



# **SAMOA LAW & JUSTICE SECTOR PLAN 2008-2012**

***Justice for a Safe and Stable Samoa***

## **FOREWORD**

It is my pleasure to present the very first Law and Justice Sector Plan 2008-2012 prepared by a newly established Law and Justice Sector.

I congratulate the new Sector on achieving this feat which will no doubt enable this Sector to contribute effectively to the overall development of Samoa.

I note the Vision and Mission of the Plan and its strategic focus on improving and strengthening the legal system and services in Samoa, so as to provide a **safe and stable Samoa**. These are in line with and will contribute to improving governance as required under Goal 6 of the Strategy for the Development of Samoa.

Thank you to the Sector members for the vision in setting up its sector and the efforts expressed in preparing this Plan. I also take this opportunity to express gratitude to our international development partners in particular AusAid in funding this development effort.

The challenge now for the Sector is to use this Plan to guide its own development and strengthen Samoa's legal system and services. I trust the implementation of this Plan will produce an improved service-focused Sector working in partnership with the community and other development partners to provide a strengthened legal system and services that will ensure the safety and stability of Samoa.

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**(Tuilaepa Lufesoliai Sailele Malielegaoi)**

**PRIME MINISTER**

## **MESSAGE FROM THE STEERING COMMITTEE**

First and foremost, all glory and honour is given to God our Father for this Law and Justice Sector Plan.

Samoa's stability has provided an enabling environment for economic growth. To ensure continuation of this stability, it is imperative that the Law and Justice Sector is able and ready to handle the changes and challenges that come with development.

Previous macro-level national plans did not recognise the Law and Justice Sector as a sector of its own until the recent release of the Strategy for the Development of Samoa 2008–2012. This recognition of the sector is welcomed and reflects the importance accorded to the sector by the Government of Samoa.

Upon my appointment as Attorney General one of the matters I was determined to achieve was the formulation of a Law and Justice Sector Plan. I am fortunate in that all the Chief Executive Officers in the sector (i.e., Steering Committee) shared the same view and provided the necessary support.

Support from the Public Service Commission and Ministry of Finance was also offered to the sector. A consultant (Mr Livingston Armytage) paid by AusAid was selected to help draft the Plan.

Whilst drafting the Plan it became evident that a change in mindset by the various agencies in the sector was required if the Plan was to be successfully drafted and implemented. This change required a shift from focusing alone on an agency's core functions and services to focusing on the needs of the Law and Justice Sector and how communication and coordination can be better achieved amongst the relevant agencies within the sector, that is, integrated or sector-wide approach. Simply put, the problems or challenges facing the sector would require all the agencies in the sector working together to come up with solutions.

But this integrated approach is not limited to the formal agencies within the sector. There will also be involvement by the community or the informal agencies. The Plan therefore attempts to detail this integrated approach to all matters pertaining to the Law and Justice Sector. Included in the Plan are implementation strategies that have been identified.

It is our hope that this Plan will ensure that Samoa will always be safe despite the challenges it faces in this ever changing world that we now live in.

Lastly and on behalf of the Steering Committee, I take this opportunity to thank everyone who has contributed to this Plan, especially the hard work put in by the Working Group.

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**(Ming C. Leung Wai)**  
**ATTORNEY GENERAL & CHAIRPERSON OF THE LAW AND JUSTICE**  
**STEERING COMMITTEE**

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## **EXECUTIVE SUMMARY**

This Law and Justice Sector Plan 2008-2012 has been developed by the newly established Law and Justice sector comprising of the Attorney-General's Office (AGO), the Ministry of Justice & Courts Administration (MJCA), the Ministry of Police and Prisons (MoPP), the Office of the Ombudsman, the Ministry of Women Community & Social Development (MWCSD); and two central agencies, specifically the Ministry of Finance (MoF) and the Public Service Commission (PSC). This Plan translates the national strategic plan (Strategy for the Development of Samoa - SDS) into development goals / objectives and activities for the law and justice sector.

The Steering Committee comprising of the Chief Executive Officers of the Law and Justice Sector together with a Working Group of senior officials and a Consultant, have worked collaboratively together in the development of this Plan. As part of the development of this Plan, an assessment of sector performance and development needs has been undertaken. This has included some 71 one-on-one consultations which have been conducted across the spectrum of stakeholders, including: CEO's and senior officers of sector agencies. In addition, consultations have extended to community leaders and pulenu'u, the Law Society, lawyers and legal academics; civil society including SUNGO umbrella organisation, Victims Support, churches, media representatives and respected public commentators; and the international community of donors, specifically AusAID and NZAID. Extensive documentation, including MoF sector guidelines, agency plans, reports and performance data have also been reviewed.

Since November 2006, the Steering Committee has met to provide leadership and direction to the establishment of the sector. This momentum has increased since the commencement of this project in a more intensive process of planning and decision-making in a number of workshops and meetings in the latter half of 2007 and early this year. During this process, key elements of sector identity, purpose and direction have been developed and agreed. From the outset of consultations, a clear consensus has emerged that the Law and Justice sector should have three core elements – (i) *Law* – all aspects of criminal and civil law; (ii) *Custom* - Integrate and harmonise the 'marriage' of formal and customary justice; and (iii) *Community* - address and reflect community interests and relationships.

The establishment of this sector is an essential step in linking law and justice service at agency level directly to macro-level national strategies and priorities, and of strengthening the coordination and delivery of those services for the community. More specifically, consultations among stakeholders indicate that the principal rationale for developing the law and justice sector is to raise recognition of the importance of Law and Justice; improve the direction, delivery, effectiveness and coordination of law and justice services; create a government-owned priority-setting mechanism for development; and facilitate international development assistance.

As the outcome of an intensive participatory process, the Steering Committee has formulated a shared vision - ***Justice for a safe and stable Samoa*** - and mission for all agencies operating in this sector which builds from the foundations of existing corporate plans to support attainment of the SDS. Moreover, a number of key themes of overarching strategic importance have emerged from discussion of the needs of individual agencies and the sector as a whole, which have translated into sector goals and objectives as being: (a) **community safety**, (b) **access to justice**, (c) **customary and community-based justice**, and (d) **integrity and good**

**governance.** In support, key activities have been developed and priorities for the first year of implementation identified.

This Plan will now inform the work programmes of the key agencies in the Law and Justice Sector for the next five (5) years and will ensure that the sector contributes effectively to achieving the goals and objectives of Samoa's national Strategy for the Development of Samoa, relating to law and justice in Samoa.

