land is restricted, as a consequence of the activity. Resettlement of affected communities to alternative locations needs to be well planned and supported in order to ensure positive outcomes. Appropriate

risk assessments and mitigation measures need to be in place in order to ensure positive outcomes for vulnerable people who may be affected by the activities, directly and indirectly.

Although it is not envisaged that the implementation of the Justice Program will result in displacement and resettlement, it will need to be mindful of, and adhere to, the DFAT guidelines.

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## ENVIRONMENTAL PROTECTION

The Justice Program must comply with DFAT's Environmental Protection Policy (November 2014) and any updates (see DFAT's website). The Australian aid program and its activities are obliged, under the Environment Protection and Biodiversity Conservation Act, 1999 ('the EPBC Act') to consider whether overseas work will cause, or may be likely to cause, a significant impact on the environment, and take steps to avoid and/or mitigate any negative impacts. Under the provisions of the EPBC Act, potential significant impacts on the environment from the implementation of the Australian aid program must be diligently assessed and managed as prescribed under the EPBC Act.

Policy Principles for Environment Protection under the Australian aid program include the following:

- Principle 1: Do no harm;
- Principle 2: Assess and manage environmental risk and impact;
- Principle 3: Disclose information transparently;
- Principle 5: Work with partners; and
- Principle 6: Promote improved environmental outcomes.

The Justice Program is not likely to have environmental impacts through its activities.

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## FRAUD CONTROL

The Justice Program must comply with DFAT fraud control policy. DFAT has a policy of zero tolerance approach towards fraudulent and corrupt activity or behaviour. This applies to departmental staff (including locally engaged staff at overseas posts) and external parties that receive Australian Government funds, including all aid program funds. Accordingly, the policy applies to contractors, third party service providers, partner governments, multilateral organisations, non-government organisations and other funding recipients.

Fraud is defined as 'dishonestly obtaining a benefit, or causing a loss, by deception or other means.' This definition extends beyond the legal definition of fraud to include benefits obtained that can be both tangible and intangible. It thus encompasses activities or behaviours broader than the misuse or misappropriation of monies or assets.

Examples of fraud include:

- Misappropriation of funds;
- Altering documents;
- Falsifying signatures;
- Misuse of Commonwealth assets;
- Providing false information to the Commonwealth;
- Unauthorised disclosure of confidential information;
- Theft of aid program funds or assets
- Bias, cronyism or nepotism.

A key obligation of DFAT staff and aid delivery partners is to report without delay all cases of attempted, alleged, suspected or detected fraud and corruption. All cases of fraud and corruption are handled in a confidential, prompt and professional manner. The Justice Program will ensure that all advisers and staff are made aware of the Fraud Control policy.

## ANNEX A: DETAILED DEVELOPMENT PROBLEM / ISSUE ANALYSIS

This Annex contains a detailed analysis of the issues facing the Solomon Islands justice sector, based on the design mission and relevant literature.

## JUSTICE AGENCIES DELIVERING THEIR CORE FUNCTIONS

## COURTS

**Case delays**

A key problem is the large, and growing, backlog of cases, caused by case delays. Adjournments are common – lawyers claim listing practices are poor and magistrates lack confidence to decide matters; magistrates claim lawyers appear unprepared or do not appear at all.<sup>16</sup> Backlogs lead to prisoners being on remand for longer periods than is necessary. The limited use of Civil Procedure Rules makes it difficult for Magistrates to properly coordinate cases.<sup>17</sup>

The Honiara Magistrates Court Registry experiences significant administrative and capacity challenges<sup>18</sup> relating to filing documents, providing advice on court process, understaffing and absenteeism. The Magistrates Court User Survey 2015 reported that most respondents wanted to see improvements in registry processes, and court processes and facilities. During the design process, it was positive that a number of members of the Magistracy are committed and eager to improve the Registry. There are also positive and encouraging improvements in the High Court and Court of Appeal. These courts sit regularly in Honiara and the Registry is well staffed with a capable Registrar and Sheriff.

A large percentage of cases prosecuted in the Magistrates Courts relate to minor traffic offences, payment of fines, and drunk and disorderly offences. These types of cases account for over 30 per cent of the Magistrates Court lists. Police prosecutors have tried to engage with RSIPF in a process that allows for diversionary processes, or tried to explore the possibility that these cases could be pursued under the *Police Act 2013* rather than the *Penal Code 1996*. Given the already significant backlog of cases in both civil and criminal streams, the use of alternate measures to dispose of the matters at the lower end of the criminal scale should be encouraged.

Assisted dispute resolution (e.g. mediation) is a potential avenue for reducing delays. It is provided for in Solomon Islands legislation, but rarely used.

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<sup>16</sup> Ibid.

<sup>17</sup> See Solomon Islands Civil Procedure Courts Rules 2008, and MAGISTRATES' COURTS (Cap. 20) 709- under the Act certain rules and regulations have been passed, including - Directions by the Chief Justice 740, Magistrates' Courts (Civil Procedure) Rules 80, Magistrates' Courts (Costs in Criminal Cases) Rules 881, Magistrates' Courts (Districts) Order 744, Magistrates' Courts (Forms) Rules 744, Magistrates' Courts (Increase of Jurisdiction) Orders, Magistrates' Courts (Increase of Jurisdiction) Orders 1997 - L/N 81/97, Magistrates' Courts (Increase of Civil Jurisdiction - \$6,000) Orders 1997. As well as the Local Court Handbook that provides an overview of procedures for both the criminal and civil jurisdictions.

<sup>18</sup> Noted by informants during the two design missions who confirmed the lack of consistent structure and scheduling in the Magistrates Courts and spoke of the large number of adjournments. Conversely they spoke of the significant improvement in the High Court and Appeal Court.

## Courts in rural areas

Delivering judicial services to Honiara, provincial centres, and remote communities is a significant challenge for SIG.

Four provincial centres<sup>19</sup> have now been established. These have significant potential. At each of the centres there could be police prosecutors, Public Solicitors Office (PSO) staff, an adequately staffed registry, access to the Justice Information Management system (JIMS) and a permanently positioned Magistrate. However, these are not in place in all locations.

The design mission visit to Auki illustrates the scenario: The Magistrate had not sat for a very long time due to illness. Because the Magistrate was not sitting the Magistrates Court staff similarly were not working. The PSO lawyer was on leave. However, the three Local Court Registry staff were present and were working on both Local Court and Magistrates Court matters, mainly entering data onto JIMS. Because the Magistrate had not sat for some time there was a significant backlog of cases. In the criminal jurisdiction this means that there are many prisoners who are detained on remand, and they fail to have their matters dealt with in a timely fashion. There was considerable frustration at the Auki Correctional Service Facility as a result of this.<sup>20</sup>

Planning and scheduling of circuits takes place, but circuit courts are often cancelled, often at last minute. Factors that cause the cancellation of circuit courts include logistical considerations such as travel and accommodation, the failure to manage Imprest accounts, the non-payment of travel money to Magistrates and other court staff, and the non-availability of critical staff.

