

PNG-AUSTRALIA LAW AND JUSTICE PARTNERSHIP (PALJP)

AidWorks Initiative Number: INI194

Independent Progress Report

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9 March 2012.

Aid Activity Summary

Aid Activity Name	PNG-Australia Law and Justice Partnership		
AidWorks initiative number	INI194		
Commencement date	April 2009	Completion date	April 2014
Total Australian \$	\$150 million		
Total other \$	tbc		
Delivery organisation(s)	AusAID, Cardno Emerging Markets (Implementation Service Provider)		
Implementing Partner(s)	GoPNG Law and Justice Agencies (led by the National Coordinating Mechanism), provincial administrations and civil society organisations		
Country/Region	Papua New Guinea		
Primary Sector	Governance (Law and Justice)		

Acknowledgments

The evaluation team gratefully acknowledges the assistance provided by key stakeholders in participating in these consultations, notably members of the NCM, TWG, AMTs, the Law & Justice Adviser and the LJSS. We also appreciate the positive and constructive engagement of the Cardno executives, the senior management team of the PALJP ISP and all Development Practitioners. Finally, we acknowledge the guidance and logistical support of the AusAID post in Port Moresby for ensuring the logistics and smooth running of all aspects of the in-country consultations.

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Acronyms

ABG - Autonomous Bougainville Government
AFP - Australian Federal Police
AGD - Attorney-General's Department
AMT - Activity Management Team
APR – Annual performance report (of the sector)
AusAID - Australian Agency for International Development
CBO - Community Based Organisation
CEU – Community Engagement Unit
CIMC - Consultative Implementation and Monitoring Council
CJLU - Community Justice Liaison Unit
CS - Correctional Services
CST - Core Support Team
DJAG - Department of Justice and Attorney General
DNPM - Department of National Planning and Monitoring
DP – Development Practitioner
EHP – Eastern Highlands Province
FSVU - Family and Sexual Violence Unit
GoA - Government of Australia
GoPNG - Government of Papua New Guinea
IPO - Interim Protection Order
IPR – Independent Progress Report
ISP - Implementation Service Provider
JAG - Justice Advisory Group
LJSP - Law and Justice Sector Program
LJSS - Law and Justice Sector Secretariat
LJSWG - Law and Justice Sector Working Group
M&E - Monitoring and Evaluation
MEF - Monitoring and Evaluation Framework
MS - Magisterial Services
MTDP - Medium Term Development Plan
NCD - National Capital District
NCM - National Co-ordinating Mechanism
NGO - Non-Government Organisation
NJSS - National Judicial Staff Service
OC - Ombudsman Commission
P4D – Partnership for Development
PALJP - PNG-Australia Law & Justice Partnership
PMF - Performance Monitoring Framework
PP - Public Prosecutor
PS - Public Solicitor
PNG - Papua New Guinea
PPII - Provincial Performance Improvement Initiative
RPNGC - Royal Papua New Guinea Constabulary
SNS - Sub-National Strategy
SSF - Sector Strategic Framework
YLM - Yumi Lukautim Mosbi

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Executive Summary

The purpose of this Independent Progress Report (IPR) is to evaluate the implementation progress of the PNG-Australia Law and Justice Partnership (PALJP) at the mid-point of the current phase between 7 April 2009 – 2014. Within GoPNG's evolving planning context, it provides a timely opportunity for stakeholders to assess PALJP's current performance and prospective implementation approach.

The objective of PALJP is to support Papua New Guinea-led programs to enhance the capacity of the law and justice agencies to achieve 'a just safe and secure society for all.' PALJP is a key component of the PNG-Australia Partnership for Development (P4D) Law and Justice Schedule endorsed in 2011. This Partnership targets priority initiatives under each of the Law and Justice Sector Strategic Framework (SSF) relating to improved policing, increased access to justice, improved reconciliation and deterrence, improved accountability, and improved ability to deliver law and justice services.

Overall, we find that PALJP has contributed to numerous 'wins' within the ministries and agencies of law and justice in its two and a half years of performance. These wins range across the law and justice sector. They include the construction of substantial capital infrastructure for the national and magisterial courts, police, and prisons, and housing for the personnel of these agencies. This institutional capacity development support has strengthened GoPNG's agencies, thereby providing the building blocks and foundations upon which future development of law and justice in PNG can occur. There is little causal relationship, however, between PALJP support having better positioned the GoPNG's law and justice agencies to be able to provide improved public services and their necessarily doing so. That causal relationship has more to do with political dynamics, leadership, and a host of factors other than institutional capacity.

PALJP has supported numerous improvements of managerial systems, processes and procedures throughout PNG's law and justice ministries and agencies. Achievements include strengthened control by the judiciary of its costs and budgeting; savings of K2.8 million in RPNGC pension payments; implementation of strategic planning and office management in many agencies; and reforms resulting in significant cost savings, for example, in the Office of the Solicitor-General. The Bougainville police and police prosecutor courses are also noteworthy, if not exceptional. The advancement of women's rights is among PALJP's most impressive achievements, including support for the introduction of Interim Protection Orders (IPO); support towards the establishment of five Family Support Violence Units (FSVU) in police stations, the expansion of the Village Court system and the instalment of up to 700 women as magistrates and 500 court clerks and court peace officers. Comparable achievements have been produced by the Yumi Lukautim Mosbi Projek (YLM), which is an impressive crime prevention and employment initiatives which were to be devolved to NCD at the end of 2011.

These achievements are noteworthy successes. But these successes - which can be described as "islands of achievement" - are predominantly outputs, institutional capacity development initiatives that have contributed to the strengthening of PNG's law and justice institutions and agencies. Over all, these "islands of achievement" do not appear to join up to offer a strategic pathway to improved law and justice service delivery. This report acknowledges that time is undoubtedly required to attain the program's goal and objectives and 2.5 years is a very short time period. Nevertheless, it is also important for this IPR to acknowledge that an assessment of

PALJP's development effectiveness in addressing beneficiaries' sits atop almost a decade-long AusAID program of continuous assistance to the sector. PNG's law and justice institutions and agencies have been strengthened, as noted, but, it is nonetheless sobering to observe that after almost one decade of concerted and continuous assistance there is, as yet, relatively scant visible evidence of tangible improvements in the delivery of law and justice services to the people of PNG, most of whom live outside Port Moresby.

There are a number of issues, or challenges, which confront PALJP's ongoing journey to development effectiveness. These challenges principally relate to (i) alignment, strategic vision and beneficiaries; (ii) engagement in sector coordination; (iii) approaches to development ; (iv) building on 'wins' on the path forward; (v) roll-out of regional activities; (vi) resource allocation; and (vii) monitoring and evaluation.

In relation to alignment and strategic vision, we find that the relevance of PALJP's existing approach is qualified to the extent that its objectives have supported GoPNG's policies but have not substantially benefited beneficiaries in any discernible measure. While recognising the National Co-ordinating Mechanism's (NCM) leading role in setting the reform agenda, it will be necessary for the program to re-balance and focus its resources on services in order to redress PALJP's qualified relevance for its beneficiaries and ensure outcomes which are more directly relevant and visible to ordinary people in communities across PNG.

In relation to engagement, PALJP was designed primarily to support sector coordination through mechanisms including the NCM and the Law and Justice Sector Working Group (LJSWG). There are a range of misgivings over the continuing relevance and effectiveness of this being PALJP's primary engagement strategy. This review provides key stakeholders with a timely opportunity to review the sector vision, as much as PALJP's engagement strategy. Significantly, this review offers consideration for separating GoPNG's need to coordinate its sector policy from AusAID's need to align the provision of its development assistance with GoPNG's overarching strategic policy and priorities.

Remaining consistent to GoPNG's strategic vision, we encourage a range of refinements in PALJP's approach to start a transition towards a more service-focused delivery approach that integrates capacity-building with problem-solving and a more thematic approach, concentrating on gender equality and violence against women, in order to promote a more just safe and secure society for all. This would place greater emphasis on rebalancing different approaches to development, adopting a greater provincial approach and increasing the focus on improving service delivery to beneficiaries within GoPNG's vision for restorative justice. The new P4D framework may enable such refinements to be made. This will require realignment from supporting the current sector-wide approach, which, largely, adopts the institutional capacity development model of development, to selecting more targeted and narrowly defined goals and objectives and building on existing wins. This latter alternative would blend different development approaches, depending upon the activity involved, only one of which would be *institutional capacity development*, but the others include support for (a) *service-delivery*, which concentrates on improving the provision of services to beneficiaries at the point-of-delivery of those services; (b) *problem-solving*, which uses the traditional technique of identifying a concrete issue, choosing from among various options to resolve the issue, implementing the chosen option, and then verifying the resulting performance; and (c) *thematic*, which entails choosing an overarching 'theme,' such as ending violence against women/gender equity or access to justice and, thereafter, designing most AusAID support programming with that theme as the underlying objective.

In relation to the allocation of resources, the use of technical advisors - or development practitioners (DPs) - is irrefutably indispensable in any capacity-building strategy. It is worthy reiterating that institutional capacity building is in its nature an inherently complex challenging and long term endeavour; if it was amenable to 'quick fixes' then these would have already been delivered in AusAID's earlier development investments to agencies across the sector over the preceding twenty years or so.

Among technical advisers, we find that a number of comparative advantages do exist between Government of Australia (GoA) support through PALJP, SGP and APP: the use of government advisers is compelling in terms of the building and reinforcing institutional relationships between like agencies; at the same time, the use of private sector advisers provides a range and depth of expertise which is wider, markedly cheaper and more accessible than government officials. At present, however, CEOs have commented on the lack of linkage between these programs, revealing little evidence of strategic coherence and systematic oversight on a whole of government basis. While consultations reveal some continuing demand for the Law and Justice Adviser (LJA) role, there are also other indications that the appropriateness of this position is tenuous, and it is timely for key stakeholders to review the purpose and utility of this role as presently scoped and positioned and to refine its terms of reference.

In relation to monitoring and evaluation (M&E), there have been some significant PALJP successes with respect to the establishment of performance metrics. But the M&E situation in PALJP and within the institutions and agencies of the GoPNG is qualified. Although data exists, it does not appear to be consistently or appropriately used. There seems to be an absence of visible commitment within the GoPNG to manage development strategies, policies and operations according to the collection, collation, and analysis of available empirical data. This raises disquieting questions about the institutional capacity-building approach, given the extended period of time that AusAID has been supporting the development of this capability in this sector.

Additionally, there are a number of more specific difficulties with the sector and PALJP's M&E regime. First, too many indicators measure outputs, as ought to be expected of a program that focuses on institutional capacity development. Second, many indicators lack specificity, with what they are to measure left largely undefined. Third, the ways in which the indicators have been grouped into subgoals does not allow for a complete story to be told. This report provides a detailed assessment of PALJP's performance indicators, and, as illustration, offers a range of suggestions in relation to indicators for policing, safety/security and locally delivered justice with which PALJP can move forward in its efforts to measure law and justice development more effectively in future.

e Recommendations

As the result of undertaking this review, it is recommended that:

1. The Governments of Papua New Guinea and Australia, as development partners, restructure the annual development budget process into two steps: (i) GoPNG review and revise the sector policy strategies and priorities, and (ii) both partners convene the strategic coordination meeting process provided in the PDD to discuss and agree on the allocation of GoA's assistance to support sector development.
2. PALJP reviews its development approach to increase the proportion of programming to support the delivery of services directly to beneficiaries, and

adopts a 'blended' approach which integrates capacity-building with service delivery, problem-solving and thematic approaches.

3. PALJP sharpens the focus of its support to address specific thematic challenges/priorities to improve service delivery to beneficiaries, for example, concentrating on gender equality and violence against women.
4. PALJP reallocates the provision of resources (personnel and goods & services) to increase and ensure adequate support for the roll-out of assistance to provincial and local service delivery, including the appropriate inclusion of civil society organisations in support activities.
5. PALJP review and refine its approach to monitoring and evaluation by clustering its performance indicators into baskets that can tell a more complete story; defining individual indicators so that they produce specific reliable and valid data; and supporting the use of data in GoPNG policy and managerial decision-making.
6. The Governments of Papua New Guinea and Australia, as development partners, take steps to improve the alignment and coordination of its development program comprising PALJP, APP and SGP at the sector and agency levels.

These recommendations offer the potential to consolidate and transform PALJP's existing contributions to law and justice into a measurably more just safe and secure society for the people of PNG.

f Evaluation Criteria Ratings

Evaluation Criteria	Rating (1-6)	Explanation
<p>Relevance <i>Is the activity contributing to higher level objectives of the aid program?</i></p>	3.9	The relevance of PALJP's existing approach is qualified to the extent that its objectives support GoPNG's policies – as required by AusAID's PDD - but it is a matter of overarching concern that it has not substantially benefited the distinctive interests of its beneficiaries being the citizens of PNG in any discernible measure.
<p>Effectiveness <i>Is the activity on track to achieve its objectives?</i></p>	3.8	To the extent that PALJP is executing the PDD, the program is on track by delivering 'islands of achievement' towards its stated objectives. But, it requires strategic refocusing, as detailed in this report, in order to improve its effectiveness in supporting the attainment of a more just safe and secure society for all.
<p>Efficiency <i>Is the program being managed to get the most out of resources?</i></p>	4.8	The program is generally quite well managed and executed.

Sustainability

Will program benefits continue after funding has ceased?

3.5 The benefits of the program are qualified, remain fragile and require considerable ongoing support.

Gender Equality

Is the program advancing gender equality and promoting women?

4.4 The advancement of women's rights is among PALJP's most impressive achievements, including support for IPOs, Family Support Violence Units, Village Courts and the appointment of women as magistrates, court clerks and court peace officers.

Monitoring & Evaluation

Is the program's M&E system effectively measuring progress?

3.8 While PALJP has continued to consolidate the establishment of performance metrics, many performance indicators measure outputs only, lack specificity and are incomplete.

Analysis & Learning

Is the program based on sound technical analysis and continuous learning?

3.9 There is some evidence of improved performance through learning, however, there is a lack of an imbued culture of systematic data analysis and learning.

Rating scale:

Satisfactory
6 Very high quality
5 Good quality
4 Adequate quality

Less than satisfactory
3 Less than adequate quality
2 Poor quality
1 Very poor quality

Introduction

Activity Background

This IPR is being conducted at about the mid-point of PALJP's implementation phase between 7 April 2009 - 2014. PALJP builds on AusAID's earlier assistance to GoPNG's law and justice sector through the Law and Justice Sector Program starting in 2003, which in turn built on earlier agency-based institutional strengthening projects. Significantly, it is framed in the context that the current implementation phase of PALJP is contributing to AusAID's largest and longest direct investment in law and justice reform and, in particular, is the latest instalment in a continuum of intensive development assistance in law and justice provided by the Government of Australia (GoA) to the Government of PNG (GoPNG) over about the past decade.

Where appropriate, this IPR offers evaluative comments which are framed by this extended context, noting that Cardno Emerging Markets Pty Ltd is the Implementation Service Provider (ISP) for both the present phase and the Australian Managing Contractor (AMC) for the earlier phase of the Law & Justice Sector Program (LJSP) between April 2003 to 6 April 2009.¹ Additionally, there has been a degree of continuity in the personnel of the ISP team across both phases.²

The purpose of PALJP is to support Papua New Guinea-led programs to enhance the capacity of the law and justice agencies to achieve 'a just safe and secure society for all,' being the vision identified in GoPNG's National Law & Justice Policy, the Law and Justice Sector Strategic Framework and related plans. The Partnership identifies specific areas of focus for bilateral cooperation, targeting priority initiatives under each of the Sector Strategic Framework Goals 1 to 5:

- Improved policing, security, safety and crime prevention
- Increased access to justice and just results
- Improved reconciliation, reintegration and deterrence
- Improved accountability and reduced corruption
- Improved ability to deliver law and justice services.

PALJP is a key component of the PNG-Australia Partnership for Development Law and Justice Schedule endorsed in 2011. The other major components are the PNG-Australia Policing Partnership (approximately \$7 million annually) and the Strongim Gavman Program (approximately \$5.5 million annually).

Since the design of PALJP, the Government of PNG has developed a range of planning documents which set priorities and targets for law and justice services, which include Vision 2050, the Development Strategic Plan 2010-2030, and the Medium Term Development Plan 2011-2015. Additionally, a number of recent aid reviews have significant implications for PALJP's implementation and future law and justice assistance in PNG. These include the PNG-Australia Development Cooperation Treaty Review (2010), the Aid Effectiveness Review (2011) and the Office of Development Effectiveness Law and Justice Evaluation (current, report expected March 2012).

Within this context, the IPR is timely in providing an opportunity for stakeholders to assess how these ongoing events affect PALJP's current and prospective implementation approach. This IPR is being conducted at a time when GoPNG's development budget process for 2012 has already been completed, though approval of the budget is still being awaited, pending resolution of a crisis over the political leadership of PNG. It is anticipated that the findings and recommendations of this review will be largely unaffected by these events, though this remains to be seen.

Under these circumstances, we recognise that there are finite opportunities to refine the implementation approach within the existing program. Accordingly, some observations should be considered by development partners within the immediately remaining implementation timeframe, while it may be more useful for others to be 'parked' for consideration in any ongoing design process which may be expected to start during the next year.

Evaluation Objectives and Questions

The purpose of this Independent Progress Report (IPR) is to evaluate the implementation progress of the PNG-Australia Law and Justice Partnership (PALJP) at the mid-point of the current phase using evaluation criteria developed by the OECD Development Assistance Committee (DAC) and AusAID. These criteria relate to relevance, effectiveness, efficiency, impact, sustainability, gender equality, monitoring and evaluation, analysis and learning and lessons. The evaluation is intended to help the Governments of Australia and PNG to assess PALJP's effectiveness, provide lessons on aid program management, and inform future assistance to law and justice. Specifically, it addresses the evaluation questions outlined in the Terms of Reference (ToR), which appear in **Annex B**. As agreed by AusAID, this report addresses the evaluation questions by building on the thematic structure of the Aide Memoire to avoid fragmentation and repetition.³ The evaluation plan for this review appears in **Annex C** of this report.

Evaluation Scope and Methods

The methodology of this evaluation has comprised (a) document review, (b) field work consultation and (c) desk analysis. A list of the persons consulted during this evaluation appears in **Annex D** of this report. The evaluation team has undertaken intensive fieldwork consisting of interviews, data gathering and site visits to AusAID Canberra, Port Moresby NCD, Goroka in EHP and Lae in Morobe Province along the Highland Highway, and Buka and Arawa in ARoB between 14 November – 2 December 2011. The purpose of these consultations and visits has been to gather validate and assess data on PALJP performance. In undertaking this IPR, the evaluation team has reviewed an extensive range of documents related to the planning and performance of PALJP, including design documents, progress reports and monitoring data. These documents have been sourced from GoPNG central, sector and line agencies, PALJP and GoA whole of government partners, including SGP. An inventory of these documents also appears in **Annex B** of this report.

Evaluation Team

The evaluation team comprised three members:

- **Dr Livingston Armytage**, Team Leader, is a law and justice specialist who served as founding director of PNG's Justice Advisory Group 2003-5.
- **Mr James Laki**, Government of PNG representative, and director of Melanesian Peace Foundation who absented himself in community consultations to avoid any conflict of interest.
- **Dr Eric Scheye**, is a monitoring and evaluation specialist, and member of AusAID's ODE thematic review of law and justice.
- In addition, **Ms Catherine Gill**, AusAID Evaluation Manager, participated in selected team discussions and stakeholder consultations.

Evaluation Findings

Introduction

While we acknowledge the imperative to remain consistent with and aligned to GoPNG's law and justice policies and strategic vision, particularly with regard to restorative justice, we recommend that PALJP refine its approach to law and justice development for the last half of its implementation period. Specifically, we suggest that PALJP transition toward integrating differing development approaches in order to place a greater emphasis on the delivery of provincial and local law and justice. To do so, we believe implies integrating, balancing, and blending service delivery, problem-solving, and thematic approaches into PALJP's predominant capacity building model of law and justice development.

a Progress to date

In order, appropriately, to situate PALJP's progress to date, it is prudent, very briefly, to review the current state of affairs in the GoPNG's delivery of law and justice. While the PNG Law and Justice Sector's 2010 Annual Performance Report (2010 Annual Report) notes that "progress has been made towards the achievement of annual targets over the past 5 years using 2006 as a baseline"⁴ and there are indications that crime rates have fallen,⁵ the state's ability to provide adequate levels of law and justice to its citizenry remains tenuous, at best.⁶ One of the difficulties, according to one interviewee, is that GoPNG officials are "not thinking about service delivery to real people; they are thinking only about their own institutions." On an operational service delivery level, the 2010 Report observes, for example, that the "the RPNGC... [has] difficulty [in] maintaining basic policing functions... [and is] not in a position to undertake urgent reform, as acknowledged by police management, to place the agency on an acceptable growth path."⁷ There also appears to be a "general perception that the police and the courts are inefficient and ineffective in handling criminal cases."⁸

One of the principal vehicles by which the GoPNG delivers law and justice to its citizenry is the Village Court system,⁹ with over 1450 Village Courts operating throughout the country PNG. However, the 2010 Annual Report notes that there is universal condemnation of how provincial governments support Village Courts, a sentiment which is underscored by the fact that only one province, the Eastern Highlands, conducted "adequate inspections" of the Courts within its jurisdiction.¹⁰ Similarly, even though land conflicts are a primary source of insecurity throughout PNG, over "the entire 2006-2010 medium term strategic period," the data suggests that there has been "no improvement in the status of land cases," which "directly impacts on disputes and stability in the country and consequent on the work of the Law and Justice Sector."¹¹ Or, as one GoPNG official stated, "land cases have been piling up and nothing is happening." More problematically, he noted that there has been "no discussions within the NCM" on how to relieve the bottleneck, even though "land mediators are doing a good job, similar to the Village Courts."