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## **INTRODUCTION**

Samoa is regarded as ‘*the pin-up star of the Pacific*’ given its generally high levels of social stability and civic wellbeing. Samoa is a mid-sized Pacific Island country with a population of 180,000, most of whom (80%) live in 239 villages on Upolu (x153) and Savai’i (x86). It is a vibrant, cohesive and functional society defined by and operating on an integrated system of (a) village/family culture, (b) church values and (c) state authority. It ranks generally quite favourably among Pacific Island countries on various measures including the Human Development Index, which aggregates a range of indicators of socio and economic wellbeing including adult literacy, educational attainment, life expectancy, and the Human Poverty Index.<sup>1</sup> GDP per person is USD2030, in the middle-range group of Pacific Island countries.<sup>2</sup> Samoa ranks 86/209 in terms of government effectiveness; 69/208 in terms of the rule of law, and 84/204 in the control of corruption.<sup>3</sup> Samoa also ranks ahead of most other Pacific Island countries in terms of ease of doing business.<sup>4</sup>

Against this background, the Government of Samoa (the Government) has developed its Strategy for the Development of Samoa (SDS) to provide overall strategic direction for its development. In line with the SDS, the Government in 2006 committed to establishing a new sector – the Law and Justice Sector.

### ***Strategy for Development of Samoa***

Since 1996, the Government has conducted macro-level national planning, the primary mechanism for which is the SDS. Recently the Government finalised the SDS 2008-2012 which has the theme “*Ensuring sustainable economic and social progress*”, and the vision “*improved quality of life for all.*”<sup>5</sup> It is intended that achievement of this vision will result in attainment of Samoa’s Millennium Development Goal targets in line with world best practice.<sup>6</sup> At the regional level, the Government also actively supports the *Pacific Plan for Strengthening Regional Cooperation and Integration* which was endorsed by the leaders of the Pacific Islands Forum in 2005. A significant element of the Pacific Plan is the enhancement of an enabling environment through good governance and security, most directly by developing and harmonising judicial, legal and law enforcement capacities of member states.<sup>7</sup>

The previous SDS 2005/7 prioritises strategic areas to guide Samoa’s development for the 2005/7 period. Its 6 broad focal areas for development comprise the private sector, agriculture, tourism, community, education and health.<sup>8</sup> Government agencies organised into 14 sectors are responsible for the implementation of these national-level priorities. It is interesting to note that SDS 2005/7 makes reference to law and justice only in the context of law and order enforcement as a strategy to support community development. To this extent, the introduction of a new sector for law and justice reflects the ongoing refinement of the national planning process. It is in line

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<sup>1</sup> Samoa Human Development Report 2006, UNDP, page 2001+

<sup>2</sup> Key Indicators 2005, ADB 2005

<sup>3</sup> Worldwide governance research indicators, World Bank 2006.

<sup>4</sup> Doing business in 2006, World Bank, 2006.

<sup>5</sup> SDS, 2008-2012

<sup>6</sup> The UN’s *Millennium Development Goals* are eightfold and relate to: eradication of extreme poverty and hunger; universal primary education; gender equality; reduction of child mortality; maternal health; HIV/AIDS, malaria and other diseases; environmental sustainability; and establishing a global partnership for development.

<sup>7</sup> [www.pacificplan.org](http://www.pacificplan.org)

<sup>8</sup> SDS 2005/7, i.

with emerging recognition around the world that law and justice is essential to good governance and national development.<sup>9</sup> Nevertheless, the current SDS recognises establishment of the new Law and Justice Sector in national **Goal six (6)** on **Improved Governance**, which is part of Priority Area # 3 on public sector management and environmental sustainability.<sup>10</sup>

### **Public Sector Reform**

At the same time, the Government is actively engaged in a program of public sector reform. Over recent years as a consequence, the scope of business of agencies operating in the Law and Justice Sector has been increasingly organised in line with public sector reform initiatives.

Within the present context of establishing the Law and Justice Sector, this organisation is apparent through the introduction of a range of mechanisms and procedures, most usefully: service charters, corporate plans (rolling three-yearly cycle), management plans (annual), and annual performance reporting.<sup>11</sup>

As part of the ongoing public administration reform process, it is also noted that the Government is strengthening its performance management capacity and developing its performance monitoring approach at all levels of government – macro, sectoral and at agency service-delivery levels.

In this context, the Law and Justice sector came into being.

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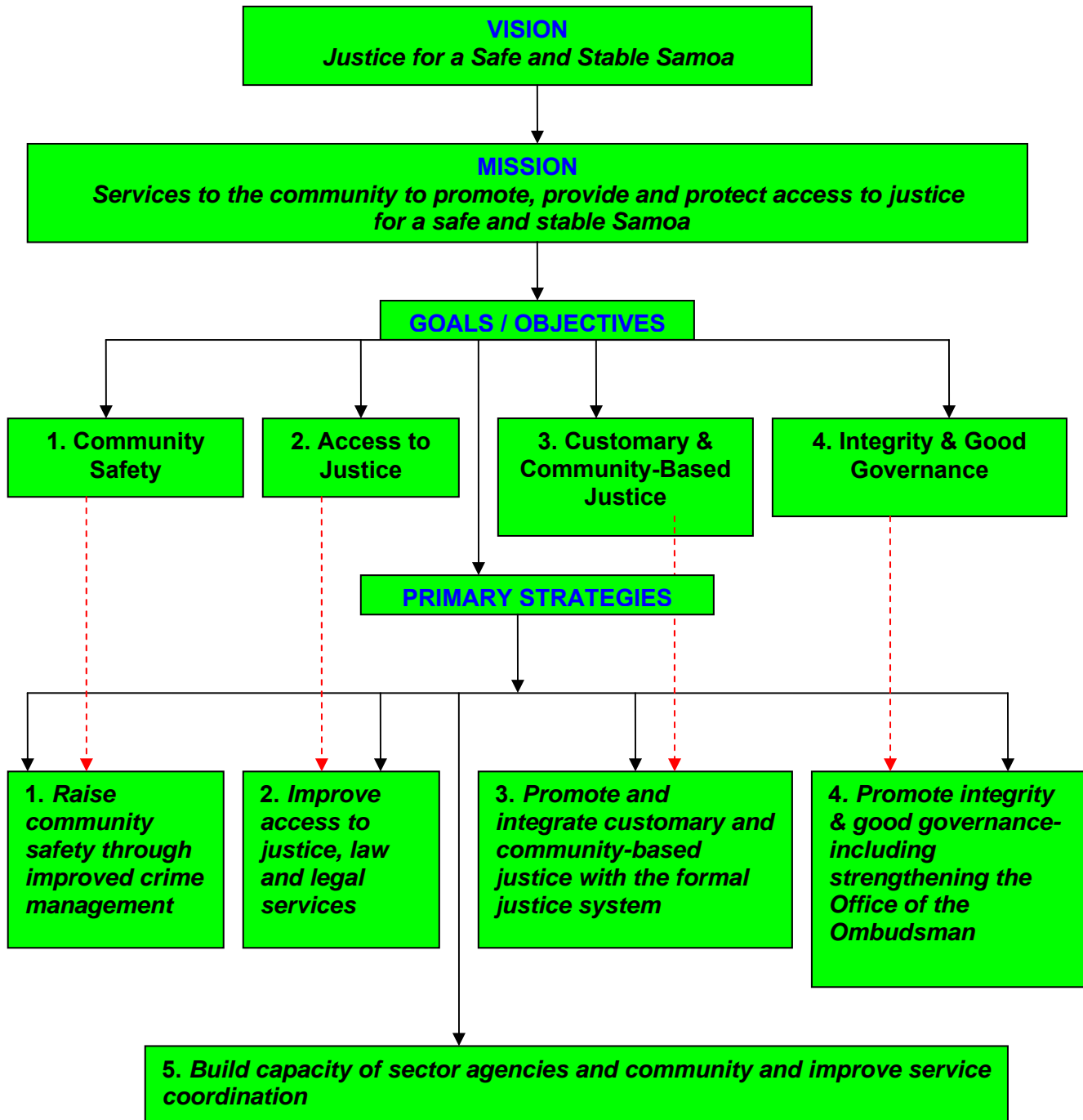
<sup>9</sup> *To maintain law and order in the community, the Police Services will be strengthened to support a "Safer Samoa,"* with the assistance of an institutional strengthening project (ISP) from the Government of Australia. SDS 2005-7, Enforcing Law and Order, 19.