The Local Courts are, on paper, the most accessible justice institution for Solomon Islanders living in the rural areas. However, a 2015 World Bank analysis found them basically dormant.<sup>21</sup> The Local Courts have jurisdiction over land and minor criminal matters. They may hear criminal cases with penalties of up to six months imprisonment or a fine of up to SBD200 (AUD35), and civil disputes involving damages of less than SBD1000 (AUD175). They also have jurisdiction over civil matters in connection with customary land. The Local Courts focus overwhelmingly on land issues, they have low capacity, and the cases drag on for years. Local Courts are composed of approximately 300 lay justices, each from the geographic area in which the court is located. A hearing requires the presence of at least three justices from the relevant jurisdiction. Justices receive a sitting allowance when hearings take place.<sup>22</sup>

The Local Court was scheduled to sit during the August 2016 Design mission to Auki, however had to be delayed due to the failure of witnesses to appear. This is a common occurrence because it is difficult for people who live in poorer and remote communities to arrange travel and accommodation for their visit to the provincial centre. Concerns were expressed that during 2015 the Local Courts failed to sit as regularly as they did in 2014. In order to improve their effectiveness, the National Judiciary and Local Courts need to improve the dissemination of information, clarification of responsibilities and allocation of budgets.

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<sup>19</sup> Lata, Gizo, Kira Kira and Auki

<sup>20</sup> August 2016 Design Team Mission to Solomon Island

<sup>21</sup> World Bank *Institutional and Fiscal Analysis of Lower Level Courts*, 2015

<sup>22</sup> World Bank *Institutional and Fiscal Analysis of Lower-level Courts*, 2015



Local Courts also play an important role under the *Family Protection Act 2014* (FPA) as the Local Court Justices can issue interim protection orders. However, delays are being experienced for a number of reasons including the lack of coordination with RSIPF, cultural issues and in part because the training provided has not given the Local Court Justices the confidence to perform this task.

### **Court infrastructure and maintenance**

RAMSI had previously funded a large amount of justice and corrections related infrastructure which remains in good condition. However, the Court User Provincial Visit Report 2015 and the Magistrates Court User Survey 2015 both outline the poor condition of several courts, both in Honiara and the Provinces. The Chief Justice suspended hearings in Gizo due to the need to refurbish its courthouse. (This work is being undertaken under the current SIJP).

At the visit by the Design Team to the Honiara Magistrates Court it was obvious that the Central Court was inadequate to address the needs of users, and the then Acting Chief Magistrate spoke of the cramped working conditions.<sup>23</sup>

It is important to ensure that the construction of court room facilities considers fit for purpose needs of all court users, especially women, girls and people living with a disability, paying particular attention to family based violence cases.

### **Absenteeism, staff turnover, and capacity**

There are high rates of absenteeism in the Magistrates Courts and Registry, a large number of vacant positions, poorly skilled administration staff and a lack of professionalism.<sup>24</sup> The organisational chart for all court staffing (both judicial and administrative) of May 2016<sup>25</sup> shows that most judicial and administrative positions in the National Judiciary (High Court, registries, transcriptions, Library, secretarial) are filled. There were some notable exceptions, namely the Deputy Registrar and Senior Court Clerk. Conversely, the Magistrates Court and registry had large numbers of vacancies. The poor public sector employment conditions are one of the reasons why good quality staff are neither attracted to the positions nor retained; many legal practitioners and other public justice sector staff ultimately seek employment in the private sector.

Currently, Australia funds an in-line Chief Magistrate, in-line High Court puisne judge and a Court Coordination adviser. The cross-sectoral finance, infrastructure, human resources and professional development advisers also assist the National Judiciary. Australia funds specific infrastructure projects and personnel through grants.

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## **PROSECUTORS**

**Office of the Director of Public Prosecutions (ODPP)** prosecutes the more serious crimes in Solomon Islands and carries the responsibility of representing the victims of crime. However, like many other justice sector agencies, this office is under resourced and under staffed. It also has a high staff turnover given appointments to the bench, and practitioners going to private practice to earn a

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<sup>23</sup> This was further confirmed by a newly appointed Magistrate.

<sup>24</sup> See *Case Study 4 Supporting Effective Magistrates Courts* 10 May 2015, Jo Roberts and Michael Ha'apio, *Mid-Term Review of Solomon Islands Justice Program*, Linda Kelly, Daniel Woods, and Ali Tuhonuku, August 2015 (MRT)

<sup>25</sup> Provided to the design team by the CEO of the National Judiciary

better income and enjoy better working conditions. The high turnover results in a significant challenge prosecuting more complex criminal cases.<sup>26</sup>

DFAT has previously invested heavily in succession planning in ODPP and had a successful three year mentoring program. However, while the coached officer was promoted into the role of Deputy Director, he was then immediately appointed as a Principal Magistrate. The ODPP is developing a new officer for the senior role but it will take time before they are experienced enough to take on the position.

The 2015 SIJP mid-term review recommended changes to the organisational structure in order to address case management, allocation of cases to prosecutors, trial preparation and collaboration with investigating police officers.<sup>27</sup>

**Police Prosecution Directorate (PPD):** PPD is a part of the RSIPF. The prosecutors carry a heavy work load, with inadequate staffing and little cross sector support. Whilst most police prosecutors are centrally based in Honiara, there are also police prosecutors in the provincial centres. Prosecutors from Honiara go on circuit, and police in the provincial centres go on circuit from their centres.

The lack of co-ordination across justice sector agencies provides significant hurdles for prosecutors in assessing the charges that come from investigating police officers.

Currently, Australia funds advisers in ODPP and PPD who help develop capacity in their respective offices, but also act in complex matters. Australia funds specific ODPP personnel through an Accountable Cash Grant.

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## PUBLIC SOLICITORS OFFICE

The Public Solicitor's Office (PSO) provides free legal assistance to financially disadvantaged persons in civil and criminal matters. They play an important role in ensuring and protecting access to justice. Though the staffing levels have increased since the release of their Corporate Plan 2015-2018, it is still under staffed and under resourced. Despite requests for extra funding through the Justice Sector Consultative Committee (JSCC), with various business case submissions, there has not been an increase of budget allocation to the office.

Due to the sudden increase in civil cases (the FPA proceedings fall under the civil jurisdiction), the PSO considers it requires at least four to five extra staff. Straining the PSO further has been the opening of the four provincial centres and the requirements to place a PSO practitioner in each. Like other agencies (the Attorney General's Chambers and ODPP) the PSO has lost some of its better qualified and experienced staff to appointments to the Magistracy, highlighting the challenges of operating in a country that has a small population and small pool of legal practitioners.

There is a current inline adviser holding the position of Deputy Public Solicitor. The adviser, over the course of the last year, has gradually reduced the number of appearances and court, and has instead shifted to an approach that can be called shadowing, and in some cases works as a "second"

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<sup>26</sup> Whilst significant capacity has been developed in relation to presenting legal arguments, court process, advocacy and prosecutorial strategy means that many officers of the ODPP can competently handle cases, in complex matters involving litigious defence counsel, new areas of law, linked proceedings, untested civil procedure or uncooperative witnesses, officers still seek the guidance of advisers for support in the form of advice as well as modelling litigation techniques in court.