This sense of inadequate management by the GoPNG of law and justice was echoed by one GoPNG official, who conceded about the management of his own justice agency, "we have plans, but not the ability to implement and that's why we need PALJP" and Australian assistance more generally. The inadequate management of law and justice institutions also raises troubling political questions, regarding the commitment of the GoPNG to law and justice development. First, although gross budgetary allocations to law and justice agencies have increased since 2006, the

percentage of the total GoPNG budget allotted to the institutions has fallen “from 9.6% in 2006” to “7.7% in 2010.”¹² Second, there have been many changes of leadership in many law and justice agencies. Over the past twenty years since 1992, the Office of the Solicitor General has, for example, had thirteen (13) heads. Similar changes of leadership have occurred within other agencies. While such changes may be unavoidable, the rate and prevalence of change underscore the challenge of maintaining continuity of sector vision. Third, PNG currently ranks 154 out of a possible 183 countries on Transparency International’s corruption index, an indication that the leadership, political and substantive, of the GoPNG’s law and justice agencies is unable to address the corruption challenge as perceived by the public.

Within this overall picture, PALJP, in its two and a half years, has contributed to numerous significant ‘wins’ within the ministries and agencies of law and justice. The list of ‘wins’ is too long to enumerate one by one or in detail, as they range across the law and justice ministries and agencies. PALJP, for instance, has successfully supported the construction of substantial capital infrastructure for the national and magisterial courts, police, and prisons, along with housing for the personnel of the respective agencies in order for them to be able to staff the facilities to which they are assigned.¹³ Whether it is a new minimum security prison in Bougainville; housing for prison staff in Lae; Public Solicitor offices and help desks in Manus, Kerema, Alotau, Wewak, and Buka; or court houses in Alotau, Bomana, Daru, Kavieng, Kerevat, Kainantu, Lorengau, and Madang (newly built and/or renovated) each and every facility represents the extension of the face of the GoPNG in parts of the country where it may not have previously existed for years, if ever. As one interviewee observed, the presence of a courthouse or similar state facility means that “we are no longer alone.” By its mere existence, then, capital infrastructure can increase the confidence of the citizenry in the GoPNG, as each facility suggests greater access to justice and the enhanced potential of the state to deliver the public goods of law and justice.

Without question, PALJP support for capital infrastructure through direct contributions and the use of DPs -- including such police initiatives as improvements of the Bomana College and associated housing or construction of the Police Training Centre and the Police Quartermaster Store in Buka -- has been an essential and necessary precursor for improved law and justice service delivery. Substantial contributions have been made to rehabilitating the Bougainville police and police prosecutor course which has garnered support from the Chief Justice as well as the UPNG law school. The increase in court circuits from seven (7) locations in 2009 to forty-two (42) in 2010 suggests that improved service delivery may be progressively being achieved. Court services being provided in forty-four (44) continuously staffed locations, as well as at fifty-six circuited facilities, further indicate that access to justice has improved -- to national and magisterial courts; to the services of Public Prosecutors; and to the provision of legal aid through the offices of the Public Solicitor.

Whether these necessary long-term foundations will result in concrete and measurable improvements in law and justice service delivery, however, cannot yet be determined, for better access to justice does not automatically equate to better justice. It is a necessary step, but not a sufficient one.¹⁴ Furthermore, better service delivery can only be measured by outcomes and results and it is imprudent to evaluate institutional capacity development efforts, which is what capital-intensive infrastructure endeavours are, according to such criteria. Infrastructure development is an output, a new building, and, conversely, an input for potentially improved service delivery, but, in itself, it does not provide a service.

Whether these essential building blocks are sustainable is also an open question. Rather than focus on sustainability, however, these critical precursors to potentially enhanced service delivery may be more appropriately viewed as catalytic initiatives, essential building blocks upon which future law and justice development depends and from which sustainability in its various dimensions -- financial, human capital, cultural appropriateness, 'ownership,' integration, etc. -- can be more appropriately assessed. Capital infrastructure, for example, can become the halls in which equitable, fair, and rights-respecting law and justice can take place, but it requires much more than a building to achieve. Consequently, it is fair to claim that PALJP institutional capacity development support has strengthened GoPNG's agencies and has begun to establish the basic building blocks and foundations upon which the future development of law and justice in PNG can occur. In part, whether the catalytic nature of these precursors is exploited and service delivery improves may lie beyond PALJP's remit, effectively dependent upon a host of factors, two of the which are inherently political -- whether the GoPNG maintains consistent committed leadership of the institutions and agencies of law and justice focused on service delivery and whether the GoPNG increases its allocations to law and justice services as a proportion of its overall budget. At the same time, PALJP has a critical role to play with respect to how these catalytic initiatives become launching pads for service delivery.

PALJP has also supported numerous improvements of managerial systems, processes and procedures throughout PNG's law and justice ministries and agencies. With PALJP support through DPs, achievements include, among others, strengthened control by the judiciary of its costs and budgeting; savings of K28 million in RPNGC pension payments; implementation by the Public Prosecutor of its strategic planning; the signing of an agreement for the Ombudsman Commission to assist and oversee the RPNGC Internal Affairs Directorate's complaint system; enhancement of the Ombudsman Commission's office management; and the capacity of most agencies to issue quarterly reports and have compiled annual plans. Of special note and a very significant accomplishment have been the reforms within the Office of the Solicitor General (OSG) that have improved its control of costs related to brief outs, settlements, and judgments, resulting in significant cost savings.

In many law and justice agencies, PALJP has supported the improvement of case management and registry services, for the courts, prosecutors, and public solicitors.¹⁵ Registry clerks are now able to help citizens lodge civil complaints; public solicitors can now more readily pull up case files for clients when their colleagues, who may have originally handled the case, are in court, sick, or on vacation. These achievements are the culmination of a long process, PALJP's contribution being only the last phase of some two decades of concerted Australian assistance to law and justice in PNG. With respect to the registries, their existence and use is a clear indication of improved access to justice, but, once again, that does not suggest that better service delivery has been attained. New registries and case management systems, which undoubtedly strengthen law and justice institutions and agencies, can be assessed according to their outputs, the number of case inputted, timeliness of data entry and retrieval, etc., but not with reference to outcomes and results.¹⁶ As necessary precursors, registries and case management systems are catalytic contributions to potential improvements in the delivery of law and justice, but only if the information and data they contain are managed appropriately, which depends upon political leadership, as well as on how PALJP advocates for and supports these catalytic foundations, as will be further discussed in the M&E section. In and of themselves improved managerial systems and processes are not sufficient indicators of better service delivery.

The role of DPs in these managerial achievements cannot be underestimated. According to interviews, the support of DPs has stimulated and fostered enhancements of the aforementioned managerial systems, processes, and procedures. It is unlikely that these managerial improvements would have been attained without them.¹⁷ However, the sustainability of many of these managerial systems may also depend upon the continued presence of DPs or comparable support arrangements, if the case of the Office of Solicitor General is illustrative. Once the DPs supporting improvements in OSG's practice management and case management systems left, OSG staff has grappled to maintain them, according to interviews. The result has been that the sustainability of both systems is now in question, though it is noted that the leadership is committed to keep these systems functioning.¹⁸ It is also reported that OSG staff cannot, as yet, undertake the requisite data management for the highly successful brief outs, settlements, and judgments systems and, most likely, will not be able to do so "for another five years." Another interviewee noted that DPs are essential "in the long run, to keep finances honest," in the various ministries and agencies to which they are currently assigned.

The nascent advancement of women's rights may be among PALJP's most impressive achievements. Successes include supporting the establishment of Interim Protection Orders (IPO) in 2009, a system that enables individuals to seek legal protection. It should be also noted that the issuance of an IPO requires the existence of local courts and magisterial registries, a case in point of how PALJP's support has been catalytic. This system, however, is only embryonic in that the procedures and activities of how an IPO were to be enforced, if the issuance of an order were to be violated, are highly problematic. Although there are serious doubts that the GoPNG is committed to improving services to women, this realism is not to undercut the vitality of the system or its value. The existence of the IPO system is not only a significant step forward, but a promissory note for future engagement, one that already provides dividends to women by increasing their confidence that their needs are being addressed.

In addition, PALJP has supported the establishment of five (5) Family Support Violence Units (FSVU) within selected RPNGC police stations. PALJP has also been instrumental in supporting linkages between FSVUs and local hospitals, establishing Family Support Centres in the hospitals, providing them with some necessary equipment, and facilitating referral services for women in need. While police development is a slow and arduous process, particularly with respect to ending violence against women/gender equity, at the same time, it must be acknowledged that support for these endeavours within the RPNGC is tenuous, at best. No funds from RPNGC HQ have been provided for the establishment of the FSVUs; no training has been given to police staff assigned to the FSVUs; and the offices lack pens, paper, and other basic office supplies, which results in "haphazard data collection," according to one interviewee.¹⁹ Furthermore, the RPNGC officer in charge of the substantive area, a Chief Inspector, possesses no line authority over the FSVUs and the work of the FSVUs is, according to an interviewee, not considered to be "part of the core business of the police." In fact, according to reports, the FSVUs have not been formalized into the structure of the RPNGC and the proposal to formalize their existence has been rejected and currently lies in limbo.²⁰

In another important initiative, PALJP has been instrumental not only in the expansion of the Village Court system throughout PNG, which in itself is a notable achievement, but also in the instalment of up to 700 women as magistrates and a total of approximately 500 as court clerks and court peace officers.²¹ The presence of these women as officials of the court, the lowest rung of PNG's judicial system,

may reasonably be expected to be instrumental in increasing women's access to justice, not only in numbers but by fostering greater confidence in women that the judicial system is open to and capable of listening to women's concerns. Women Village Court magistrates, clerks and peace officers also can serve as role models, suggesting that PNG society may be increasingly more amenable to the professional advancement of women. None of these changes can or should be undervalued. They are worthy of strong acclaim, a relatively unique achievement within the donor community, and may have profound long-lasting positive repercussions, but they do not necessarily suggest that either service delivery has been improved or the work of women Village Court magistrates is perceived to be legitimate. Fortunately, as will be discussed later in the section devoted to M&E, data exists to make such determinations. Unfortunately, the indicators currently used to measure performance do not mine the data.

Significant achievements have been produced by YLM, which brings together youths, private companies, NGOs, RPNGC, and municipal authorities in impressive crime and violence prevention and employment initiatives which were devolved to National Capital District Commission at the end of 2011.

PALJP has collaborated with National AIDS Council and the Minister for Department of Community Development in a range of aspects of HIV and the law. This has led to developing materials on HIV and rights under the law for the general population; organizing the First National Dialogue on HIV, Human Rights and Law; and organizing workshops for representatives from the Public Solicitors Office among other initiatives.

PALJP has also produced significant achievements in its provincial service delivery components, which will be addressed in a subsequent section. Setting PALJP's provincial support activities aside, such as Village Courts, which accounts for only 10% of PALJP's budget, the abovementioned successes, along with training initiatives PALJP has supported across the law and justice spectrum, can best be described as "islands of achievement." Recognizing that it is the NCM's role to set the reform agenda and the allocation of resources, PALJP's accomplishments are noteworthy. Although there are exceptions, such as the roll-out of legal aid desks, these "islands of achievement" are, predominantly, outputs, institutional capacity development initiatives that have contributed to the strengthening of PNG's law and justice institutions and agencies. It is nevertheless sobering to observe that after almost one decade of concerted assistance there is, as yet, relatively scant evidence of improvements in the delivery of law and justice services to the people of PNG, 85% of whom live outside Port Moresby.

As already suggested, many of PALJP's support activities have produced necessary precursors for improved service, but these accomplishments, in the main, are not sufficient for improving the actual delivery of that service. For example, a woman can now register a civil case in court but there is little indication that her case will be heard fairly or in a timely manner. In and of itself, it is a good thing that a prison has been built, but the dearth of magistrates, judges and public prosecutors suggests that the new facility may not necessarily produce ongoing benefits to the wider community. The ability of a woman to acquire an IPO is highly significant, but if the protection order cannot be enforced and such enforcement is years, if not decades, away, given the current state of affairs within the RPNGC, PALJP's major objective of supporting the sector to achieve measurable progress towards its goal of a more just safe and secure society for all remains elusive. It also suggests that PALJP's primary developmental model, institutional capacity development, may be in need of rethinking and revision.

Furthermore, these “islands of achievement” do not appear to join up to offer a strategic pathway to improved law and justice service delivery. Part of the challenge is that institutional capacity development, with its primary focus on strengthening the managerial, financial, human resource, and training systems and processes government agencies does not, principally, concentrate on the specific activities that make up the delivery of a tangible service to identifiable beneficiaries. In fact, because institutional capacity development is measured by the generation of outputs, the beneficiary of the donor’s support is the institution, agency and/or organization itself. Identifiable individuals, neighbourhoods, and/or communities are not relevant to the determination of whether institutional capacity development support has effectively attained its objective, given that they are not and, most frequently, cannot be included within the calculus by which such donor assistance is measured. A strategy to improve service delivery, therefore, is rather difficult to devise when the primary development model relies on an institutional capacity development approach, as is the case with PALJP. In the M&E section, as elsewhere in this report, concrete programmatic suggestions are made on how to build upon PALJP’s “islands of achievement” so that tangible improvements of service delivery can be achieved.

B ISSUES AND CHALLENGES

Beyond these ‘wins’, there are a number of significant issues, or challenges, which confront PALJP’s ongoing journey to development effectiveness. These challenges relate to (i) alignment, strategic vision and beneficiaries; (ii) engagement in sector coordination; (iii) approaches to development; (iv) building on ‘wins’ on the path forward; (v) roll-out of regional activities; (vi) resource allocation; and (vii) monitoring and evaluation.

i Alignment, strategic vision and beneficiaries

In relation to the overall strategic alignment of PALJP, we find that there have been a number of significant changes since the original design of the program. PALJP’s alignment and operating environment are sensitive and dynamic, creating a number of challenges relating in particular to the continuing positioning, relevance and effectiveness of the program in terms of the implementation of its activities to support GoPNG attaining its stated goal of a more just safe and secure society for all.

From the outset, the design intention of PALJP was to create a partnership through which GoA development funding would be aligned to supporting GoPNG’s strategic vision for a just safe and secure society for all, channelled through GoPNG’s budgetary processes in DNPM.²² Early experiences in relation to the management of fiduciary risk however impelled GoA to modify this approach within the first year of implementation. At about the same time, changes in personnel weakened the initially shared vision of both partners and more nuanced approaches towards working in partnership within counterpart systems emerged. A number of refinements in the articulation of GoPNG’s vision then occurred with the issuance of the Vision 2050, DSP 2010-30 and MTDP 2011-15. The governments of Australia and PNG then entered the Partnership for Development (P4D) and in due course added the law and justice schedule with annex 2 on measurement. Additionally, political and effectiveness considerations in both PNG and Australia led to a reassessment of how PALJP was being implemented in regard to both the provision of DP’s and technical assistance more generally. As a consequence, a reduction of 40% of DP’s was politically mandated, decisions concerning which had to be implemented over a short period of time, with limited opportunities for stakeholder consultation and strategic reengineering of implementation approach.

These almost continuous series of modifications and changes have affected the implementation of the program as originally envisaged in the PDD, and disrupted the initial delivery of development support being provided by the program. While the political imperative for both governments to reduce the number of DP's is unquestioned, and this reduction offers the potential benefit of freeing funds for other services, it is evident that the manner in which this change was managed has impaired the efficient and continuous delivery of support and has been beyond the control of the ISP. Our consultations indicate that these changes have also damaged confidence in the partnership, caused a loss of some buy-in among sector leaders, and a further loss of shared strategic partnership vision and focus. This has then flowed on to a deterioration of morale among ISP personnel. These uncontrollable events have had an undoubted impact on programmatic implementation and highlight the sensitivities involved in working in countries such as Papua New Guinea. Despite this, the ISP has been slow in managing any ongoing process of strategic reengineering its approach to address these challenges to this point.

Within this context, we find that the relevance of PALJP's existing approach is qualified to the extent that its objectives support GoPNG's policies but has not substantially benefited the program's ultimate beneficiaries in any discernible measure.²³ The program's objectives and activity outcomes are relevant to the extent to which they address PNG and Australian Government priorities nominated in GoPNG's Medium-Term Development Program 2011-6 (MTDP) and the Partnership for Development (P4D) law and justice schedule.

When 'relevance' is defined as contributing to higher level objectives of the aid program as outlined in country and thematic strategies, the now well-established annual process of identifying Project Implementation Documents (PIDs) and approving Project Formulation Documents (PFDs) generally ensures that program activities conform to formally-endorsed priorities. It is evident that some agencies, such as the Ombudsman Commission, are more strategic in selecting activities to address priorities than others. While DNPM continues to express chronic misgivings about the alignment of this development budget process with GoPNG's systems, it may be observed that elaborate arrangements have been made in the design and implementation of PALJP to ensure its relevance in terms of addressing GoPNG's objectives and priorities as articulated by the sector.²⁴

When 'relevance' is alternatively defined as referring to the extent to which PALJP's objectives are consistent with the distinctive interests of its beneficiaries – being the citizens of PNG and civil society - then it becomes less clear that its objectives and activity outcomes are relevant. At its foundation, the MTDP builds on the National Law & Justice Policy & Plan of Action (NLJPPA) 2000 which has a vision of promoting a more just safe and secure society for all, based on three pillars being: (i) improved functioning of the formal law and justice, (ii) improved sectoral coordination and resource use, and (iii) increased focus on crime prevention and restorative justice. An analysis of PALJP's expenditures during the current year reveals that they focus predominantly on supporting activities which support pillars (i) and (ii). Expenditure allocated to support the implementation of pillar (iii) on community-based and beneficiary-focused activities is markedly less, estimated to comprise only 15% of PALJP's total expenditure for the period to 30 September 2011.²⁵

This expenditure allocation is a strikingly small proportion of the program's overall resources. The allocation of most of the resources of PALJP are allocated to agencies of the formal sector based in NCD which have little or little direct relevance on most of the ordinary people of PNG who live in communities beyond the reach of

the formal system. While the importance and needs of these agencies is fully appreciated and acknowledged in this review, this imbalance in resource allocation creates a dilemma of relevance for the program. This dilemma was confirmed in community consultation where beneficiaries observed that ‘the (PNG) Government doesn’t care,’ ‘we have been neglected,’ ‘we are not being helped by PALJP,’ ‘we used to be helped by CJLU but even that has now stopped,’ and as we have already seen, ‘they are not thinking about service delivery to real people; they are thinking only about their own institutions.’

We are of the view that PALJP’s performance has been more aligned to addressing the program’s stated objectives rather than addressing beneficiaries’ needs. While it may well be argued that this is how it should be, our overarching concern about the program’s under-effectiveness in benefitting its beneficiaries persists. This concern is reflected in our scoring the ‘*relevance*’ of performance (marginally) more highly than its ‘*effectiveness*’ in supporting the sector to attain a more just safe and secure society for all.

In order to redress PALJP’s existing qualified relevance for the beneficiaries of PALJP, it will be necessary for the program to re-balance and focus its resources on services. These services should support the implementation of pillar 3 of the NLJPPA more directly to ensure outcomes that are more directly relevant and visible to ordinary people in communities across PNG who are the beneficiaries of PALJP. This does not imply a realignment of program purpose so much as a reallocation and rebalancing of developmental approaches and program resources. One of the challenges to the relevance and effectiveness of PALJP has arisen from a conflation in the coordination of GoPNG strategies/policies/planning with the coordination of the delivery of concrete services (such as IPOs or Community Justice Centres) and donor support for an improvement in those delivered services. Now that GoPNG has articulated its policy framework and priorities, we consider that PALJP should refine its focus to measurable activities, which implement GoPNG priorities to which AusAID concurs and believes PALJP has a comparative advantage to providing assistance.

To do this, the ISP can increase the relevance of PALJP by extending its support beyond strengthening the capacity and coordination of agencies to focus more on the point of delivery of services which address the needs of beneficiaries directly. As we outline later in this report, this will require more emphasis on improving more just and safe outcomes as measured in terms of visibly increased access to the courts, including Village Courts, and enabling the exercise of people’s rights to justice.

ii Engagement in sector coordination

It is timely to assess the operation of GoPNG’s sector coordinating mechanisms for the delivery of law and justice services as a part of this review because a key feature of PALJP’s engagement strategy involves supporting these mechanisms. This strategy adopted the spirit of the *Paris Declaration* to operating within counterpart systems, which has been ratified most recently in December 2011 in Busan.²⁶ The operation of these mechanisms – which comprise the National Coordinating Mechanism (NCM), the Law and Justice Sector Working Group (LJSWG), the Activity Management Teams (AMTs) and the Law and Justice Sector Secretariat (LJSS) – are pivotal to the success of the program’s engagement strategy as articulated in the PDD.