<sup>10</sup> SDS, 38+; [http://www.mof.gov.ws/publish/cat\\_index\\_49.shtml#177](http://www.mof.gov.ws/publish/cat_index_49.shtml#177)

<sup>11</sup> These plans are supported by agency capacity plans and performance plans, and are linked to budgets. The AGO prepares annual reports in the form of its Pacific Islands Law Officers Meeting (PILOM) reports.



# LAW & JUSTICE SECTOR PLAN



## **LAW & JUSTICE SECTOR PLAN 2008-2012**

The purpose of this Law and Justice Sector Plan (LJSP) is to contribute to the SDS, to complement existing corporate level planning of agencies operating in this sector with macro-level national planning, and to enable linkages to be introduced so that relevant planning processes in related sectors can be integrated.

### ***Vision and Mission***

As the outcome of this intensive participatory process, the Steering Committee has formulated a shared vision and mission for all agencies operating in the law and justice sector which builds from the foundations of existing corporate plans to support the attainment of the SDS.

#### ***Vision***

*Justice for a safe and stable Samoa*

#### ***Mission***

*Services to the community to promote, provide and protect access to justice for a safe and stable Samoa.*

### ***Goals and Objectives***

In addition, the Steering Committee has given consideration to formulating the goals and objectives of the sector. To address the spectrum of sector development needs identified above, consideration was given to formulate goals and objectives for the law and justice sector that address the following strategic / thematic issues:

- ◆ **Community safety**
  - key strategic themes to include crime reduction, policing and related core functions, and prisons.
- ◆ **Access to justice**
  - key strategic themes to include community empowerment and education, access to laws, legal profession capacity-building, legal aid.
- ◆ **Customary & community-based justice**
  - key strategic themes to include harmonisation with the formal system; consolidation, rationalisation of roles + responsibilities; community 'policing', traditional dispute resolution, community-based sentencing, rehabilitation, diversion; integration with development of the economic use of customary land.
- ◆ **Integrity and good governance**
  - key strategic themes to include organisational efficiency, capacity-building specifically human resource development, case management and business process improvement, performance management; and ethics, transparency, accountability, anti-corruption.

## ***Strategies & Key Activities***

The Working Group worked on identifying the key strategies and supporting key activities to address the goals and objectives of the Plan, with direction from the Consultant and the Steering Committee. A number of key themes of overarching strategic importance have emerged from discussion of the needs of individual agencies and the sector as a whole, which are now proposed for endorsement as sector goals and objectives, being: (a) **community safety**, (b) **access to justice**, (c) **customary and community-based justice**, and (d) **integrity and good governance**.

The attached Plan includes detailed strategies (x4), sub-strategies (x17), key activities (x79), and identify key priorities (x18) for years 1-3 of implementation.

## ***Resource Requirements***

There are two aspects of resourcing to be addressed as part of the ongoing development of this Plan. These relate to (a) medium-term expenditure framework, and (b) transition arrangements in longer-term development assistance.

### *a Medium-term expenditure framework (MTEF)*

A medium-term expenditure framework is required by the MoF to accompany the sector planning process, and is essential to ultimately linking government budgetary resources to supporting sector development. It is a substantial financial planning exercise which will require detailed collaboration between all agencies and the MoF, and represents a quite significant change in the fiscal management of the Government public sector and may take some years to fully introduce.<sup>12</sup> The challenge of moving towards sector-based budgeting in the MTEF is heightened for the 5 agencies in the Law and Justice sector which presently operate in a system of agency-based fiscal autonomy and accountability.

The need to develop an MTEF for the sector is already recognised by members of the Steering Committee, though it is premature to prepare this framework until sector strategies have been more fully articulated and a preliminary program of development activities are prioritised.<sup>13</sup> Scheduling the development of the MTEF should support the sector development process and be in line with the Government's budgetary cycle.

### *b Transition arrangements in longer-term development assistance*

It has already been seen that the Steering Committee is presently taking steps to liaise with members of the international community of donors on the progress of establishing the law and justice sector. Sector planning is a potentially valuable step in improving the coordination of both government services and donor support to those services. Sector planning enables the Government to set its own priorities for development, and enables donors to support the implementation of those development priorities.

For these reasons, it is anticipated that the sector process will become an important consideration affecting future modalities for international development assistance. In other parts of the world, for instance, donors are starting to move from existing agency-based institutional capacity-building projects to sector-wide assistance

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<sup>12</sup> To date, it is noted that only the water sector has completed an MTEF.

<sup>13</sup> The scope of work for this project envisages providing technical assistance to the development of the MTEF once preliminary sector planning has reached an appropriate stage.

programs (SWAPs) within which numerous development project activities are managed.

To date, the modality for international assistance to agencies operating in the Law and Justice sector has traditionally been institutional capacity-building (ISP's). Indeed, it has already been seen that a number of ISP's are presently ongoing with the MJCA and MoPP.<sup>14</sup> In due course, it may be anticipated that donors will be interested in exploring with the Government the prospects for restructuring support into sector-based program assistance. At that point, discussions will be required between the Government and donors to reconfigure assistance arrangements.<sup>15</sup>

### ***Performance Monitoring***

A significant feature of SDS 2008-2012 is the introduction of national development indicators to enable the monitoring and evaluation of performance against Samoa's regional and international commitments (Pacific Plan and MDG's, respectively).<sup>16</sup> This is part of the Government's commitment to strengthening the performance monitoring capacity of the public sector at large. It also reflects increasing commitments by the international community to develop capacities to evaluate the contribution of international assistance as an important element in strengthening aid effectiveness, and marks a paradigm shift from output monitoring to evidence-based impact monitoring and the contribution of donor assistance to measurable improved Government performance.

In due course, the sector will need to develop a framework of performance indicators that are *specific, measurable, actionable, reliable* and *time-bound* (SMART) in order to:

- link the targets set in all planning processes (national, sectoral and agency) with an integrated framework of key indicators to monitor performance; and
- integrate this monitoring framework to monitor performance from nation to sector to agency service delivery levels.