<sup>27</sup> MTR 2015 p. 12

counsel. The PSO also currently has a volunteer that is responsible for organising cases and data entries. The PSO, like other justice sector agencies, suffers from a lack of strategic planning, no succession planning or establishment of a middle and senior management structure, and a lack of focused professional skills development.

The Family Protection Unit deals with the implementation of the FPA, gender and family based violence cases, as well as matters that relate to maintenance.<sup>28</sup> The unit is staffed with two lawyers, an intern, a paralegal and one data entry/support staff. Though most of the work is Honiara-based, they do take on matters that are referred from the provinces. Currently there are approximately 180 files that relate to child maintenance, proceedings under the FPA, and custody and care of children. The majority of clients are women. The aforementioned challenges facing the Magistrates Court (inconsistent procedure, filing of documents, serving of orders, etc.) translates into risks for women related to the enforcement of protection orders made by Magistrates, resulting in women facing increased danger of violence.

Currently, Australia funds the in-line Deputy Public Solicitor and a volunteer. The cross-sectoral finance, infrastructure, human resources and professional development advisers also assist the National Judiciary.

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## CORRECTIONS

During RAMSI, Correctional Services Solomon Islands (CSSI) received extensive support, both through inline and dedicated advisers. During the design missions, informants from the CSSI presented an agency that was reasonably well organised and structured, with key corporate functions and human resources. CSSI's goals include the development of a youth detention unit at Tetere, improved facilities for women prisoners, improved resources and facilities for rehabilitation programs within correctional centres across Solomon Islands and improved workforce skills and management.

While Honiara-based functions appear to be improving, informants at Auki Correctional Service Facility spoke of the difficulty in housing women and youths at Auki, the difficulty in ensuring there is sufficient and timely financial resources for the purchase of food and other needs for the prisoners, the lack of good rehabilitation services within the prison, and the fact that there are no services at all for prisoners once they are released.

With growing concerns at the increase of youth offending, and violent youth offending, a strong rehabilitation structure within correctional facilities is important.

The MTR noted that CSSI had received strong support from the program and in August 2015 was in a position where advisers could be withdrawn from the agency. Despite this positive statement, the imminent retirement of the experienced Commissioner<sup>29</sup> could see some of these gains reversed.

While there seems to be sufficient quality corporate services within CSSI, the focus now needs to change to leadership and management, the provision of quality rehabilitation services to all prisoners, and targeted responses that address the concerns of youth and women. With the

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<sup>28</sup> Proceedings that relate to the custody and care of children, divorce and adoption are within the jurisdiction of the High Court. All other matters are within the jurisdiction of the Magistrate's Court.

<sup>29</sup> Communicated during Design Missions

forthcoming retirement of the Commissioner there is a need for the Program to assist CSSI with their training needs for senior or middle management. While the Mid-Term Review suggested that because of the intense capacity building efforts directed at CSSI, adviser focus could be either withdrawn or significantly reduced, it is now clear that there are still areas that could be assisted with additional support.

Currently, Australia funds two advisers and two volunteers in CSSI. The cross-sectoral finance, infrastructure, human resources and professional development advisers also assist CSSI. Australia funds specific infrastructure and rehabilitation projects through grants.

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## LEGAL POLICY AND LEGISLATION DEVELOPMENT AND COLLABORATION

Coordination across justice sector agencies is critical to the development of cohesive sector policy and strategy, legal policy reform and implementation, and to address blockages to service delivery in the justice sector. Though the population of the Solomon Islands is relatively small at 515,870<sup>30</sup> there are seven justice sector agencies (not including CSSI or RSIPF, which SIG does not consider part of the sector). Coordination and collaboration across the justice sector on policy issues, as well as the sector's working relationship with other SIG ministries, is challenging.

The **Ministry for Justice and Legal Affairs (MJLA)** struggles to attract and retain good quality staff. The MJLA's mandate is more closely aligned to that of an Australian's Attorney-General's Department with respect to justice administration, legal policy development and leadership in the sector. The Ministry plays a supporting role to other justice sector agencies assisting them to achieve their goals and objectives. There is little evidence that this occurs, other than through the membership of the JSCC. The MJLA Corporate Plan 2015-2018, highlights as specific objectives people management and development, leadership and organisational change, financial management, improvement in communication, monitoring, stakeholder coordination and policy. Often the contact between agencies is generated by advisers who are within those agencies, rather than from local staff. The Ministry specifically notes in its Corporate Plan that its communication and relationship with the JSCC is a weakness. This is a common concern also expressed by staff from the AGC and the PSO.

The Legal Policy Unit of MJLA has four staff.<sup>31</sup> The Unit provides legal policy advice, and legal policy recommendations for government, the unit may also be involved in preparing legislation (in conjunction with AGC). The development of legal policy is a skill requiring sophisticated legal knowledge, ability to problem solve complex policy matters and handle competing stakeholder perspectives in addition to guiding drafts through the legislative process. The existing staff in the unit are not equipped to undertake these duties independently at this stage.

The **Attorney General's Chambers (AGC)** is mandated to provide legal advice and opinion to the whole of SIG, and to prepare and draft legislation in accordance with SIG policies and submit such legislation to Parliament. It experiences challenges in these two areas. AGC staff are still developing

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<sup>30</sup> 2009 Solomon Islands Census

<sup>31</sup> See Corporate Plan 2015-2018

the skills required to provide efficient and timely legal advice and opinions to whole of government ministries, however there is little or no structured continuing legal education in the office.

SIG ministries fail to seek the legal advice of the AGC and often encounter legal problems that result in litigation against SIG.

On legislative drafting, the inline legislative adviser reports there has been some improvement in capacity, with some staff capable of preparing regulations in accordance with instructions, but this has taken time. Often legislation requests from SIG are last minute, and not necessarily within structured and planned approaches to policy strategy and development.

The **Law Reform Commission's** mandate is to review Solomon Islands legislation as directed by the Minister for Justice and Legal Affairs, and to harmonise laws and regulations and recognise problems with inconsistencies between laws. The agency has limited capacity, though the Commissioner and Principal Legal Officer are well qualified and skilled. The Principal Legal Officer has received extensive training in Australia with the Australian Attorney-General's Department, which has provided crucial mentoring.

Tasks, such as the one the Commission is currently undertaking (a review of the Penal Code), are large projects and take a great deal of time and input. The review process involves comparative research, SIG policy analysis, implication and impact analysis, policy development, consultation and development of recommendations. The Commission tends to work in isolation, with little cross sector collaboration. Stronger cross agency relationships would allow the sharing of information and skills across the three agencies that are involved in legal policy development and law reform.

**The Justice Sector Consultative Committee (JSCC)**, chaired by the Chief Justice, is the peak existing structure for cross-agency coordination. It meets irregularly which limits cross sectoral discussions. Neither RSIPF nor CSSI are a member of the JSCC, limiting its effectiveness in collaborating with this key sector agency.