The foundations of these mechanisms were laid by agency leaders in the law and justice sector in the late 1990s, and have been built upon and consolidated over

following years. In 2004, NEC approved the establishment of the NCM as the permanent coordinating body for the sector (NEC: 242/2004), designed as a coordination body for law and justice agencies.²⁷ Its role is to oversee sector development, including strategic policy development and performance monitoring, and promote the coordination of service delivery across the sector. It had no constitutional functions or powers. According to the White Paper on the Law and Justice in Papua New Guinea the chairmanship 'will rotate among the members on an annual basis.' Notably, the composition of the NCM has excluded any representation of the community or civil society to this date.

The NCM is supported by the LJSWG, which is the longest-serving operational mechanism in the sector consisting of senior officials who have corporate knowledge of each of the agencies. The role of the LJSWG is to support NCM in the development of sector strategic planning and policy by developing proposals and implementing its decisions.

The NCM and LJSWG have been supported by Activity Management Teams (AMTs), which were formed by the NCM in 2005 as a practical means for enabling improved operational level coordination and collaboration in implementing the sector's reform agenda. The role of AMTs is to coordinate the implementation of NCM decisions on a cross-agency basis. They are made up of agency representatives from across the sector, ranging from operational level staff through to senior managers as well as representatives from other government agencies and civil society in some cases. The number of AMTs has varied over the years across a range of corporate functions (eg HR, finance) and technical areas (eg fraud and corruption, restorative justice). There were originally 13 AMTs. The management of AMTs was however the subject of critical review by Agonia/Mere in 2010, as a result of which the NCM reduced their number to six, and rationalised their positioning and operation to specific agencies.

The sector is also supported by the Law and Justice Sector Secretariat (LJSS - originally called the Sector Coordination Unit), which was established by the NCM on 7 April 2005. The role of LJSS was originally to provide a small secretariat to support the sector. Over the years, its services grew to include policy implementation and coordination, budget management including audit, community engagement, monitoring and evaluation, media and communications. The performance of the NCM and its sub-committees has been largely reliant on the operations of the LJSS, whose role has been seen by many stakeholders as foreign and not in-line with GoPNG structures. The LJSS has in turn depended largely on the ISP for its operations and lacked any support from the GoPNG. This dependency has caused delays in procurement and created tensions at times. While acknowledging that DNPM has recently indicated an intention to take responsibility for LJSS at some future time, it also suggests questionable commitment on the part of the GoPNG or, at a minimum, that PALJP assistance has problematically functioned to erode legitimate demand for locally-delivered services.

In 2010, the NCM resolved to restructure the Community Justice Liaison Unit (CJLU) into the Community Engagement Unit (CEU) and relocate it in the LJSS in order to strengthen its oversight. The CEU is now under-staffed and exists in name alone, though DJAG has expressed some interest in housing the CEU, at the time of writing. This situation has significantly restricted the access of community bodies to PALJP, causing some civil society organisations (CSOs), non-government organisations (NGOs) and faith-based organisations (FBOs) to ask "*what is PALJP?*" PALJP has virtually no civil society engagement at this stage in NCD, with the completion of its support to YLM in 2011, and is of little or no relevance to law and justice civil society organizations, at this point. While it is noted that PALJP is just one modality of

AusAID's assistance, siloing off support to civil society and NGOs from the main body of a law and justice initiative is nonetheless a lamentable state of affairs which raises major questions about the ongoing positioning, resourcing and management of PALJP's services to beneficiaries and, in particular, to supporting the CEU which should be addressed by key stakeholders at the earliest opportunity.²⁸

Also in 2010, a review was undertaken which recommended that NCM restructure the LJSS to focus on (i) administrative support for sector meetings, (ii) formulation of sector-level policy, and (iii) coordination of sector reporting. Since its establishment, LJSS has been fully funded by AusAID without any recurrent funding from GoPNG. GoPNG has agreed to fund 50 per cent of LJSS's running costs in 2012 – and allocated k2m during FY2012 - and 100 per cent from 2013. The LJSS is now undergoing downsizing.

Historically, the sector mechanisms have been well-owned by the line agencies, as they are the owners and participants of the NCM. Collectively, these mechanisms have been constituted and led by GoPNG counterparts and have operated systematically to coordinate the law and justice sector over more than a decade. The original vision for the sector is still invoked in name, though there is little compelling evidence that agencies are in fact coordinating their planning on a sector basis, as outlined above. After almost a decade, it is evident that some key sector actors may be getting tired. There is inevitably turnover in sector leadership at all levels. As we have already observed, over half of the NCM members are new; as are members of LJSWG and AMTs. This has contributed to a pronounced diminution of sector vision and the impairment of leadership. To this extent, this review may provide an opportunity for stakeholders to regenerate their vision and galvanise sector leadership.

At the same time, there is the challenge of alignment of the sector to the evolving whole of government vision. While the sector concept has generally been strongly owned by line-agencies and is thus internally-bonded, its ownership has been sporadic at the central level and in this sense it has not always been aligned to GoPNG's whole of government system. The 'sector' comprises the law and justice agencies represented in the NCM with DNPM, which is responsible for the coordination of planning and overseas development assistance. In the early days of coordination, relations were initially sound between the sector and DNPM and its secretary chaired the NCM. But this was discontinued and has been fragmented over intervening years. While the incumbent secretary has now resumed chairing NCM, DNPM has expressed persistent concerns about the alignment of the sector to central planning. This is evident in the erosion of GoPNG support to the sector's pooled development budget process, contributing only 800,000 kina in 2011, while distributing 50 million kina development funds directly to RPNGC and CS. While it may be argued that DNPM has provided additional funding each year, this has been outside the sector's pooled funding mechanism. While all agencies continue to participate in the sector's development budget process, this is of little surprise as these are usually completed with the direct assistance of DPs and are cost-free to those agencies. One senior sector leader observed in consultations, 'this system has not delivered for us.' Another describes the NCM itself as 'a parallel system.' Others have indicated that they have opted out of the NCM budgetary system in terms of addressing their internal agency planning, development of their agency policies and - in the cases of police, prisons and the superior courts - development funding.

It is understood that some of DNPM's concerns have been addressed as part of the MTDP and the P4D processes. Ongoing alignment of the SFF and the sector's PMF is still however required with GoPNG's long term *Vision 2050*, which was formulated

by DPM & NEC, and this need is, likely, to remain perennial. Additionally, further alignment is required to GoPNG's *Development Strategic Plan (DSP) 2010-30*, which was formulated by DNPM and to be implemented through *MTDP 2010-15*.

Most recently, DNPM has expressed interest in relocating the LJSS to its department. This relocation would address concerns about the informal status of the LJSS and provide much-needed GoPNG ownership and administration; but it will do little to strengthen accountability to the NCM. It would additionally provide an opportunity to rationalise a range of sector and central coordination functions, for example, monitoring and evaluation. Most sector leaders are agreeable with this relocation. DNPM's ownership and participation in the sector may be expected to increase markedly once this relocation occurs and GoPNG recurrent funding starts. This will be significant in terms of consolidating the sustainability of these mechanisms which have been heavily dependent on donor support to date. Until that point, however, it remains at the time of writing to be seen whether DNPM's earlier misgivings over alignment will be allayed.

Imprest account

Other concerns relating to, in particular, the 'pooled funding' arrangements and management of the sector's imprest account for the development budget remain matters of ongoing contention. At the commencement of LJSP, initial arrangements were made for this imprest account to be held in DNPM, but early experiences arising from capacity issues, the management of fiduciary risk and a number of irregularities in the operation of this account impelled AusAID and the NCM to temporarily relocate the management of budget back to the ISP and then to LJSS twelve months later in 2006.

While originally intended as a temporary expedient, this arrangement has continued over almost a decade to the present time. The imprest account is now held in the name of the ISP, Cardno, and is jointly-managed by Cardno and the LJSS. Under this arrangement, sector agencies have issued s32 certificates for payment of approved activities to the LJSS which, once authorised, are then paid by the ISP. A number of stakeholders describe the location of the central imprest account as the unresolved cause of the existing malaise in sector coordination. At its heart, this is an unresolved issue between AusAID, the sector and DNPM over who holds and manages the sector's development budget. Some stakeholders, notably in DNPM, object that the imprest account should be held in DNPM 'as a part of GoPNG's systems.' Others are concerned that the existing arrangement is inefficient and that as long as LJSS remains an unofficial body, the management of the sector development budget is exposed to continuing fiduciary risk.

Within this historical context, DNPM has been insistent that all development funds be streamed through GoPNG budgetary systems into one 'basket', while AusAID has found itself obliged to maintain a separate pooled arrangement for accountability purposes. GoPNG sees this arrangement as creating a 'parallel system'. Arrangements for channelling AusAID's development assistance into a 'pooled fund' have been intended to enable GoPNG leadership and ownership of the law and justice reform agenda and maximise the allocation of PALJP's development assistance within GoPNG's budgetary cycle and systems while maintaining the fiduciary assurance of those funds for Australian stakeholders. The rancour which surrounds the lack of agreement over the ongoing channelling of development funds has affected relations between government partners and continues to contribute to the qualified participation of DNPM to date.

There is also some evidence that counterparts find the annualized development budget cycle time-consuming and diverting and in a sense ‘a parallel system’ despite conforming to GoPNG’s develop budget requirements. To address this concern, it would be advantageous, for example, to develop a more efficient process whereby multi-year activities could be approved once rather than annually. More significantly, the existing approach has an unintended effect of segmenting rather than integrating or complementing the recurrent budget process, with some anecdotal evidence of perverse effects arising from PALJP’s support of infrastructure and accommodation projects freeing GoPNG from having to do so. As already observed, this substitution effect is problematic, particularly with regard to the GoPNG instituting a sensible housing allowance system to replace the current procedure of providing law and justice staff housing.

Over the years, a number of steps have and continue to be taken to strengthen the integrity of these funding arrangements. A number of assessments have been conducted to identify and address ways of strengthening the fiduciary integrity of relevant sector and central agencies, and building these capacities is an ongoing matter. Taking these assessments into account, we consider that there is sufficient ongoing analysis of fiduciary and procurement risks in the use of government systems, although the management of associated risks is clearly a matter of ongoing concern requiring ongoing systems and capacity-building. We note that AusAID is willing to assume a more participatory role in the processing of PIDs and PFDs in future budget cycles. At the same time, the ISP is making arrangements to ensure that ongoing impress account expenditures conform to the sector’s agreed priorities. Consequently, and taken collectively, we see the current approach of using the PNG budget system and supplementing current initiatives with ISP oversight continuing to evolve to maximize the allocation of GoA’s development assistance within the available capacity constraints of operating with GoPNG’s systems. Overall, we consider that PALJP’s use of a pooled sector funding mechanism has leveraged budget spending and complemented or influenced recurrent budgets within existing constraints, though this issue clearly warrants ongoing dialogue between development partners.

Sector coordination and the allocation of development assistance

Collectively, these insights on the qualified ownership and ongoing need for alignment of the existing sector coordinating mechanisms raise misgivings about the relevance and effectiveness of PALJP’s engagement strategy. They indicate that the sector’s coordinating mechanisms are not providing coherent and effective strategic and policy guidance or allocating development and recurrent budgetary resources according to priorities. Overall, it seems clear that the NCM has not yet improved service delivery in any marked way to beneficiaries and, moreover, it may be observed that each agency is increasingly planning its own priorities and not coordinating its delivery of services with other agencies in any distinctive way, other than in name. As outlined above, there are ongoing concerns over pooled funding arrangements. Moreover there are the earlier concerns that these mechanisms may be identifying sector/agency priorities which are preoccupied in allocating PALJP’s development funds to addressing their own bureaucratic needs rather than assuring they flow-on to addressing beneficiaries’ needs. Finally, as we have seen, the sector coordination process is being bi-passed by some agencies who are applying directly to DNPM for development budget, and by others that are applying for development funding directly from AusAID, and also DNPM.

This parlous situation gives rise to the pressing need for key stakeholders to review the sector vision, as much as PALJP’s engagement strategy, to review the operation

of the coordinating mechanism for the purpose of allocating PALJP resources in contributing to the development budget. At its heart, this begins with separating GoPNG's appropriate need and desire to coordinate its sector policy from AusAID's provision of the development budget assistance, all the while maintaining aligning with GoPNG's overarching strategic policy and priorities.

Within the aid effectiveness frameworks of the *Paris Declaration* and most recently Busan, endorsed by government partners, there are three options for allocating PALJP's development budget, which should be considered:

- (i) continue with the existing 'pooled funding' approach
- (ii) redirect the provision of GoA assistance through GoPNG systems, through DNPM or DPM+NEC
- (iii) refine the delivery of GoA assistance to sector agencies on a more agency-directed basis.²⁹

Consistent with our earlier suggestions, consideration of these options is initially a matter to be resolved domestically by GoPNG stakeholders, taking into account their respective strengths and weaknesses and the historical constraints of available capacity which have already been discussed. A range of domestic issues relating to development funding arrangements need to be resolved between central and sector agencies, which do not relate to GoA. Only then should GoPNG discuss 'pooled funding' arrangements with AusAID. The status quo of option (i) is likely to be seen as being sub-optimal, given what has been discussed. It could, however, be refined in terms of increased participation by AusAID in the selection and formulation of PIDs and PFDs, and additional oversight of the imprest account by the ISP as outlined above. Option (ii) is likely to be most compatible with the vision of the *Paris Principles* and Busan. It is pleasing to note that relations between NCM and DNPM may be improving. Nevertheless, GoA maintains legitimate concerns over the ongoing systems and capacity-building that are required but unlikely to be completed during the remainder of this phase. Exploration of option (iii) could address the needs of agencies more directly in their efforts to implement agreed sector priorities, but it involves a departure from existing arrangements. The IPR strongly believes that option (iii) is the most likely to improve development effectiveness and benefit the program's beneficiaries within the overarching sector process. Ultimately, however, this is a matter for policy dialogue between development partners, which, hopefully, will take into account their earlier experiences to avoid fragmented agency-to-agency assistance.

Throughout consultations, there was a near universal endorsement among stakeholders of the view that the existing sector-based approach to PALJP engagement and priority setting results in AusAID's development assistance being 'spread too thinly' across all of the needs of the sector, diffusing the allocation of resources and reducing the visibility of outcomes and results for beneficiaries. We share these views. A more targeted approach will focus and promote the effectiveness of PALJP support. Noting the widely acknowledged criminal victimization and relative legal disempowerment of women in PNG, such a thematic approach with regard to gender could concentrate on reducing family and sexual crime with an approach moving from selective agency capacity-building directly through to point-of-delivery services to victims.³⁰ There are a range of other thematic approaches which stakeholders could endorse – possibly including, for example, promoting access to justice, accountability and anti-corruption, or reducing court delays. *It is recommended that PALJP sharpens the focus of assistance to address specific thematic challenges/priorities to improve service delivery to beneficiaries, for example, concentrating on gender equality and violence against women.*

While we recognize the imperative that the GoPNG coordinates the policy planning and delivery of its law and justices, we see this as a separate function to the decision-making process that allocates AusAID's development assistance. Separating policy making/coordination from the determination of which endeavours AusAID will support will enable PALJP to allocate development assistance under the leadership of the NCM in a way which is more likely to support the attainment of specific intended outcomes and measurable improvements in the wellbeing of beneficiaries. Under these circumstances, we recommend that a two-step process be introduced in time for the upcoming budget planning process for FY2013. Step 1 of this process would involve the setting/refining of sector strategy, policy and priorities, which is an entirely domestic function for which the NCM is responsible to lead on behalf of GoPNG. Once completed, step 2 would, then, involve a bilateral dialogue between development partners, where AusAID on behalf of GoA outlines those aspects of GoPNG's strategy, policy and priorities that it wants to support. This dialogue should be characterized by three features which (a) guide the allocation of development assistance within the parameters of GoPNG's stated strategy, policy and priorities; (b) address whatever interests and concerns each partner may legitimately hold; and (c) provide a robust process and mechanism for reaching agreed outcomes between development partners, within the strategic coordination meetings process outlined in the PDD.³¹ *It is recommended that the Governments of Papua New Guinea and Australia, as development partners, restructure the annual development budget process into two steps: (i) GoPNG review and revise the sector policy strategies and priorities, and (ii) both partners convene the strategic coordination meeting process provided in the PDD to discuss and agree on the allocation of GoA's assistance to support sector development.*

Law and Justice Adviser

As a part of this review, we have been asked to provide advice on whether there is continued demand for the Law and Justice Adviser (LJA) role, and whether that role is appropriately scoped and positioned.

The position description for this role is supplied in Annex 6 of the PDD which specifies its key responsibilities. These responsibilities include: (a) supporting agency heads, NCM, LJSWG, LJSS and CJLU, with advice and strategic guidance on law and justice and the management and implementation of the PALJP; (b) advising AusAID on engagement, management and implementation of the PALJP; (c) working closely the ISP Management Team providing strategic management and oversight of the PALJP ISP; (d) supporting the sector to monitor its progress and use performance information in decision-making; and (e) supporting the policy dialogue and engagement between Australia and PNG on law and justice issues; among others responsibilities. The PDD specifies that the LJA is contracted to and managed by AusAID, reporting to the First Secretary, Law & Justice, and co-located at the PALJP ISP. In relation to the ISP, the LJA is required to provide strategic management and oversight of the ISP on behalf of AusAID to ensure that the ISP fulfils its role in supporting the PALJP in accordance with the PDD, though the PALJP ISP management team is responsible for the day-to-day management of the ISP. These stated LJA responsibilities are confused, so it is not surprising that there have been ambiguities regarding the shared understandings of the scope and nature of the LJA and the ISP-AusAID relationship. Fortunately, we understand these have now been clarified by the ISP reporting separately and directly to AusAID.

Historically, it is understood that one of the purposes of the LJA role was to provide strategic-level advice to the sector to guide and support the effective implementation

of PALJP. This is not however clear from the TOR for this position which specifies the provision of advice to each and every stakeholder, whose interests may or may not converge on any particular issue. In this sense, the role is internally-conflicted, and, as originally conceived, largely non-feasible. Our consultations do however indicate that there is some continuing demand for the advisory services of this role, though this demand is not shared by all stakeholders some of whom consider it to be unnecessary and even counter-productive.

The extent of continuing demand for this role is best determined by gauging the ongoing need of the sector, as constituted by the NCM, for strategic-level advice. At present, it is evident that strategic - as much as managerial - advice is supplied by the Team Leader of the ISP from time to time. The ISP is however unable to provide independent advice on the effectiveness of its own implementation approach. Such advice may be supplied by the Director of the LJSS, although this does not appear to have occurred actively or systematically in the past, which may reflect the extent of its existing capacity. Given the size and significance of AusAID's development investment through PALJP, it may be considered that this role could perform a distinctive contestability function contributing independent technical advice relating to sector development. If contestability is to be the key persisting rationale for this role, however, it is incumbent for development partners to decide whether this is required from the LJA and, if so, to refine the ToR to reflect that either for the remainder of this phase or in the future. Alternatively, it may be considered by key stakeholders that contestability is a matter to be best resolved directly between development partners, or between the ISP and counterparts, rather than by the LJA. This could conform to AusAID expressing interest in adopting a more active direct dialogue between development partners, which could render this role redundant in future.

On the associated issue of the positioning of this role, there are a number of options. One relates to positioning the LJA closer to the ISP, but we note that that this option has already been considered and discounted in order to enable Cardno to discharge its contractual reporting directly to AusAID. Another option relates to positioning the LJA closer to AusAID – though it is an internal matter for AusAID how it acquires its advice, which goes beyond the scope of this review. In any event, repositioning the LJA closer to or within AusAID would detract from its independence and is not feasible as the role is presently scoped. A third option relates to rationalising this function and relocating the role with that of Director LJSS. We see this option as being worthy of more detailed consideration by key stakeholders in terms of consolidating available advisory capacity within the support functions in the secretariat. Any such rationalisation should however be postponed pending DNPM delivering on its expressed intention to relocate and fund the LJSS being confirmed. This role would require re-scoping depending on any decision to uncouple sector coordination from program implementation discussed earlier.

iii **Approaches to development**

The original PALJP design notwithstanding,³² the “islands of achievement” produced with PALJP's support imply that the program's theory of change can be summarized, as one interviewee did, by the notion that “institutional strengthening will lead to improvements in law and justice service delivery,” at all levels of service delivery – national, sub-national, community. Putting essential institutional “building blocks” into place in order to generate service delivery is another way of expressing PALJP's theory of change, as other interviewees (ISP and GoPNG officials) intimated.³³

Within this broad statement are nestled, as PALJP's history suggests, a number of sub-theories of change, including:

- better sector coordination will produce more cogent strategies and policies and, thus, spill-over into better service delivery, at the sub-national and community levels; and
- donor-supported technical assistance will strengthen institutions and, thus, spill-over into better service delivery, at the sub-national and community levels.³⁴

While the evidence indicates that institutional strengthening is not sufficient to engender enhanced service delivery, the ‘wins’ generated by PALJP do suggest that, in a number of ways, technical assistance has strengthened PNG’s law and justice institutions. On the other hand, there is little evidence that ‘better sector coordination’ through the NCM, which AusAID has highlighted as the cornerstone of PALJP and its theory of change,³⁵ has had much relevance to or impact on producing more coherent law and justice strategies and policies; coordinating planning across the various GoPNG law and justice ministries and agencies; and/or improving service delivery. As ISP and senior officials of PNG’s law and justice observed time and again, “members of the NCM did not think about service delivery to real people, but rather about their own institutions.” What appears to have happened instead is that, at one and the same time, PALJP became captured by the bureaucratic mechanisms of the NCM and, as the head of one law and justice agency stated, “the priorities of the agencies are not aligned to NCM priorities,” with the former superseding the latter, and not coordinated with one another.³⁶ As a consequence, PALJP’s overarching objective, improved service delivery for all, was set aside and its achievement largely overlooked.

iv Path forward: ‘building on wins’

Remaining consistent to GoPNG’s strategic vision, during the remainder of this phase, we encourage a range of refinements in approach which will start a transition towards a more service-focused delivery approach which integrates capacity-building with problem-solving and a more thematic approach to promoting a more just safe and secure society for all. This would place more emphasis on balancing different approaches to development, adopting a greater provincial approach and delivering services to beneficiaries, within GoPNG’s vision for restorative justice.