The development of a performance monitoring capacity in the law and justice sector, as much as across the public sector at large, is a substantial and important undertaking. This involves the strengthening of interdependent capacities in (a) information management and reporting, (b) performance monitoring and (c) evaluation. This will require some measure of technical assistance in the design, harmonisation and development of relevant government systems.

In due course, it is to be expected that the sector will be called upon by central agencies to demonstrate and substantiate its progress in supporting SDS 2008-2012 by attaining its vision towards *Justice for a safe and stable Samoa*, and more specifically its goals and objectives relating to (a) *community safety*, (b) *access to justice*, (c) *customary and community-based justice*, and (d) *integrity and good governance*. Each supporting strategy and activity plan will also require SMART performance targets and indicators as part of this system, supported by the provision of accessible and reliable data.

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<sup>14</sup> Notably AusAID's Samoa Police Project - which ends in December 2008 - and NZAID's MoJCA ISP.

<sup>15</sup> See, for example, AusAID's program-based assistance to both Papua New Guinea and Fiji which has restructured from earlier agency-based ISP's into sector-based programs, in line with ongoing trends across the international development community, at large.

<sup>16</sup> Conceptual framework, 2007, 7.

The Law and Justice Sector Plan 2008-2012 a living document that will continue to develop to address community needs as required, and to incorporate a medium-term expenditure framework and a sector performance monitoring framework, in due course.

### ***Implementation***

In implementing the Activity Plan 2008-2012 for the Law and Justice Sector the following mechanisms will be put in place to support the implementation phase:

- **Steering Committee** – The Steering Committee will oversee the implementation of the Plan and will make decisions on all aspects of the Plan and its implementation. All of the heads of the Ministries that are currently in the Steering Committee for the Sector will continue in this role during the transitional and implementation phases with the following additional members:
  - a) A representative of the National Council of Churches;
  - b) The President of the Samoa Law Society or his/her nominee;
  - c) A senior and respected matai to represent the community;
  - d) A senior and respected person to be chosen from NGOs.
- **Judicial Advisory Committee (JAC)** – The Steering Committee agreed to put in place a high level advisory committee comprising of the Chief Justice, one judge from Supreme Court and one judge from District Court (both to be nominated by the Chief Justice), and include the Attorney General, the President of the Land and Titles Court and the Chief Executive Officer of the Ministry of Justice and Courts Administration. This advisory committee recognises the importance of providing an avenue whereby the judiciary can express their views in matters pertaining to law and justice but do not actually become involved in policy making. The significant role the judiciary plays in the justice system makes it critical for them to have an official avenue for their input. As its name suggests this committee will only play an advisory role and not a decision making role.
- **Secretariat of the Law and Justice Sector** – The Secretariat will comprise of the Sector Coordinator and will include a project officer and a finance officer in its first year of operation in the transition period 2009. It is expected that there will be a need to expand the secretariat once the implementation phase begins proper in January 2010. The Secretariat will be located in the Law Reform Commission for the mean time but once it expands it may require its own office space.

Implementation of the Plan is due to begin proper in January 2010 with a lot of preparations during the transitional period in 2009.

## Activity Plan 2008-2012

### GOALS, STRATEGIES, KEY ACTIVITIES & PRIORITIES

<b>GOAL 1: COMMUNITY SAFETY</b>				
<b>Primary Strategy</b> – Raise community safety through improved crime management				
<i>Explanation</i> - The aim of this strategy is to improve measures that promote community safety and manage crime.				
Sub Strategies	Key Activities	Priorities <sup>17</sup>	Draft Key Performance Indicators <sup>18</sup>	Leading Agency
<b>Community Policing</b>	<ul style="list-style-type: none"> <li>▪ Police working with MWCSD on implementing community policing programmes and include:                             <ul style="list-style-type: none"> <li>○ Increase number of Police Posts throughout Upolu and Savaii</li> <li>○ Put in place neighbourhood watch type activities especially around the Apia areas</li> <li>○ Increase in Police patrol around Apia area with provision of more bicycles to facilitate police patrols (there are 6 already but need more)</li> <li>○ Set up Mobile Police Stations (there are 2 already but need more)</li> </ul> </li> </ul>	√	<ul style="list-style-type: none"> <li>▪ Community policing program implemented</li> </ul>	Police
	<ul style="list-style-type: none"> <li>▪ Strengthen the role of ‘Pulenuu’ and ‘Alii ma Faipule’ in maintaining law and order in the villages through:                             <ul style="list-style-type: none"> <li>○ Amending <i>Village Fono Act 1990</i> to strengthen powers to deal with matters at village level and give legal effect to its decisions</li> <li>○ Community policing awareness seminars on the role of the ‘Pulenuu’ and ‘Alii ma Faipule’ in maintaining law and</li> </ul> </li> </ul>	√	<ul style="list-style-type: none"> <li>▪ <i>Village Fono Act 1990</i> amended</li> <li>▪ Community policing seminars conducted on a regular basis</li> </ul>	Law Reform Commission

<sup>17</sup> √ indicates key priority activities and those with √ - **Year 1** are Year 1 key priorities for implementation

<sup>18</sup> These key performance indicators are preliminary and will be developed on the advice of the Performance Monitoring Advisor to: (a) conform to MoF requirements, (b) link between national development indicators and agency indicators, and (c) be SMART [Specific, Measurable, Accurate, Reliable, Time-bound]. High-level impact indicators are required for objectives and goals.

	<p>order, and settling disputes in the villages within the context of the law</p> <ul style="list-style-type: none"> <li>- Seminars on powers of 'Pulenuu' and 'Alii ma Faipule' to make by-laws by way of public notices and ability to impose fines and other penalties</li> </ul>			
<b>Implement Crime Management Processes and Systems</b>	<ul style="list-style-type: none"> <li>▪ Develop a national Crimes Statistics Database<sup>19</sup> in order to: <ul style="list-style-type: none"> <li>○ Publish bi-annual reports on criminal statistics and criminal trends in Samoa – including details on recidivism, trends of offending by young persons, by females and males, types of offending, etc</li> <li>○ Publish bi-annual reports on success rate of prosecutions by Police and the Office of the Attorney General</li> <li>○ Publish bi-annual reports on convictions &amp; sentencing trends and impact of sentences</li> </ul> </li> <li>so sector agencies can determine where to focus resources allocations in terms of combating criminal activities in Samoa</li> <li>▪ <b>Implement systems to improve Police responsiveness (real time and appropriate actions) to reporting of criminal activities</b></li> <li>▪ Implement proper system for licensing and registration of guns/firearms and import control</li> </ul>	√ - Year 1	<ul style="list-style-type: none"> <li>▪ Database established</li> <li>▪ Increase public confidence in police responsiveness to criminal reporting using customer service survey with victims of offences</li> <li>▪ Reduction in numbers of complaints against Police services in terms of handling complaints.</li> <li>▪ Guns &amp; Firearms licensing and registration system implemented</li> </ul>	MJCA & Police
<b>Offender rehabilitation and reducing re-offending</b>	<ul style="list-style-type: none"> <li>▪ <b>Improve prison systems and facilities, specifically including rebuilding or fully renovating the prison, to ensure compliance with international standards and best practice, and ensure segregation of pre-trial detainees, juveniles and female offenders.</b></li> <li>▪ <b>Establish and resource the Prisons Services as an independent Authority.</b></li> <li>▪ Develop and implement a community-based diversionary</li> </ul>	<p>√ - Year 1</p> <p>√ - Year 1</p>	<ul style="list-style-type: none"> <li>▪ Prison built or renovated to approved standards</li> <li>▪ Prison Authority established</li> <li>▪ Diversionary scheme introduced</li> <li>▪ Rehabilitation program</li> </ul>	<p>Prison Services (MoPP)</p> <p>Probation Services (MJCA)</p>