Currently, Australia funds a legal policy adviser in MJLA and the inline legislative drafter in AGC. The cross-sectoral finance, infrastructure, human resources and professional development advisers also assist MJLA and AGC. Australia funds certain MJLA personnel, including the secretariat to the JSCC, through an Accountable Cash Grant.

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## STRENGTHENING SERVICES TO IMPROVE OUTCOMES FOR CITIZENS

While improving, SIG formal justice sector agencies have struggled to regularly deliver services to provinces and remote communities. A range of factors inhibit delivery of justice services including:

- Human resources constraints: a lack of appropriately trained and qualified staff, high rates of absenteeism, few incentives for public sector staff to perform well, and little or no incentive to travel to remote provinces (for example insufficient travel allowances and no loading for postings to remote provinces).
- Financial constraints: geographic remoteness and lack of adequate transport and communications infrastructure make the cost of service delivery outside of Honiara extremely high. With competing demands on the government budget, justice sector service delivery lacks the resources it needs to reach communities.

- Poor planning: court circuits require the coordination of multiple justice agencies. Often this is lacking.
- Lack of consistent and well supported structure that provides for access to justice in remote communities. Local courts could provide such a structure, but are mostly dormant.

Despite poor access to justice for most Solomon Islanders, there are few political incentives for change. Communities lack knowledge of what they can reasonably expect and civil society remains nascent in this area. Further, the informal justice sector has deep cultural and historical roots.<sup>32</sup> As a consequence, settlement of disputes often occurs within the local community, through tribal chiefs and other informal justice services (such as church organisations).

These structures and processes usually have inherent gender constraints, and bias against women, girls and boys. Nevertheless, given this is how many Solomon Islanders resolve their disputes, the Justice Program must understand and engage with these processes. In some cases, this may be the church on particular issues, in others it could be NGOs.

Reports such as *Justice Delivered Locally*<sup>33</sup> highlight that though a greater number of Solomon Islanders have access to justice, albeit limited and delayed, in most situations there is a long wait for these matters to be resolved through the formal system, if at all. Baseline research conducted in 2016 for the World Bank's Community Governance and Grievance Management Project (CGGM project) in Renbel and Makira found the following:

- i. People try to resolve such issues as domestic violence within the family (Renbel 81% and Makira 74%) – the concern with this approach is that the family structures often perpetuate traditional male and female roles.
- ii. In cases of extreme violence, the police and the courts are typically involved but people feel the outcomes are unclear. This can be related to a number of factors, including a strongly male dominated police force, strong male dominated community leaders, and the economic imperative that it is difficult for women and their children to move from their family structures and communities.
- iii. Where disputes are complex or prone to violence, the most effective mediation involves both the police and chiefs working together.
- iv. Almost across the board, substance abuse and alcohol abuse create a volatile situation for youth and violence. The growing production and use of alcohol and drugs is causing significant issues in the community, both in Honiara and in more remote communities.

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<sup>32</sup> *Justice Delivered Locally: Systems, Challenges and Innovations in Solomon Island*, M. Allen, S. Dinnen, D. Evans, and R. Monson, Research Report, July 2013. The use of words like informal and less formal justice sector can be confusing. Local Courts are established under the Local Court Act. However, the Local Courts are constituted from village elders and chiefs, senior and respected members of communities. They do not have specific legal or other skills, but have received training and will do so periodically when required. So this structure is an informal justice sector initiative which has been formalised, much like the Village Courts in PNG. The World Bank Justice for the Poor program is not formalised or recognised under legislation or regulation, but links into existing provincial government ordinances around the existence of Village Peace Wardens.

<sup>33</sup> *Justice Delivered Locally: Systems, Challenges and Innovations in Solomon Island*, M Allen, S Dinnen, D Evans, and R Monson, Research Report July 2013, World Bank and Ministry of Provincial Government and Institutional Strengthening – Renbel and Makira Provinces- Baseline Survey and Summary Analysis June 2016; *Toward More Effective and Legitimate Institutions to Handle Problems of Justice in Solomon Islands*, World Bank, Policy Note, March 2015

The World Bank's CGGM project, which arose out of the *Justice Delivered Locally* research, is piloting a means of linking communities with formal and informal dispute resolution services. The RISPF's Crime Prevention Strategy emphasises the importance of working with communities to resolve disputes.

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## GENDER AND SOCIAL INCLUSION ISSUES

The gender and social inclusion context in Solomon Islands offers particular challenges. Men are more than twice as likely as women to hold a job in the formal sector. Women are over represented in low-skilled and low-paid areas, and are under-represented in supervisor and manager roles. In the public service approximately 15 per cent of senior management positions are held by women and only one of 50 Members of Parliament (MPs) is a woman.

Women's employment barriers include a lack of education (the education gender gap widens the higher the school grade), childcare, assistance with family obligations, transport, health and also gender-based violence. Solomon Islands has amongst the highest levels of gender-based violence worldwide. Public service human resource (HR) managers reported to the design team that sexual harassment in the workplace is common but that it is not systematically addressed by leaders and managers.

Discrimination and harassment are barriers to women's employment. Women are paid less for undertaking the same/similar work. That said, gender issues are receiving increased attention in the public service. At present, for instance, gender mainstreaming requirements are included in all Permanent Secretary Performance Agreements. Many Ministries have appointed Gender Focal Points and a number have Gender Action Plans, although the quality and extent of these is variable.

The endemic level of violence means that many chiefs and other local leaders are themselves violent, reducing the likelihood that a woman would report violence or that action would be taken.<sup>34</sup> In this context and as was explained and commented on by many informants,<sup>35</sup> deep gender inequality constrains the opportunities available to women, to the detriment of the economy and society more broadly.

Further, women have little support in accessing formal justice agencies due to a multitude of reasons: inability to travel and responsibility for family and children means they cannot lodge complaints and pursue their processes through courts. Applications for maintenance and child support take a very long time and meanwhile women should they leave their husbands and families they are unsupported, and they then become more vulnerable.<sup>36</sup> Therefore, alarmingly only 1.1 per cent of women who had experienced physical or sexual abuse by a partner reported the incident to police.<sup>37</sup>

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<sup>34</sup> Ministry of Women, Youth and Children's Affairs, *Solomon Islands Family Health and Safety Study: a Study on Violence against Women and Children* (Noumea, New Caledonia: Secretariat of the Pacific Community, 2009).

<sup>35</sup> Whole of civil society, and gender focused meetings First and Second Missions

<sup>36</sup> PSO staff provided extensive information and data that related to the number of women clients, and the difficulty in obtaining maintenance and child support.

<sup>37</sup> Ministry of Women, Youth and Children's Affairs, *Solomon Islands Family Health and Safety Study: a Study on Violence against Women and Children* (Noumea, New Caledonia: Secretariat of the Pacific Community, 2009).



Seif Ples (a sexual assault and domestic violence clinic) reports a growing number of women and children presenting at the short term shelter. There are very few support agencies for women, and little to support victims of crime generally. More resources are required that can interface with the justice system and police to provide shelter, counselling, and other support.

Much of the serious offending under the Penal Code is still within the jurisdiction of the Magistrates Courts. Because of the lack of timely and efficient delivery of justice, women are made more vulnerable by having to wait for the disposition of their cases.