At the foundation of this assessment, we consider that there is a compelling case for rebalancing the allocation of PALJP resources to increase the focus on improving service delivery to beneficiaries. We recognise and accept the need for the program to devote resources to capacity-building and the provision of infrastructure, goods and services as the necessary precursor to deliver their services. However, the existing allocation of expenditure focuses predominantly and, in our assessment, excessively, on the intermediate coordination of sector planning and the capacity-building of agencies mainly at the national level. This has led to an insufficient focus on results measurable in terms of attaining the program’s overarching goal of contributing to a more just safe and secure society for beneficiaries at provincial and district levels.

In essence, we find that the program is at risk of losing its strategic focus, and is becoming ensnared in bureaucratic processes and annualised procedures that primarily address the needs of agencies. This predominant focus on addressing the needs of agencies is now risking over-shadowing the delivery of results that directly and visibly address the needs of beneficiaries. This risk must be deftly managed by sensitively rebalancing the allocation of resources so that agency capacity-building is refocused on delivering targeted results.

This adjustment will require a concerted realignment from supporting the sector-wide approach across the board to investing in more selective thematically targeting goals and objectives which in turn align to the sector-wide goal; from allocating resources from supporting sector planning and agency capacity-building to focusing on point-of-delivery services to beneficiaries; from supplying inputs in the NCD to delivering services in the provinces and districts; from concentrating on the capacity-building change management modality to adopting a more blended problem-solving and thematic modalities. For example, as discussed later in this report, now that APP has started to support RPNGC, this could enable PALJP to discontinue its existing support and enable a more thematically-focused strategy for promoting development effectiveness for beneficiaries.

Putting this adjustment into effect will require stakeholders to refocus the allocation of GoPNG and GoA budgetary resources to 'building on wins.' Happily, there are a range of wins to build on, as we have already documented, though these initiatives – or islands of achievement – require strategic consolidation to ensure visible and sustainable results. Notable among these are PALJP's ongoing initiatives relating to providing support for family and sexual violence, women's access to justice, village courts, community justice centres and preventative programs such as YLM.

v Provincial service delivery

Even though institutional capacity development is PALJP's primary theory of change, another sub-theory of change lies buried within the program, namely that support for centralized planning and budgeting by the ministries and agencies of GoPNG will engender sub-national and community engagement. Given that exceptionally little PALJP assistance flows toward the support of civil society organizations³⁷ and that only ten percent (10%) of PALJP's budget is allocated to supporting services delivered provincially (Eastern Highlands, Bougainville, YLM), this theory of change has, in effect, been largely disregarded. It is also no surprise that this sub-theory of change holds little credence within the NCM, with its bias toward Port Moresby/agency-centric endeavours, which is where, it appears, most PALJP funding is utilised. And this is despite the fact that PALJP's most significant 'wins' are its locally delivered initiatives (Eastern Highlands, Bougainville, YLM).

It seems, therefore, prudent for PALJP to revisit its principal theory of change and supplement it with other approaches that seek, directly, to improve law and justice service delivery to identifiable individuals, groups, neighbourhoods, and communities. This is particularly important, given the almost uniform judgment, according to interviews, that the Village Courts are "more important than anything else" in the delivery of law and justice to the average citizen of PNG. The challenge, therefore, is not to abandon support for putting in place the necessary catalytic 'building blocks' that an institutional capacity development approach can facilitate, but to complement that singular theory of change with concrete service delivery and problem-solving approaches. The issue is not either/or, but rather blending, proportioning, combining differing theories of change in order to construct a law and justice program that measurably improves the provision of law and justice to real individuals and groups today, tomorrow, and the day-after-tomorrow, while the long-term 'building blocks' are progressively established.

It is unquestionable in our view that PALJP's most telling outcomes and results belong to those components that have adopted service and problem-solving approaches applicable to improving provision of law and justice at provincial and local levels -- Eastern Highlands, Bougainville, and YLM. With minimal programmatic expenditure, in the Eastern Highlands, for example, PALJP has established in each

of the province's districts a Peace Management Team (DPMT) that has helped to mediate tribal and clan disputes, which has notably reduced not only the number of deaths caused by tribal/clan fights, but also the encouraged the return of displaced populations to their homes in areas of high conflict. According to an interviewee, at the cost of "millions of Kina and lives lost," many of these conflicts were generated by land disputes. Consequently, the PALJP DP has also supported a more than 50% increase in the number of land mediators in the province, along with improved training. Equally importantly, PALJP has ensured that the work of the mediators was closely coordinated with that of the appropriate DPMT and local Village Courts.³⁸ It must also be noted that the RPNGC has an important role to play in this multi-layered approach to service delivery, as its role is to stabilize the situation so that the other players can enter the area. Furthermore, the role of the Governor cannot be discounted, particularly his ability to contribute provincial funds and convening powers.

This coordination of multi-actors and differing layers of governance is the hallmark of consistent service delivery and problem-solving approaches, but it is a decidedly different kind of collaboration from the type of coordination that has occurred within the NCM. This form of provincial and local collaboration does not revolve around the formulation and promulgation of strategies, policies, plans and/or the parcelling out of development budgets, but rather builds cooperation among actors through defined activity. It builds coalitions of service providers to address a concrete problem or service challenge, who, thereby, learn the virtues of working together. The operative issue is linking together those actors who need to work together today, layering their specific activities, so that tangible law and justice services are provided and/or problems resolved. This action-oriented theory of change is that the joined-up, concrete activities of multiple stakeholders can effectively not only address identifiable law and justice challenges. They can, over time, produce changes in institutional behaviour, as measurable success has the potential to reinforce a collaborative commitment.

Comparable achievements have been produced by the YLM, which brings together youths, private companies, NGOs, RPNGC, and municipal authorities in a crime and violence prevention initiative within the National Capital District (NCD) -- much like comparable programs around the world, such as the Boston Gun Project of the early 1990s. The project targets at-risk youths, encouraging them to volunteer their time to perform a public service (bus stop security, for instance) so that they are eligible for skills training (31 courses/year), apprentice/probationary employment/internships, and, perhaps, employment. Propelled by the participation of the Port Moresby Chamber of Commerce, over three hundred private businesses have been involved in the project. Many of the youths seek training so that they can become self-employed; up to 3,000 youths, however, have been offered probationary jobs and almost 66% of them have gained subsequent full-time employment. Furthermore, although reliable statistics are unavailable, the RPNGC claim that in the neighbourhoods, during the time period in which an YLM safety campaign is being undertaken, crime rates have fallen. Another indicator of YLM's success is that the Governor of the NCD has become involved and there is, reputed, interest on the part of other municipalities and chambers of commerce to initiate YLM-style projects for their youths.

Even with its decidedly different context, Bougainville has seen PALJP successes that closely parallel those of the Eastern Highlands and YLM. Once again, the hallmark of these achievements has been the roping together of various law and justice actors at the local level in cooperative action. While there have been many 'wins' in Bougainville -- not the least of which has been the drafting of new courses

for the police and, especially, police prosecutors; construction/renovation of a new police training facility and quartermaster's warehouse; construction of a minimum security prison -- among the most impressive have been the establishment of three Community Justice Centres (CJC),³⁹ under the supervision of Councils of Elders (CoE), and the invigoration of the Village Courts, along with the Auxiliary Police, who have been supported by New Zealand. One of the indicators of success of the CJs is the way in which the one visited -- at Tinputz - has been managed and maintained by its CoE. The facility was in superb shape and, apparently, in continuous use by the local community for various purposes, including Village Court sessions.

These PALJP 'wins' at the provincial level suggest a clear way forward for the program over the remainder of its lifespan and it is not merely a question of building on these 'wins,' but one of expanding upon their developmental logic. The first key, as already indicated, is a concentration on the bringing together of the relevant actors who, collaboratively, can deliver concrete law and justice services at the local level to an identifiable beneficiary. While these actors will vary by jurisdiction -- for example, in the NCD, the Chamber of Commerce is pivotal; in Bougainville, the CoEs are; in the Eastern Highlands, it is the DPMTs -- the focus on a specific activity is a constant.

The second key is to link together three layers of public administration/governance. The three levels are:

- the Governor with the law and justice ministries and agencies of the national GoPNG;
- the Governor and his/her provincial administration; and
- the various levels of the provincial administration -- provincial capital and district.

As it is improbable that only one (1) DP could function successfully on all three levels simultaneously, so it is likely that PALJP assistance for the roll-out of support for provincial service delivery to an additional 2-3 provinces during the remainder of this phase, will require, at least, two (2) DPs per province in order to assist and stimulate provincial service. This is a long-term need and ought to be a long-term PALJP commitment, one that would help revise and redirect PALJP toward a more provincial and service-oriented model of law and justice development. *It is recommended that PALJP reallocates the provision of resources (personnel and goods & services) to increase and ensure adequate support for the roll-out of assistance to provincial and local service delivery, including the appropriate inclusion of civil society organisations in support activities.*

vi Allocation of resources

Among other issues, this review is tasked to address the question: how best can GoPNG's law and justice needs be met by PALJP and, if advisory, why are advisers needed? To address this question, reference is made to the design intent of PALJP and to ensuing events.

The PDD originally envisaged that development assistance would be supplied to the law and justice sector in a number of different ways. Specifically, it specified that '(t)he use of technical assistance personnel will remain an important tool for building local capacity. However, PALJP places an increased emphasis on using it strategically and effectively.'⁴⁰ It confirmed that TA personnel will continue to play 'a significant role,' but identified the risk of TA being 'the default choice,' and emphasised the need to maximise their effectiveness and alternatives.⁴¹ It structured

a number of resource streams to build the capacity of counterpart institutions through the provision of technical assistance, goods and services, and 'appropriate and cost-effective alternatives to international technical assistance personnel will be encouraged, including institutional partnerships within the region.'⁴²

Since the start of PALJP the number of technical advisors, or development practitioners, as they have subsequently become known, has fluctuated from a high-point of 69 to the present of 34.⁴³ This fluctuation has responded to concerns expressed at the possible over-reliance on technical advisors. These concerns arose in GoA's *Aid Review* in 2011 which highlighted a policy shift to improve development effectiveness through increased use of multilateral organisations, government agency assistance, universities and CBO's, and rationalisation of private sector technical advisors 'where they represent the most reasonable and cost effective choice.'⁴⁴

Assessments about the effectiveness of TA as a development modality are as a matter of judgment mixed, even cyclical.⁴⁵ The global experience attests to donors perennially reviewing the effectiveness of their TA investments, particularly in law and justice reform programs where effectiveness has been characteristically underwhelming to date.⁴⁶ It does nonetheless remain irrefutably the case that TA has an indispensable ongoing role in any capacity-building strategy. It is worthy reiterating that institutional capacity building is in its nature an inherently complex challenging and long term endeavour; if it was amenable to 'quick fixes' then these would have already been delivered in AusAID's earlier development investments to agencies across the sector over the preceding twenty years or so.⁴⁷ Without the provision of expert advice, institutional capacity-building will lack foundation. The more pertinent challenges for AusAID in implementing the *Aid Review* are, first, to balance the sourcing of advice from the private sector, public sector and CSO providers. The active engagement of SGP and APP goes a long way to addressing this challenge, though engagement of CSOs by PALJP has been characteristically limited and is at this stage virtually non-existent since the informal demise of the CJLU/CEU. Second, there is the need to ensure that TA - as much as its alternatives whether they be budget support, infrastructure funding, goods and services, twinning and institutional partnerships - are feasible and provide value for money.

These concerns, which are shared by both governments, were addressed in two subsequent reviews relating to the use of advisors in the law and justice sector. In March 2010, the NCM commissioned Agonia and Mere to undertake a review of the use of development practitioners across the sector. This evaluation was critical of various aspects of sector management, the LJSWG and the oversight of the development budget. One of its objectives was to arrest the drift of development responsibilities and functions to 'the sector,' which had led to these functions becoming unaccountable. The report, which was endorsed by the NCM, recommended that the functional responsibility for development practitioners, AMTs and development budget be more firmly relocated to CEO's of the line-agencies.

In August 2010, the NCM initiated a second more detailed bilateral review of technical assistance and DP's across the sector. This was a part of examining all such positions to determine value for money in achieving sector objectives within the context of the PNG-Australia Development Cooperation Program and the PNG Commitment on Aid Effectiveness which has a protocol for mobilising technical assistance including advisers and consultants. It noted the existence of 94 technical advisor positions across the sector comprising 69 positions under PALJP, which constituted approximately 47% of the program's budget.⁴⁸ This review recognised the PALJP approach to capacity development supporting the sector to develop

robust institutions, systems and local expertise and to enable PNG to fully own and manage its own capacity development processes. It noted that 'the ISP also provides a strong focus on encouraging and providing advice to the sector and agencies to consider appropriate and cost-effective alternatives to international technical assistance personnel to address capacity constraints where possible, including: institutional partnerships within the region, twinning and mentoring arrangements, peer exchanges, capacity assessments, training, analytic support, technical and financial assistance for specific partnership-driven initiatives, support from national Papua New Guineans eg. local consultancy assistance, local champions in change management.' The review found an overall lack of consistency and coherence in the use of technical advisers across the aid program and the sector, and questioned whether technical advisers were the most appropriate way to address counterparts' needs. As its outcome, this review rated 38% of these positions as being of 'medium' or 'low' priority, resulting in a guiding allocation of 34 ongoing DP positions for the program.

While the NCM endorsed this reduction of technical advisors, the temporarily disruptive effect of this reduction on the continuous delivery of development assistance has already been noted. One senior sector leader has described the process as having been 'rushed', and others have complained about the lack of adequate consultations at agency level. It is also clear from consultations with counterparts across the sector that there is a continuing high demand for and appreciation of ongoing advisory support. This was evident in all agencies with continuing 'high priority' positions, and in some of those that had 'medium' and 'low' positions. While this 'demand' does not necessarily constitute a 'need' to be addressed by PALJP, we have found a range of examples where ongoing advisory roles are demonstrably delivering valuable results, for example, in support being provided for example by the village courts and the BPS prosecutions and investigations advisers, among others.

Within the context of this design approach, history and the nature of ongoing needs, there is a compelling need for ongoing technical advisory support to assist counterpart capacity-building and to form a part of PALJP assistance in addressing GoPNG's law and justice needs. At the same time, we endorse the PDD's approach that the appointment of advisory support should not be a default setting, and share concerns to ensure value for money. In particular, we note that the unit cost of DPs is significantly less than that of SGP advisers, which presumably goes some way to demonstrating comparative value for money.

The allocation of DP's should be made within the context of the comparable advantage(s) of PALJP DP's, SGP, or Policing-Partnership advisers. In our consultations, we found these advisers performing a range of diverse roles which varied from one agency to another and could not readily be characterised. Counterparts require advisers to perform variously-blended capacity-building and in-line roles. Many advisers clearly perform 'advisory' roles, but in practice these roles often include 'gap-filling' in terms of doing an essential job in a way which is also intended to provide role-modelling for counterparts. CEOs expressed their highest appreciation for those advisers who 'get the job done' rather than stand back giving advice only. Others equally clearly build institutional capacity by introducing systems and procedures - notably in case management and financial management in most agencies - which can then be operated by counterparts. Evidently the nature of counterparts' demand is mixed, affected by the variety of their capacity-building needs. Over all, we consider that this is both unavoidable and also appropriate. Within the broad capacity-building strategy of PALJP operating within GoPNG's

systems, it is appropriate for DP's to be tasked on a situation by situation basis by CEO's, as they presently are.

While it may be difficult to discern any characteristically distinctive features in the approaches of PALJP, SGP and APP for these reasons, we do find that a number of comparative advantages do exist. Broadly speaking, on the one hand, the use of government advisers by SGP and APP does offer a comparative advantage in terms of the building and reinforcement of twinning and ongoing institutional relationships between like agencies, which was cited by CEO's. Agency heads consistently expressed their appreciation for the advantages which flowed from 'being able to pick up the telephone' and get help as/when required. While we note that there is a finite capacity on the part of GoA agencies to participate in SGP - AGD for example regularly out-sources to fill positions - this feature remains a distinctive comparative advantage which should be coordinated by GoA to ensure value for money in addressing the longer-term capacity-building need. On the other hand, the use of private sector advisers provides a range and depth of accessible expertise which is wider and markedly cheaper than government officials; added to this, it is likely that sourcing from the private sector is quicker than from the public sector.

Despite the shared proximity of GoA-sourced advisers in a number of agencies across the sector, most notably in DJAG and RPNGC, there appears to be a lack of any systematic oversight and coordination of these advisers at the operational level, where there is little visible evidence of strategic coherence. A number of CEOs commented on the apparent lack of linkage, and advisers observed that contact and coordination was a matter for their own initiative. This may be because relations between these initiatives have historically been difficult. A number of stakeholders described relations as having been tense and competitive on occasion. On a whole-of-government programmatic basis, there appears to be a complementary approach between PALJP, the PNG-Australia Policing Partnership, and the Strongim Gavman Program to supporting sector development as part of P4D. Under this arrangement, it is understood that AFP, AGD and AusAID regularly meet jointly with relevant CEOs to agree where and how to assist. In practice, however, it is clear that these programs largely remain managerially silo'd and operate as separate teams that intersect incidentally and occasionally, notwithstanding efforts to improve coordination over recent years. While we appreciate that different organizational values cultures and practices exist between PALJP, APP and SGP, there is a shared national interest in improving the alignment and coordination of GoA's operational support on a whole of government basis. *It is recommended that the Governments of Papua New Guinea and Australia, as development partners, take steps to improve the alignment and coordination of its development program comprising PALJP, APP and SGP at the sector and agency levels.*

AusAID's assistance to the law and justice sector delivered through PALJP forms an important part of the Partnership for Development, including the sub-national program, democratic governance programs and economic and public sector programs. PALJP does engage with these programs from time to time when the opportunity arises although the focus of engagement has been relatively introspective to date. It is expected that opportunities for further synergy will increase when PALJP extends its engagement more actively in sub-national service delivery as opportunities to leverage off companion programs will become more feasible, for example, in AusAID's SPSN and Church Partnership programs.

Senior Management Team and DPs

In order to move forward in a more thematically focused manner, the ISP will need to reallocate its resources. This will affect not only the ongoing initiatives to restructure of the Senior Management Team (SMT), but also extend to the deployment of all DP's and the provision of goods and services. The SMT restructure is presently under-recruitment. The creation of two associate positions will contribute to refocusing senior management resources on aid effectiveness and provincial service delivery respectively. Both are substantial roles in terms of the scope of their responsibilities. It is not yet clear how these roles will co-exist with the new Deputy Team Leader in terms of the managerial oversight of DPs, and we see some risk of confusion in the lines of reporting which require further clarification. More particularly, this structure will require further development to enable the ISP to devolve and expands its service delivery to the provincial and district levels. We do not consider that the Associate Provincial Service Delivery will be able to direct and oversee the roll-out of services beyond the existing three provinces (NCD, EHP and ABG) to an additional 2-3 provinces during the remainder of this phase without a significant reallocation of DPs 'on the ground' in those provinces, as discussed elsewhere in this report. In this sense, the ISP is yet to develop any detailed thinking in this regard, which is belated. *It is recommended that PALJP reviews its development approach to increase the proportion of programming to support the delivery of services directly to beneficiaries, and adopts a 'blended' approach which integrates capacity-building with service delivery, problem-solving and thematic approaches.*

One of the major lessons of the past eight years support to sectoral development is the risk of losing focus and being spread too thin.⁴⁹ In addressing this often voiced critique, we would encourage the ISP to become more strategically focused on selective priorities. It is not the purpose or role of this evaluation to pre-empt what priorities should be adopted; this is the core responsibility of key stakeholders. But it is our role to point-out that this will require the exercise of some difficult but no less essential choices to be made not just about which activities to support, but perhaps also which agencies to support. We note that these choices are already being exercised more or less - but in an informal and de facto way - for example, in the provision of relatively limited support to CS in the current budget period.⁵⁰ Now that the APP is at the point of starting the implementation of support to RPNGC, and high-level discussion are ongoing between governments about extending this support, it is timely for AusAID to critically reappraise the ongoing value for money of extending further support for RPNGC – with the exceptions of providing thematic support for family and sexual violence, and positioning one DP with the Ministry of Police to strengthen the development of policy, oversight and accountability. In this way, PALJP can start to refocus the strategic allocation of its development resources more thematically rather than across the sector at large, as has characteristically been the case to this point, resulting in the critique of being spread too thinly.

vii Monitoring and evaluation

A detailed assessment of PALJP's M&E position is annexed in annex A of this report.