<sup>19</sup> These could also be made available on the agencies' websites (when up and running)

<sup>20</sup> Currently underway, initiated by the Chief Justice.

	<p>system for juveniles at risk of incarceration</p> <ul style="list-style-type: none"> <li>▪ Develop and implement properly sanctioned rehabilitation programs including programmes to facilitate the reintegration into society of offenders: eg: <ul style="list-style-type: none"> <li>- Young Offenders Justice &amp; Violence Project<sup>20</sup></li> </ul> </li> <li>▪ Develop and implement properly sanctioned Weekend Parole programmes for offenders</li> <li>▪ Review of Parole Board structure and systems</li> </ul>		<p>introduced</p> <ul style="list-style-type: none"> <li>▪ Weekend parole introduced</li> <li>▪ Review conducted and recommendations implemented</li> </ul>	
<b>Contribute to Samoa's border security</b>	<ul style="list-style-type: none"> <li>▪ Support the work undertaken by Border Control agencies (such as the Transnational Crimes Unit (TCU), Anti-Money Laundering Authority (AMLA) ) in relation to ensuring the security of Samoa and contributing to community safety.</li> </ul>		<ul style="list-style-type: none"> <li>▪ Participation and support in the work of Border Control agencies</li> </ul>	All



## GOAL 2: ACCESS TO JUSTICE

**Primary Strategy** – Improve *access to justice*, law and legal services – including establishing the Law Reform Commission, and Community Law Centre(s), expanded legal aid and community empowerment and Human Rights Commission

*Explanation* – The aim of this strategy is to focus on the work of agencies and its services to the general public and how the public views these services. There are a lot of challenges and difficulties with accessing the agencies’ services and the quality of the services provided to the public – such as barriers created by the costs of proceedings, official court language, physical accessibility, and the need to improve customer services.

Sub Strategy	Key Activities	Priorities <sup>21</sup> √	Draft Key Performance Indicators <sup>22</sup>	Leading Agency
<b>Increase legal services available to the public</b>	<ul style="list-style-type: none"> <li>▪ <b>Establish the following legal institutions to expand legal services available to the public:</b> <ul style="list-style-type: none"> <li>○ <b>Law Reform Commission</b> – to carry out legislation review &amp; public consultation on such reviews</li> <li>○ <b>Community Law Centre</b> – provide free legal advice to general public</li> <li>○ Expand the scope of Legal Aid – expansion to include civil matters</li> <li>○ Human Rights Commission – deal with human rights issues</li> <li>○ Office of the Public Defender – provide free legal representation to defendants who cannot afford legal representation</li> <li>○ Disabled People’s Rights Unit - set up of Task Force Committee to look into the disabled people’s rights and issues, and set up of a specific Unit within the Ministry of Women, Community &amp; Social Development</li> </ul> </li> </ul>	<p>√ - Year 1</p> <p>√ - Year 1</p>	<ul style="list-style-type: none"> <li>▪ Law Reform Commission established</li> <li>▪ Community Law Centre established</li> <li>▪ Legal Aid scope expanded</li> <li>▪ Human Rights Commission established</li> <li>▪ Office of the Public Defender established</li> <li>▪ Set up of Disabled People’s Rights Unit within the MWCSO.</li> </ul>	AGO

<sup>21</sup> √ indicates key priority activities and those with √ - Year 1 are Year 1 key priorities for implementation

<sup>22</sup> These key performance indicators are preliminary and will be developed on the advice of the Performance Monitoring Advisor to: (a) conform to MoF requirements, (b) link between national development indicators and agency indicators, and (c) be SMART [Specific, Measurable, Accurate, Reliable, Time-bound]. High-level impact indicators are required for objectives and goals.

<p><b>Increase community awareness of their legal rights and available legal services and access to legal information</b></p>	<ul style="list-style-type: none"> <li>▪ Responsible agencies to conduct public awareness campaigns on legal services available and how to access those legal services</li> <li>▪ Publish brochures and pamphlets on legal rights and legal services and distribute for free to public</li> <li>▪ Law Reform Commission to carry out legislative review as many of Samoa's legislation is old</li> <li>▪ Prepare and distribute Fact Sheets (summaries) on new legislation that simplify it for public knowledge in Samoan language</li> </ul>		<ul style="list-style-type: none"> <li>▪ Public satisfaction with access to legal services provided by these legal institutions as measured by customer service surveys</li> <li>▪ Fact Sheets published</li> </ul>	<p>AGO</p> <p>Law Reform Commission</p>
<p><b>Strengthen systems and processes</b></p>	<ul style="list-style-type: none"> <li>▪ Review of legal fees, court fees and other fees relating to legal services charged on members of the public and publication of fees for public notice</li> <li>▪ Established a computerised Information Management System for Sector to enable information sharing by all Sector agencies</li> <li>▪ Develop Civil and Criminal Documents Checklist to improve quality of information / documentation received by the Courts and facilitate quick processing of matters</li> <li>▪ Set up of pre-trial conferences to deal with preliminary matters so as to reduce wasting the Courts time</li> <li>▪ <b>Set up of a case management system in Court to improve management of court work</b></li> </ul>	<p>√ - Year 1</p>	<ul style="list-style-type: none"> <li>▪ Fees reviewed and published so public are aware</li> <li>▪ Improve information sharing and records management and maintenance</li> <li>▪ Public customer friendly services</li> <li>▪ Reduction in backlog of Court cases</li> <li>▪ Increase in Courts matters / cases dealt with annually</li> <li>▪ Legislative Drafting Handbook Manual</li> <li>▪ Consolidation of Laws annual review completed.</li> </ul>	<p>MJCA</p>

<sup>23</sup> Currently underway (May 2008) and undertaken by Consultant Graham Powell.

<sup>24</sup> This project has been completed.