Throughout the Solomon Islands in various sectors, many of the facilities that provide assistance to women, girls and boys, and people living with disability, are compromised, under staffed and under resourced. This is similarly the case with the Ministry for Women, where the Permanent Secretary is very well skilled, but lacks the staff and resources to address the significant issues that impact upon women in Solomon Islands.

The median age in Solomon Islands is 19.7 years. The youth population is predicted to continue to grow rapidly until 2025. A weak education system and poor services nationally do not serve children's interests well, and a gender education gap negatively affects girls at all levels of education.

A 2005 European Union (EU) disability survey identified around 14,000 people living with a disability (approximately 3.5 per cent of the population). Outcomes suggest that people with disabilities are more likely to live in poverty. People with disability are discriminated against, have limited access to any disability-specific services (health, education or otherwise) and have limited avenues via which to assert their rights.

Gender/social inclusion analyses are not routinely undertaken in the preparation of individual ministry budgets or the consolidated national budget. There is extremely limited reliable data regarding how budget allocations affect vulnerable groups in Solomon Islands.

Currently, Australia funds the Seif Ples Centre Manager and has assisted FPA consultations and implementation.

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## STRONGER SECTOR CORPORATE MANAGEMENT

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### DATA COLLECTION AND MANAGEMENT

Data collection and management in the sector is poor. SIG struggles to obtain basic data on numbers of court cases heard, let alone breakdowns by type of case, location, magistrate, represented or unrepresented. CSSI maintains good data, but this is the exception.

In response to a request from the Chief Justice, Australia has supported the development of the Justice Information Management System (JIMS), an integrated case tracking and data management system. The criminal module of JIMS is currently in the Magistrates Court, High Court, RSIPF, PPD and PSO and is intended to roll out to ODPP and CSSI. The civil module has commenced being populated. Involvement of all these agencies has the potential to streamline work, create efficiencies and uncover bottlenecks.

The Information and Communications Technology Support Unit (ICTSU) within the Ministry of Finance and Treasury (MOFT) is a crucial stakeholder as it maintains the IT systems in Solomon



Islands, and has a mandate to coordinate the design, implement, and maintain the business systems of SIG agencies, including JIMS.<sup>38</sup>

Fully utilised, JIMS could assist with the co-ordination of case allocation, case management, and tracking cases through the justice sector from RSIPF investigations, through prosecutions and Magistrates Courts, PSO, ODPP and through to Corrections. It is intended to be used in both civil and criminal jurisdictions. JIMS is in two of the four provincial locations, and will be rolled out to the remaining two once the supporting ICT infrastructure (SIG-Connect) allows.

JIMS on its own will not extend the reach of service delivery to isolated populations, or encourage collaboration, but it can be a tool to collect and disseminate data that assists in strategic planning by providing evidence for policy formulation. However, that requires it to be used effectively.

While the staged implementation of JIMS is continuing, it is not yet being used consistently within the courts. The lack of effective use of the systems is caused by insufficient incentives to use the system, staff absenteeism, lack of an understanding of why such data should be entered, lack of specific skills, insufficient or inappropriate user training modules, and user manuals that are not user friendly.<sup>39</sup>

The challenges notwithstanding, the efficiencies that JIMS can create are already starting to be felt across the sector. For example, the Design Mission found that the two Local Court registry staff at Auki were keen and eager in their use of JIMS. They were able to demonstrate (albeit to a limited capacity) the steps for case entry, and were able to advise the various stages of the cases. However, they reported it was extremely challenging to find assistance if they needed to.

Whilst JIMS has the potential to significantly improve the administration of justice in Solomon Islands, at present it lacks the necessary incentives and enabling environment to make it fully functional. Without SIG leadership, advocacy and support for its implementation, it is unlikely that training alone will overcome the challenges relating to its effective introduction and usage. All activities designed to support JIMS will need to engage with the barriers to its implementation in addition to providing capacity building and training support.

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## PROFESSIONAL DEVELOPMENT AND HUMAN RESOURCES

Agencies struggle to attract and retain good staff. Government lawyers can get much higher remuneration in the private sector. There is a high turn-over. Good lawyers are promoted from ODPP and PSO to the judiciary. Informants believe the quality of legal education is declining (e.g. the University of the South Pacific and University of Papua New Guinea law schools).

At the same time, the new Legal Professional Bill will, if enacted, require lawyers to meet certain Continuing Legal Education (CLE) requirements, and dramatically increase the requirement for professionalism. The Solomon Islands Bar Association (SIBA) will have increased prominence under the new Legal Professional Bill but does not have the resources yet to deliver on this expanded role.

Absenteeism is a persistent challenge. Staff are rarely disciplined for long periods of absence (there are staff that are well known for simply 'never being there'). This is a complicated issue, with

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<sup>38</sup> See DFAT Case Study 8 - ICT July 2015

<sup>39</sup> Manual was viewed at Auki Magistrates Court Registry

multiple incentives and disincentives at play. The SIJP has struggled to make any progress on this, despite detailed political economy analysis on the issue – a targeted approach to address it in PSO was not effective. This issue is also much broader than the justice sector. The new Governance Program will look at issues of public service discipline, and it will be important for the Justice Program to collaborate.

Leadership and successional planning is also a key issue. Even for relatively well performing agencies (like CSSI), poor succession planning risks undoing progress. Long-term targeted mentoring has had some successes (helped by Australia’s long engagement in the sector and ability to help SIG identify potential future leaders), but is fragile and changes in the institutional and financial context can mean that long-term plans stall.

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## FINANCIAL MANAGEMENT

Since 2003, considerable resources have been committed to rebuilding justice sector financial management systems. Significant gains have been made in strengthening budget and general ledger management, but there has been less progress on improving the quality of public expenditure and strengthening the sector accounting and audit cadre.

Justice sector agencies struggle to effectively forecast, plan and prioritise budget spending. This will become even more difficult if budgets contract as expected. There is poor coordination across the sector, and justice agencies have not always considered the impact of their budget decisions on other parts of the sector.

The justice sector has a significant number of vacancies in finance positions and suffers from high absenteeism. The Solomon Islands has few trained and qualified finance professionals and public service remuneration is not attractive to already qualified individuals.

## ANNEX B: LESSONS LEARNED

This annex outlines the international, regional and local lessons learned that have informed this Justice Program design, including lessons from the previous RAMSI intervention, the SIJP, and Australian aid investments in justice sectors in PNG, Vanuatu and Fiji.<sup>40</sup>

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### LESSONS FROM AUSTRALIAN JUSTICE PROGRAMS

Many parallels and lessons can be drawn across the Australian law and justice investments through the PNG, Vanuatu and violence against women programs.

#### PNG

As in the Solomon Islands, Australia has consistently been PNG's largest aid donor, and the relationship continues to evolve. PNG is dependent on the resources sector, has 80 per cent of its population living in remote communities, faces fiscal challenges, has a high incidence of gender-based violence, is susceptible to natural disasters, and has a strong focus on service delivery at the local level.