In this annex, it is recommended that PALJP review and refine its approach to monitoring and evaluation by clustering its performance indicators into baskets that can tell a more complete story; defining individual indicators so that they produce specific reliable and valid data; and supporting the use of data in GoPNG policy and managerial decision-making.

Evaluation Criteria Ratings

Evaluation Criteria	Rating (1-6)	Explanation
<p>Relevance <i>Is the activity contributing to higher level objectives of the aid program?</i></p>	3.9	The relevance of PALJP's existing approach is qualified to the extent that its objectives support GoPNG's policies – as required by AusAID's PDD - but it is a matter of overarching concern that it has not substantially benefited the distinctive interests of its beneficiaries being the citizens of PNG in any discernible measure.
<p>Effectiveness <i>Is the activity on track to achieve its objectives?</i></p>	3.8	To the extent that PALJP is executing the PDD, the program is on track by delivering 'islands of achievement' towards its stated objectives. But, it requires strategic refocusing as detailed in this report in order to improve its effectiveness in supporting the attainment of a more just safe and secure society for all.
<p>Efficiency <i>Is the program being managed to get the most out of resources?</i></p>	4.8	The program is generally quite well managed and executed.
<p>Sustainability <i>Will program benefits continue after funding has ceased?</i></p>	3.5	The benefits of the program are qualified, remain fragile and require considerable ongoing support.
<p>Gender Equality <i>Is the program advancing gender equality and promoting women?</i></p>	4.4	The advancement of women's rights is among PALJP's most impressive achievements, including support for IPOs, Family Support Violence Units, Village Courts and the appointment of women as magistrates, court clerks and court peace officers.
<p>Monitoring & Evaluation <i>Is the program's M&E system effectively measuring progress?</i></p>	3.8	While PALJP has continued to consolidate the establishment of performance metrics, many performance indicators measure outputs only, lack specificity and are incomplete.
<p>Analysis & Learning <i>Is the program based on sound technical analysis and continuous learning?</i></p>	3.9	There is some evidence of improved performance through learning, however, there is a lack of an imbued culture of systematic data analysis and learning.

Rating scale:

Satisfactory		Less than satisfactory	
6	Very high quality	3	Less than adequate quality
5	Good quality	2	Poor quality
4	Adequate quality	1	Very poor quality

Conclusion and Recommendations

Overall, we find that PALJP has contributed to numerous significant 'wins' within the ministries and agencies of law and justice in its two and a half years of performance. These achievements are necessary but not sufficient for purposes of development effectiveness. After almost one decade of concerted assistance there is, as yet, still scant visible evidence of improvements in the delivery of law and justice services to the people of PNG, most of whom live outside Port Moresby. To improve development effectiveness, there are a number of challenges to be addressed. These challenges principally relate to (i) alignment, strategic vision and beneficiaries; (ii) engagement in sector coordination; (iii) approaches to development ; (iv) building on 'wins' on the path forward; (v) roll-out of regional activities; (vi) resource allocation; and (vii) monitoring and evaluation, as has been detailed in this report.

Significantly, we recommend a range of refinements in PALJP's approach which are tabulated in the executive summary. These recommendations aim to start the transition towards a more service-focused delivery approach that integrates capacity-building with problem-solving and a more thematic approach to promoting a more just safe and secure society for all, which is compatible with the new P4D framework. This would place greater emphasis on rebalancing different approaches to development, adopting a greater provincial approach and increasing the focus on improving service delivery to beneficiaries within GoPNG's vision for restorative justice. It will require a realignment from supporting the sector-wide approach across the board to investing in more selective thematically targeting goals and objectives which in turn build on existing wins to focus on point-of-delivery services to beneficiaries; from supplying inputs in the NCD to delivering services in the provinces and districts; and from concentrating on the capacity-building change management modality to adopting a more blended problem-solving and thematic modalities.

These refinements offer the potential to consolidate and transform PALJP's existing contributions to law and justice into a measurably more just safe and secure society for the people of PNG.

* * *

ANNEXES

Annex A – Monitoring and Evaluation

The M&E situation in PALJP and within the institutions and agencies of the GoPNG is muddled, at best. This is partially due to the continuously evolving and shifting goalposts, with the successive iterations of strategic plans and policies (PALJP program design; GoPNG MTDP; Partnership for Development; NCM and PALJP Nov. 2001 Justice for All), each with their individualized metrics. Precisely how PALJP's M&E regime nestles within the others is unclear. Furthermore, according to interviews, some of these successive M&E schemes were devised without adequate consultation between and among the various stakeholders, while others seemed to have required re-engineering due to political considerations over the past eight years including, most recently, the period under review. It should be noted, however, that within this fluid M&E situation, the NCM produced its 2010 APR, which is an excellent piece of work, presenting a slew of specific relevant and timely statistics detailing PNG law and justice performance trends over the past few years.

While acknowledging that the LJSS has had responsibility for sector monitoring and evaluation over the last two years and only had PALJP capacity development support for one of those years, it is nevertheless disappointing that the LJSS/NCM did not produce the 2010 APR from within its own staff. Instead an external consultant had to be hired to write the report. This suggests not just a lack of capacity after eight years of focused assistance, but also a lack of commitment on the part of the LJSS/NCM, and individual law and justice ministries and agencies, to manage their strategies, policies, and operations according to the collection, collation, and analysis of empirical data, much of which appears to be available and accessible. For instance, one interviewee noted that "the NCM does not use the APR." Another stated that the crime surveys supported by PALJP, which contain useful data and trends "are not being used" by GoPNG's law and justice providers. There has been "no discussion within the NCM concerning the crime surveys. They are too politically dependent for their leadership positions on politicians, too worried about day-to-day concerns, and, thus, don't use crime data." A third observed that there are "a few pockets of good progress [on the use of data], but, on the whole it has flat lined." In particular, it was claimed that "no one in the police hierarchy wants to use the data." And a fourth indicated that "magistrates are not using data to manage their work," even though significant levels of information exists.

Two specific examples highlight the profound law and justice development challenges this apparent lack of commitment to managing according to performance indicators causes.⁵¹ In Bougainville, a police officer claimed that more police were required for his police station, but when queried why and what the precise need was, the answer came back "because we had more police officers 20 years ago." While it may be true that more officers are required to staff that particular police station, without reference to supporting data, there is no method of determining appropriate police deployments and/or why one station needs more officers in comparison to another. In Bougainville, this is particularly disappointing, given that PALJP, with cooperation and support by New Zealand's police contribution, has established a police intelligence unit in 2009, which by 2011 has been able to publish monthly crime reports.

The implications for the RPNGC, PALJP, AusAID, and the Australia's long-term support for police development in PNG are weighty. One of the goals of the P4D is a more than a doubling of the RPNGC's manpower to over 8,400 officers, with continued exponential growth in subsequent years as well. While it is true that the Bougainville police is a semi-autonomous service, the RPNGC's managerial challenge is the same, namely how/where to deploy its manpower. Given the apparent current lack of commitment on the part of the RPNGC, NCM, and GoPNG to use data, there appears to be little to no analysis or rationale on how and where effectively to assign the rising numbers of police personnel. This is not an argument against a rapid expansion of the RPNGC, though it is unlikely that such an enlargement is manageable,⁵² but, politics aside, this analysis of performance indicators raises troubling questions concerning PALJP, AusAID, and Australia's support for the expansion, and the form it may take, given the track record.

The second example pertains to the CS. Senior officials conceded that "we do not have the ability to collect data and act upon it," despite years of AusAID support. The problem, however, runs deeper than the CS not collecting and using data. It appears that the CS, as an organization, does not appear to understand what core performance indicators it ought to be collecting. In repeated conversations with prison personnel the only measurement deemed worthy of collecting was number of escapees per year. Not once was the average number of days/time on remand for incarcerated individuals considered to be important. This is all the more troubling given that this indicator is one of the sector's original performance criteria and, hence, it could have been expected that CS officials would be conversant with it. Similarly, data regarding the health of prisoners, the rate of prisoner on prisoner violence, prisoner on guard violence, and/or guard on prisoner assaults was never broached. In fact, in a discussion with two prison officials, they casually joked about how guards routinely assaulted detained individuals upon intake. Since there appears to be no procedure by which inmates can anonymously lodge complaints against alleged guard misconduct, a fair inference would be that such assaults are more common than not. Again, an analysis of performance indicators suggests that PALJP, AusAID, and Australia may need to ask important questions concerning what future support, if any other than humanitarian, should be provided to the CS given this track record.

This analysis of performance indicators implies that PALJP's efforts to promote good management practices within GoPNG's law and justice institutions and agencies have been less than successful. It is an inference all the more disquieting given the extensive period of time that AusAID has been supporting law and justice development in PNG. It also raises additional unsettling questions with regard to the efficacy of the primary model of development PALJP and AusAID have been utilizing, namely the institutional capacity development approach, for one of the key components of capacity development, effective management, seems to be underwhelming.

None of the above suggests, however, that there have not been significant PALJP successes with respect to the establishment of performance metrics. In reality, there have been quite a few. As already indicated, the Bougainville police possess monthly crime statistics. The data collected on the performance of Village Courts throughout PNG is impressive. The various case management systems that have been progressively put into place within the courts and justice agencies are significant steps forward and, as already noted, may prove to be catalytic. But it is precisely on this catalytic point that concerns going forward exist.

In Bougainville, for example, the system with which the Public Solicitor collects data indicates that the vast majority of its caseload is “civil” rather than “criminal.” In itself, and if this data were to prove consistent across PNG, this information suggests a direction in which future PALJP support for the Public Solicitor could move, ie. away from training initiatives on criminal justice and toward those that assist the PS in handling its “civil” workload. Upon closer examination, however, it appears that the preponderance of the Public Solicitor’s “civil” cases is family-related, pertaining to issues of paternity, adultery, and divorce. When queried further, the official could not verify the percentage of those cases that involved domestic violence, but indicated that the percentage was, most likely, high. Nevertheless, the data provides PALJP, not to mention the Public Solicitor and the NCM, the direction in which future law and justice development should proceed, an avenue that leads directly to enhanced PALJP support for gender equality, women’s rights, family law, and, most likely, assistance to address the prevalence of domestic violence.

If such future programming were to be undertaken over the remainder of PALJP’s contract period, it would indicate that the case management system established within the Public Solicitor’s Office was catalytic and effective. If such programming is not pursued by PALJP -- at the very least, through strong advocacy -- the institutional capacity development approach, with regard to the Public Solicitor’s Office, should, then, be judged as having been ineffective and less than relevant because it has not produced tangible outcomes/results to identifiable beneficiaries, ie., better law and justice provision to the citizens of PNG in most need, which, in this case, would be women. It should also be recognized that this M&E analysis also suggests how, in a concrete operational manner, to balance and blend the various law and justice development approaches -- institutional capacity, service, problem-solving, and thematic. More specifically, in the case of the PS, this would entail PALJP supplementing the organizational capacity development approach with a service delivery one. *It is recommended that PALJP adopts a development approach which integrates capacity-building with service delivery and problem-solving approaches.*

A similar analysis applies to another PALJP initiative, the case management system for the PP’s Office.⁵³ For the PP the data indicates that prosecutors are losing more cases than they had previously. It is imperative, therefore, to analyze the problem and determine what the various causes and remedies may be. According to interviews, it was suggested that one of the key factors in the prosecutors losing cases has been that witnesses to alleged crimes are not testifying in court. If this were to be one of the factors, then, there is evident “problem” in need of resolution and PALJP should advocate for and undertake appropriate assistance measures. It is not within the purview of this report to recommend programmatic options and would be inappropriate given that the authors of this report are not sufficiently conversant with the context, but, if the data supports the interviewee’s assertion, it remains unmistakable that PALJP ought to pursue this line of development. To do otherwise would indicate, once again, that its programming has not been catalytic or effective, for it has not improved law and justice services to the citizens of PNG that can be evaluated by a tangible outcome/result, in this case, better prosecutions. If further development based upon the DP’s case management system is not pursued, the organizational capacity development approach, which produced the system, cannot be considered a precursor of service delivery, thereby rendering PALJP’s reliance on that approach suspect and unable to generate value for money.

The foregoing M&E discussion has been grounded in an approach to performance indicators that rests upon a couple of simple premises. The first is that the efficacy of an M&E regime is, partially, contingent upon the utilization of the regime to generate programmatic outcomes/results. As is evident from the foregoing analysis, although

data exists, it does not appear to be consistently or appropriately used by the GoPNG. Second, an effective M&E regime contains indicators that measure performance along one of the following three dimensions:

- program/project/activity level -- data capable of assessing the performance of the donor-supported initiative;
- active management -- data which the management of the organization being supported by donor funding can use to make operational decisions to improve that unit's performance; and
- country level -- data useful for evaluating the direction in which the country being supported by donor funding is moving.

It is ideal if indicators can be found that function on all three dimensions simultaneously, but that is a rare achievement. More reasonably, indicators are assembled into baskets so when assembled they function along all three dimensions to be able to present a coherent assessment of performance, along each of the three dimensions. Baskets of indicators, typically, include a range of measurements, including output criteria; financial data; perception measures; and outcomes/results described as a change over time. It is on this second premise that PALJP's M&E regime can also be improved, but to do so requires a brief recital of PALJP's perpetually evolving and shifting goalposts as reflected in its changing M&E schemes.

PALJP's program design revolved around 5 overarching 'goals,' and was to be evaluated according to 64 performance indicators.⁵⁴ The total number of indicators is large and ambitious, but not necessarily unwieldy because they were subdivided into subgoals, most of which are to be measured by 3-4 indicators. Only 2 of the subgoals are measured by 6 criteria, which is a relatively large number for any single basket. Many of the individual indicators are relevant and have been astutely chosen. For example, "business experience a reduction in crime victimisation" is an excellent addition in the collection of perception and victimisation studies, highlighting the importance of the business community to law and justice development. There are other potentially well-selected indicators, such as, highlighting only a few, "level of crime on the Highlands Highway is decreasing," "reduction in the average time that remandees are detained," "number of programs and activities that cater for victims of crime increases," and "total cost of all claims [against the state]."

There are a number of difficulties with PALJP's M&E regime. First, too many indicators measure outputs. Second, many indicators lack specificity, with what they are to measure left largely undefined. Third, the ways in which the indicators have been grouped into subgoals does not allow for a complete story to be told. For example, the subgoal 'improvement in the disposition of cases' has three indicators, two of which measure outputs -- the number, timeliness and disposition of criminal *and* civil cases. These are fine indicators of timely justice. They, however, do not necessarily indicate what the quality of the justice delivered may be and interviews suggested that quality of judicial decisions has deteriorated. This report cannot determine the validity of interviewees' assertion, but the challenge remains pertinent, particularly when the only 'service delivery' measure of court performance, 'clients of the courts perceive that systems are improving,' is problematic. While the indicator itself is an appropriate measure of user perception, the terms 'clients of the courts' and 'systems' are undefined. Does it mean judicial and court procedures and managerial processes? Or does it refer to the experience of those who 'use' the courts? According to interviewees, it is precisely this latter question that is unresolved, as there is little agreement within PALJP as to who belongs in a 'user

group,' the individuals who use and have experience of the courts (plaintiffs, defendants) or those who work in the court system (prosecutors, judges, clerks, etc.).⁵⁵ The first understanding of the term would, probably, surface a number of service delivery questions, while the latter definition of 'user group' would reveal challenges pertaining to managerial issues and, most likely, susceptible to a problem-solving approach. Both are potentially valid options, the optimal solution being that both, probably, should be used. However, in reality, it does not appear that PALJP, LJSS, the NCM, and/or the various justice agencies of the GoPNG are regularly conducting user court assessments, however that term is to be defined. It is safe to conclude, therefore, that the basket of indicators for the subgoal has collapsed and, at best, measures only outputs.

A similar analysis pertains to the subgoal -- 'non-violent dispute resolution processes achieve improved outcomes.' With this subgoal, however, a serious conceptual challenge arises as well. Given that Village and Land Courts are defined jurisdictions and competences in law, it is quixotic to consider these legal and legitimate courts, the lowest rung of the judicial system, as 'non-violent dispute resolution processes' any more or less than the various higher levels of courts on which judges and other types magistrates sit. The issue is not the Village and Land courts' 'non-violent processes,' but that these legitimate and authorised courts delivery service, what type of service they deliver, and how they deliver that service. More prosaically, one of the measures identified to determine accessibility is 'Village Courts are distributed equitably across PNG,' but there is no definition of what "equitably" means. Consequently, there is no cogent method of collecting data on this indicator. The 'number of land cases processed each year' is another variable, but it is purely an output indicator. For the basket to be able to portray a comprehensive story about PALJP's programmatic effectiveness, the performance of the land courts, and the direction in which PNG as a country is moving additional indicators are necessary, ones that can integrate service, perception, and financial measures into the basket. Additionally, none of the three existing PALJP variables in this basket are active management indicators, leaving Provincial Village Court Administrators bereft of actionable data.

Comparable weaknesses exist for other subgoals, only two of which will be discussed for illustrative purposes, one of which is 'improvement in the use of resources in the sector.' While 'share of total public expenditure by agency and sector' is a telling indicator of financial commitment by the GoPNG, its efficacy is better utilized if it were to be included in the baskets of the individual law and justice ministries and agencies to supplement output, perception, and outcome/results criteria. Two of the other indicators in this basket, 'extent of development alignment' and 'extent of resourcing,' are ambiguous, at best. Even if 'extent' were susceptible to definition, the basket contains no outcomes/results indicators and, thus, cannot measure an 'improvement in the use of resources.'

The other subgoal, 'improvement in cross sector coordination,' appears to be a key component of PALJP's overall theory of change -- improved coordination will increase law and justice service delivery. It lies, in fact, at the heart of PALJP's program design and, therefore, its basket of indicators would seem to be all the more vital. None of the indicators in this basket, however, measure outcomes/results. They are primarily output variables -- 'number of... meetings and attendance rates' and 'percentage of civil society organisations...', whose validity in measuring improved coordination is dubious, at best. Improved coordination cannot be measured by how often individual officials from the GoPNG's law and justice agencies or whether civil society organizations perceive there to be better agency collaboration. The proof is in the pudding, tangible outcomes/results and the basket

does not contain any. Moreover, the essential terms of another variable, 'extent of cross-sector initiatives being implemented,' is ambiguous and undefined and, thus, is unable to produce reliable or valid data.

These challenges with PALJP's M&E regime are echoed in the MTDP, which the Ministry of Planning drafted in 2010 and which has, reputedly, become PALJP's de facto new goalpost, given the necessity to align PALJP to GoPNG policy. As with PALJP's original M&E regime, the MTDP contains a number of well-chosen indicators, such as a definitive number of "well resourced District courts" and RPNGC officers over time, a specific date for the dissemination of RPNGC Standing Orders, and a timeline for establishment of a performance-based enumeration scheme for a class of GoPNG lawyers. Each of these, however, is essentially an output and in need of being supplemented with other variables. It is unquestionably an achievement to establish a number of "well-resourced District courts," but it is the service that those courts deliver that is paramount and not an undefined phrase such as "well-resourced." As a result, the MTDP's M&E regime falls short of being an effective and appropriate method of evaluating the performance of the GoPNG's law and justice service providers.

Paralleling the problems with PALJP's original M&E regime, the MTDP's lacks specificity, focuses primarily on outputs, and does not establish baskets that correspond to good M&E practice, particularly with regard to active management indicators. For instance, it is a good aspirational goal, progressively, to increase the number of police stations. The presence of a police station may be a good in itself, increasing public confidence, but there is no necessary causal relationship between the existence of a police station and improved safety and security. While the existence of a police station may be a necessary precursor to better service delivery, it is not a sufficient indicator, as has already been discussed with regard to institutional capacity development issues in general. The MTDP does not define the types of crimes committed in either its 'crime rate' or 'incidence of major crime indicators.'⁵⁶ Similarly, 'well trained and well equipped police officers' is a vague and ambiguous term and is, at best, an output indicator. Finally, perception, financial, and active management indicators are missing, thus rendering the basket largely mute in its ability to tell a coherent, valid, and/or reliable story.

Identical concerns exist with respect to indicators measuring the efficacy of locally provided justice, even though this basket has more promise than others. While the number of Village Courts is a clean output variable, when combined with the financial indicator -- timely payments to Village Court personnel -- the beginning of an effective basket is taking shape. Unfortunately, the MTDP stopped there. No specificity was provided to define what either "easily accessible" or "well trained officials" may mean or how each is to be measured. Furthermore, by not incorporating performance and/or public perception indicators, the basket cannot adequately describe the direction in which the country is moving. Once again, there are no active management indicators with respect to Village Courts. Finally, it is curious that Land Courts have largely disappeared from the GoPNG agenda, except for a brief reference to "support the work of the National Land Development Program."

Other MTDP indicators fall to comparable shortcomings. There are no definitions for "upgrade existing run down facilities" and "improve office infrastructure, information management systems and logistics" or how they are to be measured. Even if those deficiencies had been addressed, both are output indicators and require supplemental data to convey a meaningful story. The same critique applies to "develop a law, order and justice strategic plan" and "develop and implement [a] Security Industry Act." Finally, one of the measures to assess the performance of the

CS relies on an inappropriate and discredited remandee indicator, “number of remandees in prison awaiting trial.”