	<b>and case load</b> <ul style="list-style-type: none"><li>▪ Publish a manual for Government Ministries and Departments - Legislative Drafting Handbook Project<sup>23</sup></li><li>▪ Consolidate laws annually<sup>24</sup></li></ul>			
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### GOAL 3: CUSTOMARY & COMMUNITY BASED JUSTICE

**Primary Strategy** – Promote and integrate customary and community-based justice.

*Explanation* – The aim of this strategy is to recognize customary and community-based justice in Samoa and integrate or harmonize it with the formal justice system. Village decisions are not recognized as final but used as mitigating factors at the sentencing stage by the Courts. Matters supposedly settled at the villages tend to be reported to police again and end up in court thus raising concerns about the authority of the village fono to settle matters / conflicts and questions the validity of the authority of the village fono. This may require a review of the *Village Fono Act* to ensure that the scope of the authority of the village fono is clearly set out and what recognition should be given to its decisions.

Sub Strategy	Key Activities	Priorities <sup>25</sup>	Draft Key Performance Indicators <sup>26</sup>	Leading Agency
<b>Improve linkages, harmonisation and integration between formal and customary &amp; community-based justice systems</b>	<ul style="list-style-type: none"> <li>▪ Review relevant legislation (eg: <i>Village Fono Act 1990, Land and Titles Act 1981</i>) and promote public awareness of these reviews and undertake public consultations (public awareness must be in Samoan)</li> <li>▪ <b>Review of the Land and Titles Court’s procedures and structures</b> (eg: including clarifying what matters can be reviewed by the Supreme Court under judicial review)</li> <li>▪ Review and develop processes / systems for formal and customary and community-based justice systems that harmonize the two systems. e.g. guidelines on procedures</li> <li>▪ <b>Strengthen partnerships between Police and ‘Pulenuu’ and ‘Alii &amp; Faipule’</b></li> </ul>	<p style="text-align: center;">√</p> <p style="text-align: center;">√ - Year 1</p> <p style="text-align: center;">√</p> <p style="text-align: center;">√ - Year 1</p>	<ul style="list-style-type: none"> <li>▪ Legislations reviewed and amended where required</li> <li>▪ Recommendations of the Review of the Lands &amp; Titles Court systems and processes implemented</li> </ul>	<p style="text-align: center;">Law Reform Commission</p>

<sup>25</sup> √ indicates key priority activities and those with √ - Year 1 are Year 1 key priorities for implementation

<sup>26</sup> These key performance indicators are preliminary and will be developed on the advice of the Performance Monitoring Advisor to: (a) conform to MoF requirements, (b) link between national development indicators and agency indicators, and (c) be SMART [Specific, Measurable, Accurate, Reliable, Time-bound]. High-level impact indicators are required for objectives and goals.

<p><b>Increase community awareness of formal and customary &amp; community-based justice systems (public education/capacity building)</b></p>	<ul style="list-style-type: none"> <li>▪ Community / public awareness seminars on procedures: <ul style="list-style-type: none"> <li>○ Pulenuu / Village fono councils (key players in the customary &amp; community-based justice system) awareness seminars of formal justice system and where they sit</li> <li>○ Village fono procedures / processes - corresponding legislation under formal law indicating measures and the types of penalties/procedures to follow</li> <li>○ Public awareness programs on obligations of Judges/Courts – natural justice issues and observation of constitutional rights of individuals versus the community rights; and obligations of community – to observe and comply with the requirements of the Constitution (i.e. avoid conflicts of laws as in banishment cases)</li> </ul> </li> </ul>	<p style="text-align: center;">√</p>	<ul style="list-style-type: none"> <li>▪ Seminars conducted</li> </ul>	<p>MJCA &amp; MWCS D</p>
<p><b>Increase community participation in sector planning</b></p>	<ul style="list-style-type: none"> <li>▪ Develop and undertake consultations with villages on laws/policies affecting community where it is required</li> <li>▪ Programs promoting role of and recognition of other key players in customary &amp; community-based justice system</li> </ul>		<ul style="list-style-type: none"> <li>▪ Increase public consultations and programs.</li> </ul>	<p>All</p>

#### GOAL 4: INTEGRITY & GOOD GOVERNANCE

**Primary Strategy** – Promote integrity and good governance including strengthening the Office of the Ombudsman.

*Explanation* – The aim of this strategy is to define clearly what is good governance and integrity in the Samoan context, understanding what the principles of good governance and integrity are. Also of particular note is the need to strengthen the Office of Ombudsman (financial, resources and human capacity) especially given its “check and balance” / “watchdog” role in society.

Sub Strategy	Key Activities	Priorities <sup>27</sup>	Draft Key Performance Indicators <sup>28</sup>	Leading Agency
<b>Promote understanding of and application of integrity and good governance principles and practices</b>	<ul style="list-style-type: none"> <li>▪ Workshops / Seminars on integrity and good governance principles and practices, and their applications - annually                             <ul style="list-style-type: none"> <li>○ PSC – Sector agencies</li> <li>○ Clerk of Legislative / AGO – Parliament</li> <li>○ MPMC – PM &amp; Cabinet (include Associate Ministers)</li> </ul> </li> <li>▪ Develop and publish a Samoan Governance Manual as the output of these seminars</li> </ul>	√	<ul style="list-style-type: none"> <li>▪ Workshops conducted</li> <li>▪ Manual published and distributed</li> </ul>	PSC
<b>Strengthen “watchdog” agency / unit</b>	<ul style="list-style-type: none"> <li>▪ ISP for Ombudsman Office - review of structure of Ombudsman, review of legislation to clarify its mandate and identify its human resources needs and other resource needs</li> <li>▪ Public awareness programs on role of Ombudsman Office</li> </ul>	√	<ul style="list-style-type: none"> <li>▪ ISP conducted</li> <li>▪ Increased use of Ombudsman Office</li> </ul>	Ombudsman

<sup>27</sup> √ indicates key priority activities and those with √ - Year 1 are Year 1 key priorities for implementation

<sup>28</sup> These key performance indicators are preliminary and will be developed on the advice of the Performance Monitoring Advisor to: (a) conform to MoF requirements, (b) link between national development indicators and agency indicators, and (c) be SMART [Specific, Measurable, Accurate, Reliable, Time-bound]. High-level impact indicators are required for objectives and goals.

	▪ Strengthen the Police Professional Standards Unit (Internal Affairs)			
			▪	

## 5. PRIMARY STRATEGY - CAPACITY BUILDING<sup>29</sup>

**Primary Strategy** – Build capacity of sector agencies and community and improve service coordination.

*Explanation* – The aim of this strategy is to strengthen and build the capacity of the key agencies in the Sector that is namely the Police & Prisons Services, Office of the Attorney General, Ministry of Justice and Courts Administration, Lands & Titles Courts, and the Office of the Ombudsman.