In recent years of the PNG aid relationship, there has been an increase in partnerships with the private sector. The Australian Law Council of Australia has long standing ties with the legal profession in PNG and has supported the profession through various initiatives.<sup>41</sup> Its principal support is through the South Pacific Lawyers Association.<sup>42</sup>

The law and justice program has greater complexity than the design for Solomon Islands. Informants from the program said that the four outcome areas, effective law and justice agencies, community safety with a reach to provinces, a focus on family and sexual violence, and anti-corruption strategies, were complex across the PNG demographics. Advisers have been withdrawn from inline positions and now work across the sectors. Further six priority provinces have been selected. The use of advisers is both long term and short term, with STA focused on specific tasks. The programs work within the informal justice sector space concentrating and supporting work with Village Courts. Train the trainer modules and methodology is used.

While the progress and advances in the PNG program are certainly lessons that can be learned, it should be recognised that the PNG program has not been operating in a post-conflict environment and as such is much further advanced than the program in Solomon Islands. The Solomon Islands program should continue to engage with the PNG program to ensure lessons learnt can be integrated at appropriate stages of progress.

#### VANUATU

Vanuatu similarly has 70 per cent of its population living in remote communities, scattered over 65 islands. There is limited investment in remote areas, and a high incidence of gender-based violence.

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<sup>40</sup> See: The Aid Partnership and the Joint Understanding between Australia and PNG on further bilateral cooperation on Health, Education and Law and Order, and the Australian Aid Investment Plan 2015-16 to 2018-19, the Australian Aid Investment Plan, 2015-16 to 2018-19, Fiji and Australian Aid Investment Plan, 2015-16 to 2018-19, Vanuatu.

<sup>41</sup> Law Council Submission No. 39 to the Senate Foreign Affairs, Defence and Trade References Committee

<sup>42</sup> Solomon Islands is a member

Vanuatu is prone to natural disasters, and most of the population accesses the informal justice system. The aid strategy expressly looks for the opportunity to work with civil society organisations.

In 2014, the law and justice and policing program were integrated, and ways of working together were developed and implemented. The focus of the joined up approach was to work towards better access to justice, which ultimately meant better access for women and youths. Informants from the Vanuatu Program report that the joined-up approach has proved to be useful, and emphasise that communication was critical to the effectiveness of the integrated approach, maintain across the programs, and processes to actively manage communication be built into the programming.

The lessons learned on constant communication between programs and processes to manage this have been incorporated into the design of the governance, justice and police designs.

## VIOLENCE AGAINST WOMEN

In the Pacific region Australia invests in initiatives aimed at ending violence against women. These initiatives<sup>43</sup> are:

1. Male Advocacy Program in Fiji (regional) and Vanuatu
2. Fiji Women's Crisis Centre's (FWCC) Regional Training Program (RTP)
3. Vanuatu Women's Centre's (VWC) Committees Against Violence Against Women (CAVAW)
4. Activities supported by the PNG Australia Law and Justice Partnership (PALJP) and the Strongim Gavman Program (SGP).

The Review of Australian Aid Initiatives<sup>44</sup> noted:

*According to international best practice and DFAT's Ending Violence Against Women (EVAW) framework preventing violence calls for coordinating efforts to raise awareness, changing community attitudes about violence, and increasing women's status in society through political, social and economic empowerment. Effective prevention involves dialogue between all sections of society at national, regional and community levels and must include awareness campaigns, advocacy and ongoing community-level activities.* (Ellsberg et al. 2008, Ellsberg et al. 2011, AusAID 2009)

This approach has been replicated in the Solomon Islands context and points to the need for governance, policing and justice programs to collaborate and address communication, direction setting and sharing knowledge.

Pacific Women<sup>45</sup> aims to improve the opportunities for political, economic and social advancement of women in the Pacific. The Pacific Women Shaping Pacific Development Solomon Islands Country Plan Summary April 2014, sets out a series of initiatives and recommendations for development in Solomon Islands. The plan includes assistance to the Ministry for Women, Youth, Children and Family Affairs (MWYCFA), with the intention of strengthening the capacity of the Ministry, and with the development of a national strategy on economic development and assisting the Ministry to

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<sup>43</sup>Review of Australian aid initiatives in the Pacific aimed at ending violence against women, Stella Mukasa, Jennifer McCleary-Sills, Brian Heilman & Sophie Namy, International Center for Research on Women (ICRW), 2014

<sup>44</sup> Ibid. p. ix

<sup>45</sup> Delivery Strategy: Pacific Women Shaping Pacific Development, 2012-2022

provide gender mainstreaming in SIG in line Ministries. The Justice Program will seek opportunities to work with the MWYCFA, and support the work of the Pacific Women initiative.

These initiatives are all long term and demonstrate a strong commitment to continue working with countries in the region. It is clear from both regional and international research that reform programs require long term commitments from both the donor and the government receiving assistance.

It is also clear that in moving forward to the implementation of programs, there should be a focus on government-led initiatives. This is strongly supported by the Solomon Islands Aid Management and Development Cooperation Policy<sup>46</sup> which stresses the importance of strong durable partnerships, both across SIG and with external stakeholders. The Program will address this through focusing on SIG priorities as outlined in their key strategic documents, and as identified throughout this design.

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## LESSONS FROM SIJP

Against the above context some direct lessons learned can be drawn from the current justice program Delivery Strategy<sup>47</sup> and the SIJP MTR.<sup>48</sup>

SIJP began in 2013 and shifted the program away from a post-conflict stabilisation mission under RAMSI, and towards consolidation and increasing effectiveness of justice institutions in a gradual movement to ensure the gains of RAMSI were sustained. Prior to SIJP, the focus was on hands-on delivery of justice services through the use of numerous inline advisers. It was recognised in the 2013 Delivery Strategy that successes would not come quickly or easily, whilst also noting the strengths: *There is a solid and positive history on which SIJP will build. The Solomon Islands justice sector is independent, largely free of corruption and has champions within it.*<sup>49</sup>

The 2013 Delivery Strategy set out how SIJP would work over four years (July 2013–June 2017) and how that would feed into a longer term program logic. It was informed by a number of key lessons learned up to that point:

- The most successful investment up to 2013 was in the CSSI. Reasons for this success includes: the CSSI is an isolated agency (i.e. its effectiveness is less dependent upon the effectiveness of other agencies, relative to other justice sector agencies) and therefore capacity development has more immediate results. The strategy noted that the advisers in CSSI were managed differently from 2005 – they were required to establish individual learning plans for their counterparts, and there was a strong and enforced focus on capacity development, and CSSI leadership took capacity development seriously and it experienced less staff turnover.
- Approaches that focused on direct intervention in an agency, without agreed joined up plans, were no longer appropriate.