Fortunately, one interviewee indicated that there may be a GoPNG willingness to “redo the MTDP indicators to be redone as part of the Partnership for Development and sector strategy.” If true, the existing MTDP M&E regime may be only the first iteration in a process of refinement and strengthening. If that were to be the case, the MTDP’s M&E framework could be perceived to be a preliminary first step and its existence a sign of awareness of the need to measure performance.

The next iteration of a PNG law and justice M&E regime pertinent to PALJP is P4D and its M&E regime, Annex 2, which was promulgated in 2011. Regrettably, the difficulties of the previous M&E regimes reappear. Annex 2, for example, does not offer a cogent method of evaluating an “improvement in RPNGC operational and administrative practices,” the cornerstone of PALJP’s institutional capacity development approach in policing, thereby continuing the pattern output indicators that have dubious validity and reliability. For the goal of an “improvement in responses to family and sexual violence,” the Annex offers as its indicators, “effective use of IPOs,” “effective operation” of the FSVUs, and FSVU “prevention activities delivered through law and justice agencies and civil society.” It would appear that among the beneficiaries of “effective” programming are women who have suffered from sexual violence, for without reference to them it would be challenging to determine if the IPOs or FSVUs have been effective. This suggests that the Community Crime Survey, which is an identified tool for data collection, will need to seek out and solicit answers from victims of sexual violence. There is, however, no evidence in the Kokopo 2010 Crime Survey, for example, of PALJP querying that demographic group, an undertaking that, under the best of circumstances, is exceedingly difficult to do. Similarly, there appear to be no valid questions within the Kokopo survey from which to gather reliable data on FSV prevention activities. Consequently, it is unlikely that these key indicators will be grounded in reliable and valid data, throwing the entire basket into question.

Annex 2 is replete with comparable difficulties. A few additional examples should suffice to suggest the extent of the concerns. The indicators to assess increased access to justice and just results continue to rely largely on output variables rather than outcome/result ones, even though the requisite data for Village Courts appears to exist. Even a new indicator, “number of successfully mediated Village Court cases” is an output measure rather than a service delivery one, for it does not correlate the number of successful mediations to the total number of Village Court cases. Consequently, there is no concrete method of verifying the efficacy of the mediation process. Similarly, measuring the increase in the “number of convicted persons subject to non-custodial orders” may indicate that judges and magistrates are increasingly using this sentencing option, which suggests a tangible achievement. The indicator, however, remains an output rather than an outcome/result one because, first, the total number of convictions is not part of the indicator and, second, there is no specificity as to the category of convicted persons to which the indicators refers. (It is dubious for it to be in the public interest for violent offenders to be given non-custodial sentences, though that is a political decision for the GoPNG to make.) An increase in non-custodial orders, therefore, may only reflect an increase in convictions and not a substantial and progressive shift of how certain categories of convicted persons are sentenced. Finally, with respect to another P4D aspiration, there appears to be little causal connection between the number of agencies submitting annual reports (the indicator) and an improved ability to deliver law and justice services (the goal). An annual report is a piece of paper

and in no way can an annual report, a recital of the activities undertaken over the course of a preceding year, function as a proxy for enhanced service delivery.

It would be inappropriate for this report to criticize the existing M&E regimes without offering suggestions with which PALJP can move forward with its efforts to measure law and justice development. At the same time, this report was never meant to be a thorough revision of PALJP's M&E regime. Consequently, only a few selected indicators will be offered as examples and suggestions, hopefully worthy of further exploration, investigation, and extrapolation by PALJP.

It should also be acknowledged that the following suggestions are not meant to replace existing indicators, but are to supplement them. Furthermore, these suggestions are to be read in conjunction with the foregoing analysis of M&E regimes in PNG and within PALJP, which means, for instance, no need indicators are offered for the prison system as they have been referred to in the text. Similarly, the efficacy of 'user court groups' remains an exceptionally valuable indicator and, thus, does not appear below. Finally and for similar reasons, perception survey data on the efficacy of victim services derived by surveying victims, particularly with regard to IPO, FSVUs, and Family Support Centres, are not enumerated below.

(i) *Policing and Safety/Security*

In addition to annual GoPNG budgetary allocations to the RPNGC, perception studies and victimisation rates, the following indicators, most of which are outcome/result measurements, are suggested as one way to ascertain a basic picture of the performance of the RPNGC:

- police attendance rates – given that interviewees noted that attendance is one of the principal disciplinary challenges with the constabulary; attendance is not an outcome/result indicator, but it is a proxy for good management and, thus, pertinent to PALJP's institutional capacity development approach; also an active management variable;
- average number of days per month (or year) police vehicles are out of service – given that interviewees continuously bemoaned the lack of police vehicles, believing that there is a correlation between the number of police vehicles and service delivery, it would be crucial to determine the efficacy with which the RPNGC maintained its vehicle fleet, as a proxy of good management; also an active management variable;
- % of murder (per rape) case files rejected and turned back to the police by DP's Office – a measure of the efficacy of internal police investigative procedures and case management at the serious crime level; also an active management variable;
- % of cases presented in court by police prosecutors that magistrates throw out of court - a measure of the efficacy of internal police investigative procedures and case management at the police prosecutor level; also an active management variable;
- ratio of number of women police officers who have reported their being victims of domestic violence by partners who are themselves police officers to number of successfully prosecuted police internal affairs procedures against the alleged perpetrators – a measure of the efficacy of internal affairs/disciplinary procedures; indication of police commitment to pursue domestic violence as an important subject; an active management variable;
- survey data detailing the fears (if any) of girls with regard to their attendance at school – a proxy indicator of overall police performance, if girls have safety

and security concerns regarding their attendance at school and their travel to/from school;

- earnings per household derived from sale of goods and from earnings on services, disaggregated by location – variables derived from the Household Survey that are proxies for safety and security defined geographically.

(ii) *Locally Delivered Justice – Access to and Just Results at the Local Level*

In addition to annual GoPNG budgetary grants to the Provinces and various perception studies, such as satisfaction in the service delivered by Public Solicitor's Office, satisfaction of complainants in Village Court proceedings (mediation and full panels of magistrates), etc., it is suggested that the following indicators, most of which are outcome/result measurements, be added to the overall baskets of indicators in order to obtain a basic picture of the performance of the Village Courts and Land Mediators:

- ratio of successful Village Court mediations to total number of Village Court hearing, disaggregated by gender and age of mediating magistrate, complainant/plaintiff, and defendant – a variable that will offer data on the legitimacy of women Village Court magistrates, as well as information on how women complainant/plaintiffs perceive male magistrates; an active management variable;
- ratio of Village Court decisions overturned by magistrates to total number of Village Court decisions appealed to the District Courts, disaggregated by gender, age, etc. – a variable that measures the quality of Village Court decisions; an active management variable;
- ratio of Village Court personnel being paid what is owed them in a timely manner to the total number of Village Court personnel, disaggregated by location – a variable that measures the efficacy of provincial management and a proxy for provincial corruption, depending upon provincial receipt of block grants;
- ratio of Village Courts that have been inspected to the total number of Village Courts, disaggregated by location – a variable that is a proxy to measure the efficacy of provincial management;
- ratio of Village Courts within a one day walk by complainant/plaintiff, defendant and/or Village Court personnel to the total number of Village Courts – a variable that measures physical accessibility; and
- ratio of successful Land mediations to total number of land disputes filed in District Courts - a variable that measures the quality of the work of land mediators.

It is recommended that PALJP review and refine its approach to monitoring and evaluation by clustering its performance indicators into baskets that can tell a more complete story; defining individual indicators so that they produce specific reliable and valid data; and supporting the use of data in GoPNG policy and managerial decision-making.

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Annex B – Terms of reference

PNG-Australia Law and Justice Partnership (PALJP) Independent Progress Report

Draft 4 October 2011

1. PURPOSE

These Terms of Reference (ToR) are to conduct an evaluation of the implementation progress of the PNG-Australia Law and Justice Partnership (PALJP) and to prepare an Independent Progress Report (IPR). The evaluation will assess the effectiveness of the program, identify lessons learned and inform future assistance to the PNG law and justice sector. Specifically, the IPR will assess PALJP against evaluation criteria developed by the OECD Development Assistance Committee (DAC) and AusAID.

2. BACKGROUND

PALJP is a 5 year program from 7 April 2009 to 7 April 2014. It is jointly managed by AusAID and the PNG Government, supported by an Implementation Service Provider (ISP). AusAID's funding to PALJP is \$150 million over 5 years.

PALJP supports Papua New Guinea-led programs to enhance the capacity of the law and justice agencies to deliver services, focusing on Papua New Guinea's law and justice sector goals identified in the Law and Justice Sector Strategic Framework and relevant PNG Government policies and plans. The Partnership identifies specific areas of focus for bilateral cooperation, targeting priority initiatives under each of the Sector Strategic Framework Goals 1 to 5:

- Improved policing, security, safety and crime prevention
- Increased access to justice and just results
- Improved reconciliation, reintegration and deterrence
- Improved accountability and reduced corruption
- Improved ability to deliver law and justice services.

PALJP is a key component of the PNG-Australia Partnership for Development Law and Justice Schedule (expected to be endorsed in late 2011). The other major components are the PNG-Australia Policing Partnership (approximately \$7 million annually) and the Strongim Gavman Program (approximately \$5.5 million annually).

The evaluation is timely. PALJP was designed over the period 2006-2008. Since then, the Government of PNG has developed planning documents which set priorities and targets for law and justice services. These include Vision 2050, the Development Strategic Plan 2010-2030, and the Medium Term Development Plan 2011-2015.

A number of recent aid reviews have significant implications for PALJP's implementation and future law and justice assistance in PNG. These include the PNG-Australia Development Cooperation Treaty Review (2010), the Aid Effectiveness Review (2011) and the Office of Development Effectiveness Law and Justice Evaluation (current, draft report expected November 2011).

3. SCOPE OF THE EVALUATION

The evaluation will help the Governments of Australia and PNG assess PALJP's effectiveness, provide lessons on aid program management, and inform future assistance to law and justice.

The evaluation should assess PALJP's performance against the evaluation criteria below, and provide specific recommendations to improve PALJP's implementation and/or future program design. The guiding questions may be adapted/supplemented by the evaluation team in developing the review method or during fieldwork.

Relevance

- Are the objectives relevant to PNG and Australian Government priorities?
- Are the objectives relevant to the context and needs of Government and civil society beneficiaries?
- If not, what changes need to be made to PALJP or its objectives to ensure continued relevance?
- Is a sector-based approach to PALJP engagement and priority setting appropriate, or should the scope be narrowed to focus on fewer results and address specific challenges/priorities in service delivery?

Effectiveness

- Are the objectives on track to being achieved? If not, what implementation changes need to be made to ensure objectives can be achieved?
- To what extent has the initiative contributed to achievement of objectives?
- Does PALJP's use of a pooled sector funding mechanism and annualized budgets maximize effectiveness of funding? Does this approach leverage development budget spending and complement or influence recurrent budgets?
- Is there a coherent and complementary approach between PALJP, the PNG-Australia Policing Partnership, and the Strongim Gavman Program? And between PALJP and other AusAID programs including the sub-national program, democratic governance programs and economic and public sector programs?
- Is there continued demand for the Law and Justice Adviser role, and is it appropriately scoped and positioned?

Efficiency

- Has the implementation of the activity made effective use of time and resources to achieve the outcomes?

Sub-questions:

- Was value for money considered in making any financial variations to the activity?
- Has management of the activity been responsive to changing needs? If not, why not?
- Has the activity suffered from delays in implementation? If so, why and what was done about it?
- Do AusAID, the ISP and GoPNG have sufficient and appropriate resources to meet respective PALJP management and implementation responsibilities?
- Is the current approach of using the PNG budget system and supplementing with ISP oversight beneficial?
- Is a risk management approach applied to management of the activity (including anti-corruption)? Is there sufficient analysis of fiduciary and procurement risks in use of government systems?
- Program partners have proposed restructuring the ISP senior management team to reflect the reduced management demand from lower DP (adviser) numbers, and emerging needs in areas such as provincial engagement. Is the proposed restructure appropriate, and likely to make effective and efficient use of resources?
- What are the risks to achievement of objectives? Have the risks been managed appropriately?

Impact (if feasible)

- Has the activity produced intended or unintended changes in the lives of beneficiaries and their environment, directly or indirectly?
- Have there been positive or negative impacts from external factors?

Sustainability

- Do beneficiaries have sufficient ownership, capacity and resources to maintain the activity outcomes after Australian Government funding has ceased?
- Are there any actions that can be taken now that will increase the likelihood that the activity will be sustainable? Are there any areas of the activity that are clearly not sustainable? What actions should be taken to address this?

- A review of the Law and Justice Sector Secretariat in 2010 recommended the Secretariat be reduced in scope and size, and integrated within the PNG Government. If these recommendations are implemented, will sector coordination functions be sustained?

Gender Equality

- Is the activity promoting equal opportunity, participation and benefits for women and men, boys and girls?

Sub-questions:

- Is the activity promoting more equal access by women and men to the benefits of the activity, and more broadly to resources, services and skills? What are the constraints/opportunities in doing so?
- Is the activity promoting equality of decision-making between women and men?
- Is the initiative helping to promote women's rights?
- Is the initiative helping to develop capacity (donors, partner government, civil society, etc) to understand and promote gender equality?

Monitoring and Evaluation

Note: AusAID assesses that the current PALJP Monitoring and Evaluation approach needs redevelopment. More focus is required on the results AusAID and GoPNG are achieving through the program, and to identify in clear terms the outcomes to which AusAID can hold itself accountable. A revised Monitoring and Evaluation Framework would meet changed needs of AusAID and GoPNG, and clarify the program logic and expected results. Program partners will hold a workshop in late October 2011 to explore these issues and this work will inform the evaluation.

- Does evidence exist to show that objectives are on track to being achieved?
- Does the activity's Monitoring and Evaluation Framework (MEF) adequately cater for monitoring and evaluation questions and processes to ensure progress against objectives and examination of assumptions or underlying hypothesis against objectives?
- Is the current M&E system collecting the right information to allow judgement to be made about achievements, meeting objectives and sustainability at the next evaluation point?
- Is data gender-disaggregated to measure the outcomes of the activity on men, women, boys and girls?
- Is the M&E system collecting useful information on cross-cutting issues, particularly gender equality and anti-corruption?

Analysis & Learning

- How well was the design based on previous learning and analysis?
- How well has learning from implementation and previous reviews (self-assessment and independent) been integrated into the activity?

Lessons

- What lessons from the activity can be applied to PALJP implementation and/or the broader aid program, and any further assistance to law and justice in PNG?

Ratings against all criteria (excluding impact) will be provided using a rating scale of 1 to 6, with 6 indicating very high quality and 1 indicating very poor quality. A rating below 4 indicates that an activity has been less than satisfactory against a criterion.

4. EVALUATION METHOD

The evaluation team leader will develop a draft evaluation plan, to be submitted for AusAID's approval at least one week prior to the in-country mission. The evaluation plan will include the main evaluation questions, the evaluation design and the report structure. The evaluation will be undertaken according to the approved evaluation plan, or according to any revisions to the plan approved in advance by AusAID. Under AusAID's guidance, the review team should also coordinate with the concurrent mid-term review of the Strongim Gavman Program (Law and Justice) to foster a coherent approach and avoid duplication of effort.

The evaluation approach will include a document review, stakeholder consultations, and fieldwork. Stakeholder consultations will be held in Papua New Guinea and Canberra. Field visits will include Port Moresby and at least one region/province (Bougainville and/or Eastern Highlands Province).

A non-exhaustive list of reference documents is at [Annex A](#).

5. COMPOSITION OF THE INDEPENDENT REVIEW TEAM

The evaluation team will consist of:

- a. Independent Team Leader (responsible for coordinating inputs of team members and finalising written reports) with strong expertise in law and justice, extensive experience in the Pacific region, a thorough understanding of Australia's aid program;
- b. A law and justice specialist with strong expertise in monitoring and evaluation;
- c. Government of PNG representative (to be confirmed); and
- d. AusAID Port Moresby representative (the 'Evaluation Manager' – Catherine Gill, Law and Justice Program Director).

Skill Sets Required by the Team:

- a. extensive monitoring and evaluation experience;
- b. experience in the law and justice sector;
- c. extensive knowledge in development in Papua New Guinea;
- d. thorough understanding of the Australian aid program and experience in aid program development, planning, monitoring and evaluation;
- e. excellent interpersonal and communication skills, including a proven ability to liaise and communicate effectively with Papua New Guineans; and
- f. ability to deliver timely and high-quality written reports.

The evaluation team may be supplemented with strategic inputs from AusAID Canberra representatives, including specialists in public finance and working in partner systems.

The Australian Federal Police and Australian Attorney General's Department will be consulted through the evaluation, and may also participate as evaluation team members or observers.

6. REPORTING ROLES AND RESPONSIBILITIES OF THE TEAM

The team leader will:

- a. plan, guide and develop the overall approach and methodology for the evaluation;
- b. manage and direct the evaluation's activities, representing the evaluation team and leading consultations with government officials and other donor agencies;
- c. manage, compile and edit inputs from other team members to ensure the quality of reporting outputs;
- d. produce an aide memoire, synthesise evaluation material into a clear draft evaluation report and a final evaluation report; and
- e. represent the team in peer reviews, if required.

The law and justice specialist, under the direction of the team leader, will:

- a. assist the team leader during evaluation activities;
- b. lead on evaluating and recommending revisions to the PALJP Monitoring and Evaluation Framework; and
- c. provide inputs into the aide memoire, draft and final reports as directed by the Team Leader.

Other team members will:

- a. work under the overall direction of the Team Leader;
- b. provide advice, relevant documentation from the PNG Government, AusAID and other Australian Government agencies, and an understanding of GoPNG and AusAID processes; and
- c. contribute to the required dialogue, analysis and writing of the report, as directed by the team leader.

The AusAID Evaluation Manager will, under the direction of the Team Leader, participate in select team discussions and stakeholder consultations. They should jointly ensure that AusAID's participation does not compromise the capacity of the evaluation team to maintain independence in conducting the evaluation.

7. TIMING & DURATION

The independent evaluation will commence in November 2011 and be completed by end March 2012. An indicative timing and duration for the scope of services is as follows (final dates and inputs will be negotiated with the Team Leader and stated in contracts):

TASK	PERIOD	LOCATION	INPUT (maximum # of days)	
			TEAM LEADER	SPECIALIST
Document review	From late-October	Home Office	4	4
Draft Methodology / Evaluation Plan	Due 7 Nov	Home Office	1	-
AusAID briefings and presentation / discussion of methodology / consultations with Australian Government partners	14 Nov	Canberra	1	1
Evaluation mission	15 Nov to 1 Dec	Port Moresby and province/s	17	17
Preparation of aide memoire (during mission) and stakeholder workshops to present initial findings (final day)	2 Dec	Port Moresby	1	1
Draft Evaluation Report	5 Dec –6 Jan	Home Office	9	6
Peer Review	Early Feb	Canberra / Home office	1	1
Redrafting report after feedback from AusAID and other stakeholders	Mid-Feb	Home Office	4	3
Travel Days – tbd based on home base				
TOTAL				

8. OUTPUTS

The following reports are to be provided:

- a. *Evaluation Plan / Draft Methodology* - for agreement with AusAID and GoPNG prior to mission.
- b. *Evaluation Mission Aide Memoire* – initial findings to be presented at workshop/s with key stakeholders in Port Moresby, including PNG and Australian Government agencies, and the ISP at the completion of the in-country mission. The format for the Aide Memoire will follow AusAID's template (to be provided).
- c. *Draft Independent Evaluation Report* – to be provided to the evaluation manager, AusAID Port Moresby, within 15 working days of completion of the field study to Papua New Guinea. Feedback from AusAID and other stakeholders will be provided within three weeks of receiving the draft report, followed by a peer review. The format for the evaluation report will follow AusAID's template (to be provided).

- d. *Independent Evaluation Report* - final document within 10 working days of receiving the feedback, incorporating feedback from stakeholders and the evaluation peer review. The report will be no more than 25 pages (plus annexes and a 2 page executive summary). Findings, ratings, lessons, and recommendations should be clearly documented in the report. The evaluation report may be published on AusAID's website.

9. PEER REVIEW OF DRAFT EVALUATION PLAN

A peer review examines and contests the findings of the evaluation report to ensure the evaluation results are relevant and applicable to AusAID's operating environment. The peer review also considers a draft Learning and Dissemination Plan (prepared by AusAID) to ensure the best value is obtained from the evaluation. The peer review will be organised by the evaluation manager and may be conducted through a review meeting. In this case the Team Leader and Law and Justice Specialist will attend in person and/or by phone conference, as directed by AusAID.

Documents for Review

AusAID will provide hyperlinks/electronic copies of documents prior to the evaluation commencing. AusAID appreciates the documentation is extensive although not exhaustive. Those marked with an asterisk are essential reading.