Sub Strategy	Key Activities	Priorities <sup>30</sup> √	Draft Key Performance Indicators <sup>31</sup>	Leading Agency
<b>Strengthen sector human resources capacity</b>	<ul style="list-style-type: none"> <li>▪ <b>Formulate a sector-wide human resource management plan for all agencies to review, address and integrate the needs</b> for:               <ul style="list-style-type: none"> <li>○ recruitment and qualifications</li> <li>○ compensation, salaries and incentives</li> <li>○ promotion system and procedures</li> <li>○ capacity-building and professional development, including in-service and continuing training, training curricula and resources, training manuals, overseas secondment and mentoring</li> <li>○ other related needs</li> </ul> </li> <li>▪ Training and support program for community leaders including seminars for 'Pulenuu', 'Alii &amp; Faipule' on their role in settling disputes and maintaining law &amp; order in the villages</li> </ul>	√ - Year 1	<ul style="list-style-type: none"> <li>▪ Approval and implementation of HRM plan</li>   <li>▪ Approval of program and implementation of training</li> </ul>	All
<b>Improve sector infrastructure, resources &amp; equipment</b>	<ul style="list-style-type: none"> <li>▪ Undertake a sector-wide assessment of resource needs of agencies and the community including:               <ul style="list-style-type: none"> <li>○ Infrastructure, office facilities and fit-out</li> <li>○ Equipment including computers,</li> </ul> </li> </ul>	√	<ul style="list-style-type: none"> <li>▪ Approval and implementation of assessment</li> </ul>	All

<sup>29</sup> This primary strategy supports all of the four goals & objectives

<sup>30</sup> √ indicates key priority activities and those with √ - Year 1 are Year 1 key priorities for implementation

<sup>31</sup> These key performance indicators are preliminary and will be developed on the advice of the Performance Monitoring Advisor to: (a) conform to MoF requirements, (b) link between national development indicators and agency indicators, and (c) be SMART [Specific, Measurable, Accurate, Reliable, Time-bound]. High-level impact indicators are required for objectives and goals.



	<ul style="list-style-type: none"> <li>○ electronic/manual data-base facilities, printers, scanners, cabinets</li> <li>○ Office consumables</li> <li>○ Library facilities</li> <li>○ Other resource needs</li> </ul>			
<b>Improve effectiveness of organizational management systems processes and procedures</b>	<ul style="list-style-type: none"> <li>▪ <b>Undertake a sector-wide assessment of organisational management systems, processes and procedures</b></li> <li>▪ Implement Performance Management Systems (PMS) as introduced by PSC for all staff, and submit PMS reports to PSC on 6 monthly basis to enable PSC to monitor human resources capability</li> <li>▪ Undertake a sector-wide assessment of information management systems, record- and file-management systems including: <ul style="list-style-type: none"> <li>○ Accessibility, reliability and comprehensiveness of data</li> <li>○ Management reporting systems and practice</li> <li>○ Extent and potential for sector-wide harmonisation</li> </ul> </li> <li>▪ Adopt and publicize Service Charters</li> <li>▪ Develop a sector performance monitoring and evaluation framework (PMF) linked to the law and justice sector plan</li> <li>▪ Undertake a baseline assessment of existing sector performance based on the PMF and each agency's Corporate Plan (already developed and adopted)</li> </ul>	√ - Year 1	<ul style="list-style-type: none"> <li>▪ Approval and implementation of assessment</li> <li>▪ PMS implemented</li> <li>▪ Approval and implementation of assessment</li> <li>▪ Service Charters adopted</li> <li>▪ PMF approved</li> <li>▪ Baseline assessment conducted</li> </ul>	All PSC to monitor
<b>Improve communications between sector agencies and with community</b>	<ul style="list-style-type: none"> <li>▪ Develop Sector Communications Strategy: <ul style="list-style-type: none"> <li>○ between agencies in sector</li> <li>○ between sector and central agencies</li> <li>○ between sector and community</li> </ul> </li> <li>▪ Develop communications products such as: <ul style="list-style-type: none"> <li>○ Website for the Sector<sup>32</sup></li> <li>○ Annual Report for Sector activities</li> <li>○ Quarterly newsletter from each Sector Agency</li> </ul> </li> </ul>	√	<ul style="list-style-type: none"> <li>▪ Strategy approved and implemented</li> <li>▪ Production of website; and publication of annual report(s), newsletters, brochures</li> </ul>	All

<sup>32</sup> Recent FK (Cabinet Directive) May 2008 directed that all government agencies must have a website as such a Sector website can provide a homepage with links to each agency's website page.

	<ul style="list-style-type: none"> <li>○ Publication of brochures / pamphlets on Sector work</li> <li>▪ Community liaison <ul style="list-style-type: none"> <li>○ Annual community stakeholders workshops</li> <li>○ Training and support program for community leaders including seminars for 'Pulenuu', 'Alii &amp; Faipule' on their role in settling disputes and maintaining law &amp; order in the villages, including workshops / seminars on law as required</li> <li>○ Brochures on key laws for community leaders including seminars for 'Pulenuu', 'Alii &amp; Faipule' on their role in settling disputes and maintaining law &amp; order in the villages</li> </ul> </li> </ul>		<ul style="list-style-type: none"> <li>▪ Conduct annual workshops, and training program; and publish brochures</li> </ul>	
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## **LAW & JUSTICE SECTOR**

At the outset of consultations, stakeholders were invited to address fundamental questions of sector composition and nature as laying the foundation and parameters for the ongoing planning process, specifically: *who is the sector?, what is the sector? and why have a law and justice sector?*

### ***Who is the Sector?***

It was initially envisaged that the Law and Justice Sector will comprise five (5) agencies as follows.<sup>33</sup>

- *Office of Attorney General (AGO)* - as lead agency  
Core functions include legal advice to government, legislative drafting, prosecutions and civil litigation for the Government.
- *Ministry of Police and Prisons (MoPP)*  
Core functions include maintaining community peace and safety; reduction of crime and traffic offences, investigations and prosecutions; national and maritime security; and the secure detention and rehabilitation of offenders.
- *Ministry of Justice and Courts Administration (MJCA)*  
Core functions include all aspects of the administration of justice through supporting the courts to adjudicate criminal and civil proceedings and related services such as maintenance, enforcement of orders, probation service and parole; and the management of disputes over customary land and matai titles through the Land and Titles Court.
- *Office of the Ombudsman*  
Core function includes the investigation of administrative complaints against government bodies.
- *Ministry of Women, Community and Social Development (MWCSD)*  
Core functions include community development of welfare and social services for the economic and social development of families and the community, specifically supporting the Pulenu'u (village mayor) functions, Women's Committees and youth.

### **Balancing Public Interests for Coordination and Independence**

Agencies operating in the law and justice sector are responsible for exercising a range of state functions and responsibilities which, under the Westminster system of government, require constitutional independence and, in the interests of good governance, transparency, accountability and responsible autonomy of operation. Most notable among these functions are the following:

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<sup>33</sup> The approved estimates of the Government of Samoa for the year ending 30 June 2008 allocate payments to agencies comprising the law and justice sector totalling 9.17%, made up of:-

- AGO - 0.56%
- MJCA – 1.9%
- MoPP – 4.8%
- Ombudsman – 0.01%
- MWCSD – 1.9% (NB. As a 'cross-cutting' agency, this ministry operates in multiple sectors).