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<sup>46</sup> See: Aid Management and Development Cooperation Policy, Ministry of Development Planning and Aid Coordination Honiara, Solomon Islands January 2016

<sup>47</sup> Delivery Strategy, Solomon Islands Justice Programs, July 2013–June 2017

<sup>48</sup> Solomon Islands Justice Program Mid-Term Review, Linda Kelly, Daniel Woods, Ali Tuhanku, August 2015

<sup>49</sup> Delivery Strategy, Solomon Islands Justice Programs, July 2013–June 2017 p. vi

- The critical importance of transition discussions with SIG counterparts to build a strong foundation of SIG ownership.
- That cross collaboration of advisers, and SIG counterparts and advisers, is a more effective and preferable mode of working, rather than embedding advisers within single agencies without cross collaboration. The least effective investments were those delivered in a siloed way, those that tried to move to a longer-term development focus but retained an interventionist imposition model, and those that focused on technical outputs rather than supporting institutional and organisational capacity development.

The 2013 Delivery Strategy set out key targets i) courts and justice agencies to better deliver their services, ii) courts and justice agencies are better able to manage their financial and human resources, iii) expansion of service delivery to rural communities, iv) strengthened laws that focus on violence against women and gender quality, and v) improved correctional centre management.

This was based on an expected budget of AUD61 million over four years, with AUD14 million in 2015-16 and 2016-17. As a consequence of reduction in the overall aid budget and the need to reprioritise, SIJP has a budget of AUD7.5 million in 2015-16 and AUD8 million in 2016-17.

The SIJP MTR found, among other things, that while the Delivery Strategy provided the right direction for programming, the targets it set out were not clear and measurable and therefore not the best basis for program management.

Additionally, MTR addressed particular aspects on how Australian aid should be delivered in the next phase of the Justice Program. In this design particular attention has been paid to a number of the recommendations of the MTR including the 'way of working'. The MTR recommended that the post-2017 Justice Program should:

- construct an overall strategy in the justice sector which addresses the complementary roles of support to the police alongside support to the legal institutions and service delivery
- clearly articulate Australian investment and contribution to justice service delivery
- maximise the opportunity for effective policy engagement, and for politically informed and technically feasible approaches, operating with flexibility allowing for responsiveness, organic learning and an iterative approach to program assessment
- as far as possible utilise Solomon Island resources for advice and technical inputs rather than sourcing expertise from outside the country
- extend the reach of the justice program so as to assist SIG focus on service delivery in provincial and rural areas
- focus on enhancing collaborative work practices both across justice sector agencies, as well as across SIG
- consider the interaction of law and justice and corruption
- include a communication strategy.

The next phase of SIJP has been designed with these factors in mind, paying close attention to achieving the best outcomes possible that align with Australian aid objectives.

### **Change management plan for supporting advisers and volunteers to become effective capacity builders**

Advisers will be working more collaboratively, will be focused more on capacity building and communication, and increasingly working across agencies rather than solely within one agency. These shifts have already, in part, been commenced.<sup>50</sup> During the August 2016 design mission, it was evident that some justice sector agencies had begun to embrace new ways of working with advisers. They had taken on responsibility for capacity building within their own institutions, for example in organising in-house continuing legal education.

It is also noteworthy that the justice sector has been open to progress law reform with significant gender and social inclusion benefits in Solomon Islands. Some of these SIG-owned initiatives are positive signs of strengthened institutions, and the new program will need to ensure that it engages with institutions in ways that support organic strengthening and ways of working.

The Change Management Plan for advisers should at a minimum include strategies, templates and guidance for:

**Selecting TA with the right skills:** Sourcing technical advisers should focus substantially more on the relationship building skills of technical advisers, as opposed to their technical skills and experience. More often than not, the success of technical advisers rests in large part upon their ability to build strong relationships, communicate effectively, think strategically, adapt to change, demonstrate empathy and respect, and listen well. Recruitment of technical advisers tends to put more weight on the technical area of expertise, and whilst that is an important baseline requirement for a technical adviser, it should not be considered superior to ‘soft’ skills.

**Establishing a baseline political economy analysis to inform TA approaches:** Team or organisation-based political economy analysis should be undertaken with SIG and advisers to inform the basic understanding of the barriers and opportunities for capacity development, the priorities for the justice sector as understood by counterparts, and agreeing all activity planning.

The Design Team recommends against outsourcing a ‘political economy study’ and instead recommends that an appropriately qualified consultant who, working alongside SIG counterparts and advisers, uses political economy analysis to elicit greater understanding of how capacity changes will happen in the justice sector and what this means for each agency and adviser. A simplified political economy analysis model, such as the framework outlined by the Developmental Leadership Program, would be an appropriate starting point<sup>51</sup>.

**Baseline training/induction:** The Change Management Plan should outline the Program’s approach to establishing a baseline level of expectations and training for all advisers in the Program about capacity building methods, approaches and objectives.

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<sup>50</sup> See Mid-Term Review

<sup>51</sup> Available here: <http://www.dlprog.org/publications/everyday-political-analysis.php>

**Communication Strategy:** A simple communication strategy that addresses delivering vital information about capacity building to technical advisers, counterparts and all agencies involved in this Program should be included in the Change Management Plan.

**Identifying needs and building on existing capacities:** Ensuring that capacity assessments are undertaken with counterpart agencies (who should lead the process), that joint capacity development plans are in place for all assignments, and plans are utilised to measure progress throughout a TA assignment:

- The capacity assessment should be led by the counterpart agency and identify existing capacities and how they can be built upon. It should also identify potential local and regional agents who may be drawn upon to support capacity building efforts.
- A single capacity development plan for each office should be long term and put in place result markers that would trigger a shift in the capacity building support offered in recognition of progress. That shift may include a differently skilled technical adviser, reduced TA inputs, or a shift to a different form of assistance – for example from in-house TA to twinning arrangements. Capacity Development Plans should articulate SIG priorities, refer and align to SIG Strategic Documents including Ministry and/or Team Plans as appropriate, the Justice Sector Program Documentation, and be used to guide TA support.
- Capacity development plans should draw upon M&E information and lessons from the past in order to inform future directions.

**Articulating how technical adviser objectives are to be jointly agreed and measurable:** A clear understanding of the objectives of the technical adviser should be developed between the Program (and the technical adviser) and the counterpart institution. Questions such as: “What capacities should be built, for whom, on what topics, and to what end?” need to be addressed.

The objectives should also consider the different levels of capacity building (individual and organisational) and the different dimensions of capacity to be built (decision making, technical skills, analytical capacity, policy development, etc.). The failure to meet a joint understanding between counterpart and adviser, Program and counterpart institution is regularly identified as the single greatest barrier to effective capacity development. Agreed understanding at the head of agency level of an adviser’s role, mandate and agreed project is imperative, but this must also be communicated at the officer and stakeholder level.

**Identifying a range of capacity building methods and the do’s and don’ts of capacity building:**

Capacity building efforts may draw upon a wide range of methods including shadowing, mentoring, training workshops, formal education (including scholarships), networking, conference and seminars, study tours, research, field visits, etc. The Program should align the capacity building methodologies with the objectives, and undertake ongoing comparative assessment of the relative successes of each method in order to continuously improve methodology. In addition, there are more and less effective ways to implement each of these methods.