Program documents:

PNG-Australia Law and Justice Partnership Design Document May 2008 *

ISP reports:

PALJP Annual Reports and Six-Monthly Progress Reports 2009-2011 *

Government of PNG documents:

- a. PNG Vision 2050
- b. PNG Development Strategic Plan 2010-2030
- c. PNG Medium Term Development Plan 2011-2015
- d. PNG Commitment on Aid Effectiveness 2008 *
- e. Law and Justice Sector Strategic Framework *
- f. White Paper on Law and Justice, 2007 *
- g. Law and Justice Sector Gender Strategy (2005) *
- h. Law and Justice Sector Annual Performance Report 2009 (published) and 2010 (draft). *

AusAID documents:

- a. Guidelines and templates *
 - o Guideline: Manage the Independent Evaluation of an Aid Activity
 - o Template: Independent Progress Report Aide Memoire
 - o Template: Independent Progress Report
- b. SGP Monitoring Reports 2009 and 2010
- c. Law and Justice Sector Performance Reports 2009 and 2010 *
- d. PALJP Quality at Implementation Reports 2009 and 2010 *
- e. Policy documents and delivery strategies
 - o Independent Review of Aid Effectiveness 2011
<<http://www.aidreview.gov.au/publications/aidreview.pdf>>
 - o Australian Government response to the Independent Review of Aid Effectiveness *
<http://www.ausaid.gov.au/publications/pubout.cfm?ID=5621_9774_1073_3040_2380&Type>
 - o Review of the PNG-Australia Development Cooperation Treaty 2010 *
<<http://www.ausaid.gov.au/publications/pdf/PNGAustralianAidReview.pdf>>

- PNG-Australia Joint Review of Technical Advisers 2010 *
<<http://www.aisaid.gov.au/publications/pdf/FinalPNGAdviserReviewReport.pdf>>
 - AusAID PNG Program Implementation Priorities Paper 2011 *
 - ODE: Discussion Paper: Emerging findings from the ODE Law and Justice Evaluation August 2011 *
 - Equality Matters: Gender Equality and Women's Empowerment Strategy: PNG Program 2010-2015 *
 - AusAID Operational Policy: Adviser Planning, Selection and Performance Management and related Guidance Note 1 (implementation Checklist) and 2 (TA Options for Capacity Development) - March 2011
- f. Other reviews
- PNG Law and Justice Sector Program – Independent Completion Report 2010 * <<http://www.aisaid.gov.au/publications/pdf/2010icr-pngljsp.pdf>> and <<http://www.aisaid.gov.au/publications/pdf/2010icr-pngljsp-annexes.pdf>>
 - Review of the Law and Justice Sector Secretariat (LJSS) 2010 *
 - Desk review of the PALJP ISP Monitoring and Evaluation Framework (Linda Kelly, working document, September 2011)
 - Review of the Law and Justice Sector Development Budget Process 2011 and 2012

Other documents:

- a. Partnership for Development (draft law and justice schedule) *
- b. Paris Declaration and Accra Agenda for Action
<http://www.oecd.org/document/18/0,3746,en_2649_3236398_35401554_1_1_1_1,00&&en-USS_01DBC.html>

Annex C – Evaluation plan

PNG-Australia Law and Justice Partnership (PALJP) INDEPENDENT PROGRESS REPORT

Evaluation Plan 16 November 2011

1 INTRODUCTION - PURPOSE

The purpose of this evaluation plan is to outline the methodology for assessing the implementation progress of the PNG-Australia Law and Justice Partnership (PALJP) and to prepare an Independent Progress Report (IPR). This IPR will assess the effectiveness of the program, identify lessons learned and inform future assistance to the PNG law and justice sector. It will help the Governments of Australia and PNG assess PALJP's effectiveness, provide lessons on aid program management, and inform future assistance to law and justice. Specifically, the IPR will assess PALJP against evaluation criteria developed by the OECD Development Assistance Committee (DAC) and AusAID, relating to relevance, effectiveness, efficiency, impact, sustainability, gender equality, monitoring and evaluation, analysis and learning and lessons.

Within the scope of this TOR, this evaluation plan provides the 'how' for addressing the TOR for this assignment. It plan builds on, refines and operationalises the TOR. It also outlines the methods and timeframe the evaluation team will use to meet the TOR objectives and scope, and outlines the proposed roles of team members.

2 EVALUATION DESIGN

The design and methodology of this IPR is to assess the performance of PALJP in terms of specified OECD Development Assistance Committee (DAC) and AusAID criteria , relating to relevance, effectiveness, efficiency, impact, sustainability, gender equality, monitoring and evaluation, analysis and learning, and lessons. Specifically, it will:

- a. assess PALJP's effectiveness,
- b. provide lessons on aid program management,
- c. inform future assistance to law and justice.

The use of the DAC and AusAID evaluation criteria ensure the evaluation covers all of the main elements underlying the assistance, from the relevance of its objectives through to the ultimate impact on beneficiaries. Because Australian assistance is only ever one of many influences on the development of law and justice in PNG, it is unlikely to be feasible to apply a strict approach to **attributing** impact to Australia's support. We will therefore look more broadly at the **contribution** made by Australian assistance to strengthening this situation, and at whether the underlying theories of change are plausible based on the available evidence.

3 THEORY OF CHANGE

Every development endeavour has embedded within it, implicitly or explicitly, a theory of change. Within any one development programme more than one theory of

change may be incorporated into its activities or different programme components may have their own theory of change. For this reason, at the beginning of our evaluation we will inquire as to the **theory of change** that underlies a component's program and, from that, inquire how the component's activities have been constructed to achieve its stated objectives and outcomes, based upon the aforementioned theory of change. One of the principal issues will be who is the intended beneficiary(s) of the activities undertaken and how does the theory of change pertain to that beneficiary(s).

4 EVALUATION QUESTIONS

This evaluation will help the Governments of Australia and PNG assess PALJP's effectiveness, provide lessons on aid program management, and inform future assistance to law and justice.

The design and implementation of PALJP activities will be evaluated against the 8 criteria defined in AusAID's Guidelines: relevance, effectiveness, efficiency, impact and sustainability, as well as monitoring and evaluation, gender equality and analysis and learning.

The evaluation questions will be structured to address the OECD and AusAID evaluation criteria. For the purposes of this evaluation plan, these criteria are defined as follows: '**Relevance**' is the extent to which the objectives are consistent with beneficiaries' requirements, country needs, global priorities and partners' and the donor's policies. '**Effectiveness**' is the extent to which the desired outcomes are achieved or expected to be achieved. '**Efficiency**' refers to how economically resources (funds, expertise, time, etc.) are converted to outputs. '**Impact**' is the changes resulting, including positive and negative, intended and unintended effects. '**Sustainability**' is the probability of continued long-term benefits after major assistance has been completed.

A range of evaluation questions will be used in consultations and interviews. Data from the responses will be used to prepare information that will provide evidence for evaluation against all criteria.

The evaluation will assess PALJP's performance against the evaluation criteria below, and provide specific recommendations to improve PALJP's implementation and/or future program design. The questions may be adapted / supplemented by the evaluation team in developing the review method or during fieldwork, as appropriate for addressing the IPR criteria, and will include:

a Relevance

Are the objectives and activity outcomes of PALJP relevant to PNG and Australian Government priorities?

Are the objectives relevant to the context and needs of Government and civil society beneficiaries and consistent with the Partnership for Development?

If not, what changes need to be made to PALJP or its objectives to ensure continued relevance?

Is a sector-based approach to PALJP engagement and priority setting appropriate, or should the scope be narrowed to focus on fewer results and address specific challenges/priorities in service delivery?

How relevant and effective is PALJP in addressing GoPNG's law and justice needs?

b Effectiveness

What is the PALJP theory of change? Who are the intended beneficiaries of PALJP activities and how do those coincide to the theory of action?

To what extent has implementation of activities contributed to achievement of objectives?

Are the objectives on track to being achieved? If not, what implementation changes need to be made to ensure objectives can be achieved?

How best can GoPNG's law and justice needs be met by PALJP? (If advisory,) why are advisers needed?

Does PALJP's use of a pooled sector funding mechanism and annualized budgets maximize effectiveness of funding? Does this approach leverage development budget spending and complement or influence recurrent budgets?

What are the comparable advantage(s) of PALJP DP's, SGP, or Policing-Partnership advisers: ...

Is there a coherent and complementary approach between PALJP, the PNG-Australia Policing Partnership, and the Strongim Gavman Program? And between PALJP and other AusAID programs including the sub-national program, democratic governance programs and economic and public sector programs?

Is there continued demand for the Law and Justice Adviser role, and is it appropriately scoped and positioned?

What are the current challenges/risks of implementation, and how are these being addressed: ...

Is the program purpose realistically expected to be achieved at the end of the implementation period?

c Efficiency

Has the implementation of the activity made effective use of time and resources to achieve the outcomes?

Sub-questions:

Was value for money considered in making any financial variations to the activity?

Has management of the activity been responsive to changing needs? If not, why not?

Has the activity suffered from delays in implementation? If so, why and what was done about it?

Do AusAID, the ISP and GoPNG have sufficient and appropriate resources to meet respective PALJP management and implementation responsibilities?

Is the current approach of using the PNG budget system and supplementing with ISP oversight beneficial?

Is a risk management approach applied to management of the activity (including anti-corruption)? Is there sufficient analysis of fiduciary and procurement risks in use of government systems?

Program partners have proposed restructuring the ISP senior management team to reflect the reduced management demand from lower DP (adviser) numbers, and emerging needs in areas such as provincial engagement. Is the proposed restructure appropriate, and likely to make effective and efficient use of resources?

What are the risks to achievement of objectives? Have the risks been managed appropriately?

d Impact

Has activities produced intended or unintended changes in the lives of beneficiaries and their environment, directly or indirectly?

Have there been positive or negative impacts from external factors?

What real difference are the activities likely to make for beneficiaries (government counterparts, citizens receiving law and justice services, other stakeholders)?

e Sustainability

Do beneficiaries have sufficient ownership, capacity and resources to maintain the activity outcomes after Australian Government funding has ceased?

Are there any actions that can be taken now that will increase the likelihood that the activity will be sustainable? Are there any areas of the activity that are clearly not sustainable? What actions should be taken to address this?

A review of the Law and Justice Sector Secretariat in 2010 recommended the Secretariat be reduced in scope and size, and integrated within the PNG Government. If these recommendations are implemented, will sector coordination functions be sustained?

f Gender Equality

Is the activity promoting equal opportunity, participation and benefits for women and men, boys and girls?

Sub-questions:

Is the activity promoting more equal access by women and men to the benefits of the activity, and more broadly to resources, services and skills? What are the constraints/opportunities in doing so?

Is the activity promoting equality of decision-making between women and men?

Is the initiative helping to promote women's rights?

Is the initiative helping to develop capacity (donors, partner government, civil society, etc) to understand and promote gender equality?

g Monitoring and Evaluation

Does evidence exist to show that objectives are on track to being achieved?

Does the activity's Monitoring and Evaluation Framework (MEF) adequately cater for monitoring and evaluation questions and processes to ensure progress against objectives and examination of assumptions or underlying hypothesis against objectives?

Is the current M&E system collecting the right information to allow judgement to be made about achievements, meeting objectives and sustainability at the next evaluation point?

Is data gender-disaggregated to measure the outcomes of the activity on men, women, boys and girls?

Is the M&E system collecting useful information on cross-cutting issues, particularly gender equality and anti-corruption?

h Analysis & Learning

How well was the design based on previous learning and analysis?

How well has learning from implementation and previous reviews (self-assessment and independent) been integrated into the activity?

What lessons from the activity can be applied to PALJP implementation and/or the broader aid program, and any further assistance to law and justice in PNG?

Ratings against all criteria (excluding impact) will be provided using a rating scale of 1 to 6, with 6 indicating very high quality and 1 indicating very poor quality. A rating below 4 indicates that an activity has been less than satisfactory against a criterion.

5 METHODOLOGY

The methodology for implementing this evaluation plan will comprise (a) document review, (b) field work consultation and (c) desk analysis.

a Document review – proposed data sources

The evaluation team will review an extensive list of key documents related to the planning and performance of PALJP, including design documents, progress reports and monitoring data, in particular:

1. Central, sector and line agencies
2. LJSS
3. PALJP
4. GoA whole of government (WoG) partners, including SGP.

A detailed inventory of these documents is attached to this evaluation plan as annex 1.

b Field work – proposed consultations

The proposed fieldwork will consist of interviews, data gathering and site visits to NCD, EHP and ARoB, in particular. The purpose of these consultations and visits is to review the key assumptions of both PALJP and stakeholders and method-related risks in the evidence and analytical base of the ISP's self-assessment, and in gathering and analysing new, additional information (qualitative or quantitative) when there is a real value in this being done.

A detailed schedule of proposed consultations is attached to this evaluation plan as annex 2.

c Desk analysis

The desk analysis will comprise the evaluation team critically reflecting on the contents of document review and the field work for the purpose of identifying significant findings, making observations and developing recommendations for stakeholders.

6 ROLES AND RESPONSIBILITIES OF TEAM MEMBERS

The evaluation team will comprise four members: team leader, law and justice specialist, GoPNG representative and the AusAID evaluation manager.

- i. The team leader Livingston Armytage will:
 - f. plan, guide and develop the overall approach and methodology for the evaluation;
 - g. manage and direct the evaluation's activities, representing the evaluation team and leading consultations with government officials and other donor agencies;
 - h. manage, compile and edit inputs from other team members to ensure the quality of reporting outputs;
 - i. produce an aide memoire, synthesise evaluation material into a clear draft evaluation report and a final evaluation report; and
 - j. represent the team in peer reviews, if required.
- ii. The law and justice specialist, Eric Scheye, will under the direction of the team leader:
 - d. assist the team leader during evaluation activities;
 - e. lead on evaluating and recommending revisions to the PALJP Monitoring and Evaluation Framework; and
 - f. provide inputs into the aide memoire, draft and final reports as directed by the Team Leader.
- iii. The Government of PNG representative, James Laki, will take responsibility for:
 - a. providing advice and facilitating engagement with local stakeholders and counterparts throughout the assignment
 - b. collecting evidence relating to the activities at central regional and local levels
 - c. assessing the effectiveness of activities at central regional and local levels
 - d. contributing to preparing the Aide Memoire;
 - e. contributing to preparing the Draft Evaluation Report;

- f. contributing to preparing the Final Evaluation Report; and
 - g. other incidental duties as required and agreed.
- iv. The AusAID Port Moresby representative, being the 'Evaluation Manager' – Catherine Gill, Law and Justice Program Director, will take responsibility for:
- a. provide advice, relevant documentation from the PNG Government, AusAID and other Australian Government agencies, and an understanding of GoPNG and AusAID processes; and
 - b. supporting team logistics in the field and contributing to gender-sensitive interviews where needed;
 - c. contribute to the required dialogue, analysis and writing of the report, as directed by the team leader.
 - d. Providing ongoing direction and feedback throughout the assignment.

7 ITINERARY

To be settled in consultation with the AusAID post once the evaluation plan approach has been endorsed in-principle.

8 REPORT STRUCTURE

The aide memoire, draft and final reports will be submitted electronically in MS Word format, in accordance with AusAID's Guidelines for Independent Completion Reports. As specified, the report structure will comprise and build on the following structure to address the key themes of this evaluation:

- an executive summary (should be able to be read as a stand alone document);
- background on the aid activity;
- an outline of the evaluation objectives and methods;
- findings against the evaluation questions;
- evaluation criteria ratings; and
- conclusions and recommendations.

9 TARGET DATES FOR DELIVERABLES

The following reports will be provided:

- e. *Evaluation Plan / Draft Methodology* - for agreement with AusAID and GoPNG prior to mission **on or before 7 November**.
- f. *Evaluation Mission Aide Memoire* – initial findings to be presented at workshop/s with key stakeholders in Port Moresby, including PNG and Australian Government agencies, and the ISP at the completion of the in-country mission **on or before 2 December**.
- g. *Draft Independent Evaluation Report* – to be provided to the evaluation manager, AusAID Port Moresby, within 15 working days of completion of the field study to Papua New Guinea **on or before 6 January**.
- h. *Independent Evaluation Report* - final document within 10 working days of receiving the feedback, incorporating feedback from stakeholders and the evaluation peer review **on or before 24 February**.

10 INTERVIEW QUESTIONS

The Review will be guided by AusAID's standard list of evaluation questions covering the criteria of relevance, effectiveness, impact, efficiency, sustainability, gender equality, monitoring and evaluation, and analysis and learning. Specific questions will be developed on the unique features of PALJP, possible improvements and future programming options including a more direct PALJP contribution to service delivery results, and the contribution of PALJP to the bilateral relationship.

Above and beyond the questions enumerated above, we will group our stakeholder consultations, interviews in three categories: (i) counterparts, (ii) service providers and (iii) beneficiaries. Consequently our interview questions are drawn from two sources. Of course, these questions will be asked in an adapted form in the stakeholder interviews, as outlined and illustrated below. Interviews will also be tailored individually with supplementary questions being asked as required.

(i). Counterparts:

including sector (NCM, TWG, AMT AND LJSS) AND CENTRAL AGENCIES

What are your needs in relation to law and justice support?

To what extent has implementation of activities contributed to achievement of objectives?

How relevant and effective is PALJP is addressing these needs?

Is a sector-based approach to PALJP engagement and priority setting appropriate, or should the scope be narrowed to focus on fewer results and address specific challenges/priorities in service delivery?

Are the objectives on track to being achieved? If not, what implementation changes need to be made to ensure objectives can be achieved?

Does PALJP's use of a pooled sector funding mechanism and annualized budgets maximize effectiveness of funding? Does this approach leverage development budget spending and complement or influence recurrent budgets?

How best can your needs be met by PALJP? (If advisory,) why are advisers needed?

Give examples of PALJP support which is useful / not useful: ...

(and, specify in relation to gender and other cross-cutting themes)

How has PALJP support improved service delivery to beneficiaries: ...

How do you measure these improvements?

What are the comparable advantage(s) of PALJP DP's, SGP, or Policing-Partnership advisers: ...

(ii). Service providers:

including CARDNO, ISP SMT, DP'S, SGP

What is PALJP doing well and not doing well? Has the implementation of the activity made effective use of time and resources to achieve the outcomes?

What is the PALJP theory of change?

Who are your beneficiaries?

Give examples where PALJP has had a positive impact of beneficiaries' lives: ...

(and, specify in relation to gender and other cross-cutting themes)

How do you measure this?

What are the current challenges/risks of implementation, and how are these being addressed: ...

Program partners have proposed restructuring the ISP senior management team to reflect the reduced management demand from lower DP (adviser) numbers, and emerging needs in areas such as provincial engagement. Is the proposed restructure appropriate, and likely to make effective and efficient use of resources?

Is there a coherent and complementary approach between PALJP, the PNG-Australia Policing Partnership, and the Strongim Gavman Program? And between PALJP and other AusAID programs including the sub-national program, democratic governance programs and economic and public sector programs?

(iii). Beneficiaries:

CIVIL SOCIETY, NGO'S, CHURCHES, SERVICE USERS/NON-USERS (specify: male/female; urban/rural)

How does your group contribute to law and justice services?

What are your needs for law and justice services, and to whom do you go for help to meet those needs? (specify: police, village courts, tribal elders, churches ,other ...)

Are your needs being met better now than in the past – give examples; and, why/how ...

What can be done to meet your law and justice needs in future: ...

* * *

Annex D - Consultations

Places visited and people consulted

AusAID Canberra

Alison	George	Pacific Division, Performance & Quality	14 Nov 11
Colin	Wiltshire	Pacific Division, Performance & Quality	14 Nov 11
Tanya	Pridannikoff	Law and Justice, Governance and Social Development Branch	14 Nov 11
Octavia	Borthwick	Assistant Director General, PNG & Solomon Islands Branch	14 Nov 11
Laurie	McCullough	Working in partner systems	14 Nov 11
Sue	Cathermole	Attorney Generals Department	14 Nov 11
Jenevieve	Allan	Attorney Generals Department	14 Nov 11
Patrick	Hagan	AFP Monitoring & Evaluation	14 Nov 11
Sinclair	Dinnen	ANU	14 Nov 11
Joanne	Choe	Director, Asia Pacific	30 Nov 11

AusAID Law and Justice Team, PNG

Mona	Balram	A/g First Secretary	17 Nov 11
Tau	Geno-Hoire	Program Manager	17 Nov 11
Ali	Kevin	Assistant Program Manager	17 Nov 11
John	Dinsdale	PNG-Australia Law and Justice Adviser	17 Nov 11
Catherine	Gill	Program Director	01 Dec 11

AusAID Strongim Gavman Program Team

David	Reed	Office of the Solicitor General	30 Nov 11
John	Williams	Office of the State Solicitor	30 Nov 11
Billy	Cupples	CS Training College	

Other AusAID staff

Andrew	Elborn	First Secretary, EPSG	30 Nov 11
David	Chick	Director, SNS	30 Nov 11

Cardno Emerging Markets

Colin	Adams	Country Representative	17 Nov 11
Kate	McCubbin	Program Coordinator	17 Nov 11

ISP Senior Management Team

Peter	Thompson	Deputy Team Leader	17 Nov 11
Helen	Disney	Deputy Team Leader	17 Nov 11
John	Rennie	Deputy Team Leader	17 Nov 11
Rebecca	Robinson	Acting Team Leader	

PNG-Australia Law and Justice Adviser

John	Dinsdale	PNG-Australia Law and Justice Adviser	17 Nov 11
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Development Practitioners

Steve	Sims	Adviser, Yumi Lukautim Mosbi	30 Nov 11
Apolosi	Bose	Adviser, FSV	01 Dec 11
Elizabeth	Morgan	Village Court	21 Nov 11
Joanne	Robinson	HIV/AIDS	
Jim	Thompson	RPNGC	
Bob	Shillabegr	Facilities	
Ronel	Fourie	M&E	
Rebecca	Robinson	Team Leader PALJP	
Vicki	Morris	RPNGC	
Charles	Vee	Facilities	
Jane	Kesno	Gender	
Ezekiel	Brown	Facilities	
Rena	Lane	Police Finance	
Mick	McIntyre	Magisterial Service	
Paul	Kelly	NJSS	
Ken	Richardson	Office of Public Prosecutor	
Andrew	Watson	NJSS	
Susan	Hayes	OC	

<i>Australian Federal Police in PNG</i>			
Warren	Crighton	AFP	30 Nov 11
<i>Strongim Gavman Program (SGP)</i>			
Suesan	Sellick	Team leader, SGP	30 Nov 11
Linda	Dalton	DJAG	22 Nov 11
<i>Others</i>			
Kirsten	Bishop		01 Dec 11
PNG Consultations			
<i>Law & Justice Sector Secretariat</i>			
Joe	Kanekane	Director, Law and Justice Sector Secretariat	18 Nov 11
Sam	Geno	Manager, Finance	18 Nov 11
Oni	Teio	Community Engagement Unit Officer	18 Nov 11
<i>Department of Justice & Attorney-General</i>			
Neville	Devete	Acting Solicitor General	17 Nov 11
Lawrence	Kalinoe	Secretary	21 Nov 11
Benny	Metio	Deputy Secretary, Corporate	22 Nov 11
Herman	Buanga	DJAG	
<i>Office of the Public Prosecutor</i>			
Pondros	Kaluwin	A/g Public Prosecutor	16 Nov 11
Camilus	Sambua	Outgoing A/g Public Prosecutor	
<i>Office of the Public Solicitor</i>			
Frazer	Pitpit	Public Solicitor	18 Nov 11
<i>National Judicial Services & National Judicial Staff Services</i>			
Sir Salamo	Injia	Chief Justice	18 Nov 11
Kapi	Sarohafa	Deputy Secretary	
Ian	Augeria	Registrar National court	
<i>Royal PNG Constabulary</i>			
Jim	Wan	Deputy Commissioner of Police - Administration	22 Nov 11
Joab	Mangae	Assistant Commissioner of Police – Logistics	22 Nov 11
<i>Correctional Services</i>			
Martin	Balthaza	Commissioner	16 Nov 11
Dominic	Tomar	Assistant Commissioner – Policy & Planning	22 Nov 11
Stephen	Pokanis	Correctional Service	
<i>Ombudsman Commission</i>			
Chronox	Manek	Chief Ombudsman	21 Nov 11
<i>Magisterial Services</i>			
Jack	August	Chief Magistrate	18 Nov 11
Iova	Geita	Deputy Chief Magistrate	
<i>Department of National Planning & Monitoring</i>			
Peter	Kora	Secretary	16 Nov 11
Reichart	Thanda	DNPM	
Joelson	Anere	Senior Aid Coordinator, Law and Justice	
Joe	Rapa	DNPM	
Willie	Kumanga	Assistant Secretary, Law and Justice	21 Nov 11
<i>Non-Government Organisations</i>			
Alois	Gaglu	Program Manager, CIMC	22 Nov 11
Ume	Wainetti	Chair, Family and Sexual Violence Action Committee, CIMC	22 Nov 11
Ivana	Kapi	Salvation Army	30 Nov 11
Gini	Kevin	Salvation Army	
Daniel	Pongone	Salvation Army	
Sr Theresa	Aihi	Loui Vangeke	
Moses	Mathew	Goilala for Jesus	
Thomas	Marinae	CTN	

Philomina	Marinae	CTN	
Lillian	Siris	Peace Foundation Melanesia	
Kepas	Paon	Peace Foundation Melanesia	
Boski	Aige	SYG	
PNG Sub-National Level Consultations			
<i>Autonomous Region of Bougainville</i>			
Hon John	Momis	President	23 Nov 11
Hon Leo	Hannett	Minister for Law and Justice ABG	
Patrick	Koles	Deputy Administrator	
Ephraim	Eminoni	Project Officer	
Roselyn	Kenneth	AusAID	
Edmond	Benny	AusAID	
Murray	Lewis	NZ Police	
<i>Morobe Province</i>			
Dora		Commander, Buimo Correctional Institute	27 Nov 11
<i>Eastern Highlands Province</i>			
Mal	Smith	Governor, Eastern Highlands Province	28 Nov 11
Don	Hurrel	Law & Justice Sector Program, Adviser, EHP	28 Nov 11
Ben	Sapu	Former Provincial Village Courts Adviser, EHPA	28 Nov 11
Kihen	Siren	Provincial Village Courts Adviser, EHPA	28 Nov 11
Charles	Goto	Director, Division of Law and Justice	28 Nov 11
David	Siene	Police Officer, Community Corrections	28 Nov 11
Dora	Kekemo	Child Protection officer	28 Nov 11
	Wampe	Provincial Police Commander	28 Nov 11
Sharon	Makinter	Family & Sexual Unit	28 Nov 11
Naomi	Yupae	Juvenile Justice Unit	28 Nov 11
Gami	Madu	Senior Provincial Magistrate	28 Nov 11
Wauri	Berol	Registrar, District Courts	28 Nov 11
Bob	Smythe	Program Director, Save the Children	29 Nov 11
Laila	Khondkar	Program Manager, Save the Children	29 Nov 11
		Family Voice	29 Nov 11
		Family Voice	29 Nov 11
		Asaro police station	29 Nov 11
		Asaro village courts official & community leaders	29 Nov 11

Annex E - Endnotes

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¹ Cardno ACIL, Completion Report, LJSP, January 2009, v.

² Armytage, L 2010, 'Judicial reform in Asia: case study of AusAID's experience in Papua New Guinea: 2003-2007,' *Journal of Development Effectiveness*, 2.4: 442-467, 444.

³ By email of Alison George, Evaluations Officer, Pacific Branch, dated 6 December 2011.

⁴ 2010 Annual Performance Report, p. iii.

⁵ Ibid. A notable schism between crime/ victimization rates and the public perception of violence and insecurity exists throughout the 2010 Annual Report. The existence of this rift suggests that there is an acute need for the GoPNG to undertake active remedial measures to address the situation, some of which will be discussed below.

⁶ Summarizing the situation with the RPNGC and CS, the PNG Law and Justice Sector Performance Report for 2010 (2010 Sector Report) stated that both services "remain very weak organisations, impacting on PNG's ability to enforce the rule of law. Both forces are challenged by poor leadership at all levels, weak management, insufficient human and financial resources, a high level of corruption and unprofessionalism, difficulties in accessing remote rural areas and a lack of political will," (p. 2).

⁷ Ibid, p. 1. Within the Port Moresby business community confidence in the police is extremely low, with "82% of businesses being dissatisfied with the outcome [of police activities] and 75% believing the police response... [is] not effective" (p. 14). One business owner with whom the team spoke noted that the success of his company depended upon its ability to carve out and separate its activities from a panoply of public goods and services – from electricity to security. A similar situation may exist for the vast preponderance of PNG's population, as up to 85% live in rural areas and, thus, beyond the purview of most GoPNG services.

⁸ Ibid, p. 4. While noting improvement in performance, the 2010 Sector Report concedes that "there are still significant constraints to accessing justice and deficiencies in the capacity of most agencies to undertake core work," (p. 3).

⁹ The 2010 Annual Report notes that many communities believe that the Village Courts are "only visible form of Government delivery in PNG" (p. 34).

¹⁰ Ibid. p. 33.

¹¹ Ibid, p. 35.

¹² Ibid, p. 66.

¹³ In 2010 alone, for example, PALJP injected K10m to support the construction of vital infrastructure.

¹⁴ In PNG, PALJP support for building infrastructure may best be viewed as a core state-building activity in a country in which "the state" is at the beginning of a long process of development, one in which its impact on the lives of the vast preponderance of the population is currently highly circumscribed. Furthermore, supporting the construction of housing for a judge, magistrate, or police officer, for instance, may be necessary in order to ensure that a newly built facility is appropriately staffed, but it is a debatable development activity. First, it substitutes Australian support for what should be undertaken by the GoPNG, which can produce undesirable expectations in the future, particularly in the case of PNG, a country in which its increasing natural resource wealth should be fueling government tax revenues and expenditures. Second, while admittedly unclogging short-term bottlenecks, Australian support for staff housing diverts attention from undertaking what may be considered essential reforms of its human resource policies relating to housing allowances. Changes in GoPNG housing allowance policies could foster the development of a housing market, which may have great long-term economic benefits.

¹⁵ The Public Prosecutor's case management system, for example, is operational in Port Moresby, being installed in Madang, and will be rolled out to other locations over time.

¹⁶ The systems put in place within the OSG is the exception to the rule, given that the beneficiary of the new management tools is the GoPNG and that the measurable outcome and result is the associated cost savings.

¹⁷ In Bougainville, for example, while provincial officials have been instrumental in working on the development of a Village Court review report, PALJP staff have effectively written the questionnaire, collected and collated the data, analyzed it, and have written the review.

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¹⁸ A similar picture exists with regard to provincial service delivery. While there have been significant achievements, their sustainability seemingly depends upon the continued presence of DPs and PALJP development funds to maintain the initiatives.

¹⁹ A training course is currently being prepared and it is reputed to be “incorporated into all police training,” according to one interviewee. It should be noted that, initially, cooperation between PALJP and AFP personnel on the development of this training module was extremely poor. It appears, however, that the situation has improved.

²⁰ It should be noted that the situation of the FSVUs closely mirrors that of similar donor-established units in other post-conflict countries, such as Sierra Leone.

²¹ Approximately 16% of Court Magistrates are women.

²² Nevertheless, as one senior GoPNG official observed, “who says I ever wanted a partnership. It’s a program I wanted,” by which he meant support directed to his agency, without consideration of the sector.

²³ This IPR is not an impact assessment. There is however little evidence available of program impact on its beneficiaries – as distinct from ‘wins’ affecting counterpart agencies - with the possible qualification of data yet to be extracted in the sector’s APR 2010. In 2006, AusAID conducted an analysis of the contribution of its earlier phase of assistance in LJSP and found that ‘there was limited evidence of real world outcomes’. It has not subsequently conducted any further impact assessments of its assistance to the law and justice sector. AusAID, 2006. *PNG Law & Justice Sector Review and contribution analysis*, unpublished Canberra, 8; cited in Armytage L, ‘Judicial reform in Asia: case study of AusAID’s experience in Papua New Guinea: 2003–2007’, *Journal of Development Effectiveness*, Vol. 2, No. 4, December 2010, 442–467.

²⁴ While it is acknowledged that the process of refining the sector policy was undertaken through a range of multi-agency processes, these priorities are largely an amalgam of agencies’ priorities rather than anything policy-based which has been developed distinctively at the sector level.

²⁵ Noting that the level of expenditure is not necessarily the best measure for where attention has been focused, actual expenditure was 5,272,311.83 kina including goods and services and DP’s of total expenditure of 35,083,107.00 to 30 September 2011. This expenditure related to the following PFD’s: provincial engagement (124), family and sexual violence (136), restorative justice (140), YLM (145), CEU (152), CBC (414), village courts (417), community justice services (421), EHP (852), community development ABG (871), village courts ABG (874). Data supplied by DTL P Thompson, 7 December 2011.

²⁶ The Governments of Australia and PNG are signatories to the 4th High Level Forum on Aid Effectiveness, cl.19: ‘The use and strengthening of developing countries systems remains central to our efforts to build effective institutions. We will build on our respective commitments set out in the Paris Declaration and Accra Agenda for Action to: (a) Use country systems as the default approach for development cooperation in support of activities managed by the public sector, working with and respecting the governance structures of both the provider of development cooperation and the developing country.’ *Busan Partnership for Effective Development*, December 2011.

²⁷ These include the Chief Justice, Chief Ombudsman, Chief Magistrate, Secretary of Justice & Attorney General, Commissioner of the RPNGC, Commissioner of Correctional Service, Public Prosecutor, Public Solicitor, and Secretary of National Planning and Monitoring.

²⁸ For example, Strongim Pipol Strongim Nesen Program.

²⁹ 4th High Level Forum on Aid Effectiveness, cl.19 (b): Where the full use of country systems is not possible, the provider of development co-operation will state the reasons for non-use, and will discuss with government what would be required to move towards full use, including any necessary assistance or changes for the strengthening of systems. The use and strengthening of country systems should be placed within the overall context of national capacity development for sustainable outcomes. *Busan Partnership for Effective Development*, December 2011.

³⁰ While it falls beyond the TOR of this report to undertake an assessment of the needs for reform, a ‘google-search’ using key words [*women, PNG, legal empowerment and crime*] immediately generates authoritative assessments undertaken by UNICRI, ILO, ANU-USP, YWCA and AusAID, among numerous others.-

- http://www.unicri.it/documentation_centre/publications/issues/r3.php
- <http://www.ilo.org/public/english/region/asro/mdtmanila/training/unit2/ptsxsum.htm>

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- http://rspas.anu.edu.au/papers/melanesia/conference_papers/pipsa/20PIPSApaperPatrickKaiku.pdf
- http://www.aid.gov.au/research/pdf/2009_adra_themes.pdf
- <http://www.worldywca.org/YWCA-News/World-YWCA-and-Member-Associations-News/Australian-Government-Invests-96.4-million-on-Women>
- <http://www.stuff.co.nz/world/735962/PNG-women-victims-of-rape-torture-and-murder>.

³¹ “The timing of key GoPNG-GoA management processes will be planned around major decision-making points within PNG’s budget cycle timeline. In that context, two formal GoPNG-GoA strategic coordination meetings involving AusAID (and other GoA partners as appropriate) and the NCM will take place each year” - 4.3, PDD, 29.

³² This evaluation was not commissioned to nor does it evaluate PALJP’s original program design, but rather assess how PALJP has been implemented.

³³ It should be acknowledged, however, that some members of the ISP had difficulty enunciating PALJP’s theory of change. Furthermore, it is evident that senior members of PNG’s law and justice agencies were too preoccupied with “getting their core business done” to be unduly concerned with what a “theory of change” may be. As one official noted, “a sector approach diverts our staff from their day-to-day job in the agency and, thus, we have to depend upon the DPs to do the actual sector approach.”

³⁴ A third sub-theory of change was that donor-supported technical assistance will encourage the leadership of PNG’s law and justice institutions and agencies to undertake change management. However, it appears as if the leadership of PNG’s agencies had little appetite for change management, as one interviewee noted, irrespective of PALJP’s initiatives.

³⁵ See, *2011 Quality at Implementation Report for PNG-Australian Law and Justice Partnership*, which declares “at its core, PALJP focuses on ensuring... that better service delivery is achieved through improved policy and resource collaboration.”

³⁶ One law and justice agency official observed that the courts, national and magisterial, “go their own way and don’t consult with us.” Another argued, “our heads of agencies go ahead with an agency approach. They want to drive their own programs.” Yet another indicated that the development of agency and NCM strategies and policies were “parallel processes.”

³⁷ Based upon a handful of discussions with civil society organizations based in Port Moresby, it would seem that only a few groups were aware of PALJP or its activities, which stands in sharp contrast to the previous AusAID program LJSP, which ended in 2008. It appears, however, that AusAID is supporting civil society organizations involved in law and justice issues in another one of its program, Strong Nation/Strong People. Whether this initiative proves to be successful in the long-term is unknown, but, structurally, it circumscribes community participation into a separate program, which may not be an operationally sound decision, but one that will have to be assessed at a later date and is beyond the purview of this team.

³⁸ In the Eastern Highlands, the Village Courts can be judged successful in that more than 80% of the cases that are appealed to the Magistrates Court have the decisions of the Village Court upheld. It was reported that most of the decisions that have been overturned have occurred because of questions of procedural fairness, an indication that the provincial supervision of the Village Courts requires further professionalism, as it is the provincial administration that is responsible for overseeing how the Village Courts function, are trained, and are managed.

³⁹ As one interviewee noted that CJs are meant to be ‘one-stop justice shopping’ for the neighbourhoods and communities in which they are located. This is a tried, true, and effective justice development strategy that has proved its value throughout Latin America.

⁴⁰ PDD, vi.

⁴¹ PDD, 10

⁴² PDD, vi.

⁴³ Morgan describes the earlier Law and Justice Sector Program approach on which PALJP builds as being an exemplar of ‘third generation’ TA, by which he means its characteristics emphasise contextual factors as being a starting point of design and implementation, seeing indigenous institutions and structures as key determinants of capacity development, making more deliberate efforts to shift control and decision making to country systems and actors, and giving more attention to capacity development as a strategic objective on its own within the spirit of principles set out in the Paris Declaration. Morgan P, *AusAID’s Approach to*

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Technical Assistance – Getting beyond ‘good enough,’ as yet unpublished, 2011.

⁴⁴ AusAID, *An Effective Aid Program for Australia*, 2011, which highlights a reduction in the proportion of programs delivered by private sector contractors from 41% to 23% over the past five years, 54.

⁴⁵ Morgan, 2009.

⁴⁶ The mounting global chorus of disappointment in legal and judicial reform is well documented and is *not* peculiar to either PALJP or the TA modality. See, for example: Carothers, T 2006, *Promoting the rule of law abroad: in search of knowledge*, Carnegie Endowment for International Peace, Washington DC; Hammergren, L 2007, *Envisioning reform: improving judicial performance in Latin America*, Pennsylvania State University Press; Jensen, E & Heller, T (eds) 2003, *Beyond common knowledge: empirical approaches to the rule of law*, Stanford University Press, California; Messick, R 1999, ‘Judicial reform and economic development: a survey of the issues,’ *World Bank Research Observer*, 14,1: 117-136; Trebilcock, M & Daniels, R 2008, *Rule of law and development: charting the fragile path of progress*, Edward Elgar, Cheltenham UK; Trubek, D & Santos, A 2006, *The new law and economic development: a critical appraisal*, Cambridge University Press; among others.

⁴⁷ Morgan describes all the players quietly in the development business colluding in the fiction that success and progress even in the short-term are likely outcomes, but cautions against judgments on the lack of results indicating the incompetence of those engaged in those capacity-building efforts. Morgan 2009.

⁴⁸ The other technical advisor positions were: 1 PNG-Australia Law and Justice Adviser, 13 SGP, 11 PNG-Australia Policing Partnership. It noted that technical advisors constitute 100% of the SGP budget.

⁴⁹ LJSP: lessons learned – desk review 2007 (Armytage); PDD, 4.

⁵⁰ In the form of infrastructure, partnering with Queensland Corrections and reforms to the health service delivery model.

⁵¹ It should be acknowledged that AusAID has funded the Harvard Criminal Justice Indicators project, as part of its law and justice development support program in Papua New Guinea. This assistance, however, is not part of PALJP, even though it has implications for how support for the Village Courts has been implemented. The Harvard project was not an integral element of this evaluation and the IPR did not meet with any of the individuals responsible for designing and/or implementing the Harvard project. The team did have a brief discussion with AusAID concerning the Harvard project, but not one of sufficient depth and scope to warrant comment in this report.

⁵² If the history of police development of Mexico is illustrative, a rapid expansion of police personnel, if not meticulously managed, has a tendency to lead to future inefficiencies in policing, particularly with regard to corruption and human rights violations. It is, often, more prudent to increase the number of police personnel gradually over time than in a short 2-4 year period.

⁵³ Within the Solicitor’s General Office lies another comparable example, namely how to develop further the excellent work that has established that office’s case management system, the recording of claims against the state. In this instance, it appears that there is a potentially rich trove of data regarding police abuses. At the same time, there appears to be data to suggest that communities may be alleging police malfeasance in order to exploit traditional compensation processes. In whatever direction the data heads -- and it is likely to be in both directions -- important police development projects can be generated. Unfortunately, according to interviews, there appears to be “no police or AusAID interest in the data.”

⁵⁴ The program design also included Annex 8 -- PALJP M&E Framework. Interviews suggested that the Framework was never fully implemented. There have not been, for example, annual aid effectiveness reviews, although this report is one of the measurement/reporting tools specified. Additionally, many of the elements within the Annex are undefined and uncertain how they would be assessed, such as “the PNG-Australia Law & Justice Advisor facilitates effective collaboration between PALJP and AusAID’s Gender Advisor,” “the ISP management team provides practical guidance mainstreaming expertise and ensures a focus on gender mainstreaming within TA personnel management and professional development programs,” etc.

⁵⁵ A similar lack of definitional specificity applies to other indicators, such as, to name a few, ‘improvement in RPNGC operational and administrative practices,’ ‘increased police

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participation in community liaison,' 'improvement in sector and agency responses to family and sexual violence,' 'number of prisons with satisfactory practices and procedures increases,' 'extent of resourcing of across-sector initiatives,' and 'increase in coverage of PNG by key civil society organisations, and 'Agencies share their lessons and experiences across the sector.'

⁵⁶ The measurement could have specified murder rates/100,000 or rapes/100,000, but it did neither. Both are proxies for generalized crime rates, the differences being that identifying rape as the proxy has important political overtones.