The outcomes from a training program, for example, will be highly dependent upon the quality of the trainer, their approach and materials. The outcome of a one-on-one mentoring session will be highly dependent on whether an adviser acts as a technical expert, replacing the capacity of the



counterpart, or as a partner, and ‘working together’. Please see the diagram below for an initial framework to aid adviser consideration of working methods:

## A range of roles played by advisers

|                          |   |  |   |
|--------------------------|---|--|---|
| Capacity Strengthening ↑ | <b>Coach</b><br>‘You do it. I will be your sounding board.’                               | <b>Mentor</b><br>‘You did well; you can add this next time.’                             | <b>Partner</b><br>‘We will do it together and learn from each other.’         |
|                          | <b>Facilitator</b><br>‘You do it; I will attend to the process.’                          | <b>Trainer</b><br>‘Here are some principles you can see to solve problems of this type.’ | <b>Modeller</b><br>‘I will do it; you watch so you can learn from me.’        |
|                          | <b>Reflective observer</b><br>‘You do it; I will watch and tell you what I see and hear.’ | <b>Technical advisor</b><br>‘I will answer your questions as you go along.’              | <b>Hands-on expert</b><br>‘I will do it for you; I will tell you what to do.’ |
|                          | Output Delivery →   |  |   |

Source:  
Adapted from  
Champion, Kiel,  
McLendon,  
1990 in  
Capacity  
Development  
in Practice, Jan  
Ubbels, Naa-Aku  
Agyaaye-  
Baddoo, Alan  
Fowler

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**Ensuring technical advisers work across institutions to build a critical mass:** An institutional or organisational capacity building plan should pay attention to all of the players in the system that have a role to play in leading, managing and implementing the organisational mandate. Building capacity at only one level of an organisation may fail to generate enough critical mass within the organisation to bring about change. Senior officials, for example, are often the subject of a good deal of technical advisory support and may have gained significant skills. However, it is those people in middle and lower order positions that are required to implement reforms who also need support in order that change may occur.

**Building the cadre of national technical advisers:** International technical advisers are often drawn upon in contexts where there are limited technically qualified human resources available domestically. Development programs should invest in building the local cadre of available technical advisers, as a key component. A program could focus resources on building programs available to a wider audience in key generic skills areas on a regular and long-term basis, and supporting the establishment of domestic technical advisory organisations or companies.

**Articulating an agreed capacity development model:** Many advisers believe that building individual capacity will result in organisational capability gains. The Change Management Plan should clearly articulate expectations of how change happens and where advisers ought to position their efforts to

<sup>52</sup> Please note that this table is for guidance only, the Design Team assesses that advisers in the Justice Program will play additional crucial roles when building capacity, such as operating as strategists, project managers and occupying semi-in line roles for certain functions. This table is however, a useful tool for communicating the choices available to advisers on ‘how’ they go about building capacity. Initial research findings suggest that Melanesian counterparts at the officer level identify the roles of ‘mentor’, ‘partner’ and ‘facilitator’ enable the greatest potential for capacity strengthening whilst also creating the greatest space for local ownership and leadership. The same counterparts identify the role of a ‘hands-on expert’ as needed in certain circumstances, but largely overplayed by technical advisers. More senior counterparts and those working on highly complex or new areas of reform often refer to the role of reflective observer and more inline managerial functions played by advisers as preferential, albeit admitting that this can be at a cost to long-term capacity gain. (Rice, B. La Trobe University, paper forthcoming, summary available at <https://devpolicy.crawford.anu.edu.au/annual-australasian-aid-conference/2016/abstracts/>)

maximise the potential for capacity development and its sustainability. (For example, advisers should be encouraged to work at an individual mentoring level on particular cases in the ODPF office, but also engage in management strategy, structural change, recruitment and budget process or inter-agency coordination as needed so that they also contribute to organisational capacity)<sup>53</sup>

**Outlining how advisers should pursue innovation:** Whilst the utilisation of technical assistance is often criticised for lacking in innovation, there are nonetheless countless examples of where particular advisers have been opportunistic in identifying new or different ways of working. The Justice Sector Design largely focuses on formal state institutions, however it is the intention that over time this emphasis is broadened so as to pursue opportunities for engaging in rule of law activities that support the relationship between citizen and state, and the legitimacy of SIG justice sector agencies more broadly. The Change Management Plan should outline key opportunities that advisers should be encouraged to pursue. Not every adviser will be in a context appropriate to pursuing every opportunity, but wherever possible, advisers should look out for the chance to engage in the following:

- **Enhancing engagement with non-state institutions to support the legitimacy of SIG Justice Sector entities.** Each adviser should look for opportunities to facilitate relationships between SIG institutions and non-state institutions. Examples include through engaging in provincial outreach programs, facilitating SIG leadership of policy consultation and dialogue.
- **Enhancing engagement with the legal sector.** Each adviser should look for opportunities to facilitate relationships with non-state legal stakeholders. Examples include through building relationships with the SI Law Society, Law School, Continuing Legal Profession opportunities, the SI Business Council or its equivalent, and localised justice initiatives.
- **Enhancing working relationships between SIG Justice Sector agencies.** Whilst formal coordination forms part of this Program design, advisers should not overlook the value of supporting the establishment of small and informal working groups between agencies for particular issues. For example, establishing regular inter-agency catch ups relating to a particular issue impacting multiple agencies can lead to the development of small inter-agency coalitions that have the opportunity to drive real change.
- **Partnering with reputable private sector or civil society actors.** Leveraging expertise outside of SIG for particular issues is a key way to enhance working relationships between SIG and non-State entities. Funding or influence from the private sector, technical expertise from civil society organisations such as NGOs can be harnessed for particular SIG and Program agendas. Other groups to consider partnership with include media, church groups and local leaders.

**Integrating volunteers into the Program:** Volunteers have been deployed in the justice sector for some time and can be better integrated with the Program. The Change Management Plan should identify how this can be done.

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<sup>53</sup> A good starting point is the ECDPM 5C's capacity framework available at <http://ecdpm.org/publications/5cs-framework-plan-monitor-evaluate-capacity-development-processes/>

## ANNEX D: OTHER DEVELOPMENT PARTNERS

Australia is the largest development partner in the Solomon Islands and by far the largest in the justice sector. Other development partners include:

- UNICEF is engaging with the Central Magistrates Court to develop protocols for dealing with juveniles in the justice system. This project is supported with funding from Australia. The terms of reference for this project are still being developed.
- United Nations (UN) Women manages the Advancing Gender Justice in the Pacific Programme, which works with the SIG to develop gender-responsive legislation and to support women's leadership.
- The Government of Papua New Guinea (PNG) has previously provided Magistrate support to the Magistrates Court during 2010/11. There are strong personal links between the Solomon Islands and PNG legal professionals, as many successful lawyers in the Solomon Islands completed their undergraduate study in PNG.
- The Regional Rights Resource Team (RRRT) provided support in preparation for the Family Protection Act and is considering further work to assist its implementation, including additional training for Local Court judges.
- United Nations Development Programme (UNDP) is conducting a peacebuilding activity to support SIG develop a peacebuilding policy, and ensure women and youth are involved.
- A variety of regional and global programs engage on issues that relate to the justice sector such as corruption (DFAT funds UN-PRAC, U4).

Australia will continue to coordinate with other donors in the justice sector to improve efficiency and effectiveness, and reduce duplication.