- **The Executive** – under Part II of the *Constitution*, the *Attorney-General* is responsible for providing advice on legal matters, and for instituting and discontinuing any proceedings for an offence.<sup>34</sup>
- **The Judiciary** – under Part IV of the *Constitution of the Independent State of Samoa*, the jurisdiction of the judiciary includes determining any/all questions arising from the interpretation or effect of any provision of the *Constitution*, the application of fundamental rights enshrined in Part II of the *Constitution*, and determining all proceedings involving disputes between parties.<sup>35</sup>
- **The Ombudsman** – under the *Komesina o Sulufaiga Act 1988*, the Ombudsman is responsible for investigating any decision or recommendation or act done or omitted relating to a matter of government administration.<sup>36</sup>

The nature of these functions and their importance to the integrity of the state mean that the law and justice sector is unique in the public administration of Samoa for two reasons: constitutional and operational. Unlike other sectors which comprise a single agency, for example health and water, the law and justice sector consists of five separate agencies, many of which are constitutionally required to be independent and robustly autonomous. Clearly, the judiciary, the prosecution function of the AGO and the Ombudsman are mandated to be independent.

From the outset, it is recognised by all involved that this particular aspect of the law and justice sector imposes some specific and unique challenges in the quest for developing sector identity. Preliminary consultations among agencies have at various stages addressed this challenge, and the constitutional requirements for independence and autonomy are recognized as distinct from the more operationally focused imperative to improve the coordination of service delivery in the public interest.

The Steering Committee will oversee, monitor and protect the constitutional and statutory independence of judicial, prosecutorial and ombudsman functions throughout the sector coordination and development process.

Representation of community interests and the means for community participation in this sector planning process have been considered by the Steering Committee and it was found that a community representative will be invited to sit as part of the Steering Committee.

Support and coordination of the MoF and the PSC are also included, as appropriate and required.<sup>37</sup>

### **What is the Sector?**

From the outset of consultations, a clear consensus has emerged that the Law and Justice sector should have three core elements:

- i. *Law* - include all aspects of criminal and civil law

<sup>34</sup> Constitution of the Independent State of Samoa, Article 42.

<sup>35</sup> Constitution of Samoa, Parts II and IV; inter alia: Articles 65, 66, 73-5, 79-82.

<sup>36</sup> *Komesina o Sulufaiga Act 1988*, section 11.

<sup>37</sup> Decision of CEOs of the agencies in 2006, subsequently endorsed by the GoS through the MoF and the Cabinet Development Committee as part of the ongoing macro-level strategic development process.

- ii. *Custom* - integrate and harmonise the 'marriage' of formal and customary justice
- iii. *Community* - address and reflect community interests and relationships.

The agencies comprising the sector clearly have the mandate to address each of the three core elements identified above.

### **Inter-relationship of Formal and Customary / Community based Sectors**

Of particular challenge in the formation of the law and justice sector is the relationship between the informal sector and the traditional or customary domain of law and justice in Samoa, which is seen by many as being a 'marriage' which operates generally very well. The quality and dimensions of this relationship lie at the heart of *Fa'a-Samoa* and are profound, complex and sensitive in nature.

For most citizens, particularly the bulk of the population living at the community-level in villages, law and justice is mainly customary, and their exposure to the formal sector is relatively limited.

Most community life is governed by customary law and the nature of this relationship lies at the heart of law and justice in Samoa. Village affairs are regulated on local customary principles, in particular the role, responsibility and powers of the Pulenu'u or village mayor – while each village has the autonomy to determine its own rules, these commonly relate to dress codes, curfews, noise abatement, offensive behaviour and similar minor offences.<sup>38</sup> Village Fono (councils) operate at the heart of a vibrant customary community policing system which is described as being the backbone of the police service, though lacking in recognition or resources. However described, there is a consensus that peace and good order - and the police service as an agency of the formal sector - depends very heavily on customary justice at the community level. This relationship is described by many as working well and contributing to national stability, but by others as being 'deceptively calm' and on collision courses with crippling effects, being largely driven by the inevitability of modernisation and increasing demands for economic development. These collisions are now starting to erode and stress the traditional village authority structures and causing considerable concerns throughout the community.

Customary law also regulates the ownership and use of most land in Samoa, estimated at between 80-85%. Disputes relating to this type of land are administered by the Land and Titles Court, with the support of MJCA, exercising customary jurisdiction. This jurisdiction is final and separate from the mainstream judiciary, and is only administratively reviewable by the Supreme Court.<sup>39</sup>

Many are concerned by the erosion of the traditional authority structure and standing of village councils and Pulenu'u by courts whose jurisdiction are increasingly being invoked by villagers dissatisfied with those decisions exercising their 'legal' rights and possibly reaching contrary decisions that disregard and/or override that authority. The Government is generally seen as recognising this problem, and has developed a number of initiatives, for example to formally introduce *fa'aleleiga*, a traditional mediation procedure, and legislation for community-based supervision.<sup>40</sup> Consultations also indicate that many feel that more proactive leadership is required

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<sup>38</sup> Village Survey, MWCSA, 2001; *Village Fono Act 1990*, and *Internal Affairs Act 1995*, in particular, sections 14-15.

<sup>39</sup> Land is regulated by a variety of laws including: the *Constitution* prohibits the alienation of customary lands; *Land Alienation Act 1975* and the *Land and Titles Act 1981*.

<sup>40</sup> Current legislative initiatives include the *Alternative Dispute Act 2008*, *Community Justice Act 2008* and the *Young Offenders Act 2008*.

in managing a participatory community-based dialogue which is effective in avoiding these collisions and resolving confusion of process and outcome.

There are many points of linkage and intersections between the formal and customary domains of law and justice in Samoa which fall beyond the scope of this study. Suffice it to say that the MWCSO is an important member of the sector because of its responsibilities relating to internal affairs and social development. At the administrative level, the MWCSO has established various networks which link the formal and informal hemispheres of the community, most particularly, through Pulenu'u, Women's Committees and Youth.<sup>41</sup>

An additional significant feature of Samoan society is that many of the leaders of government, no less agencies in the formal sector, are also customary leaders, or *matai*. This may suggest that clearly delineated distinctions between 'formal' and 'informal' law and justice may be artificial and excessively academic. In practice the transition may be intuitive and more seamless than might be expected by outsiders.

There is a consensus among those consulted that the scope of the sector should encompass both the formal and informal hemispheres of law and justice, to avoid gaps/duplication, and reduce confusion/collisions between the two systems. At the same time, it should be stressed that many stakeholders are concerned to proceed with caution and to avoid tampering with the customary system when it was clearly not necessary.

Customary law as administered by the Pulenu'u and Village Fono traditionally recognises community and group-based entitlements, whereas the formal system has introduced fundamentally new concepts of individual 'rights' recognised in the Constitution and upheld – often with totally different and divergent consequences by the courts. It is largely for this reason that leaders of the law and justice sector recognise an imperative to adopt a global view to law and justice which encompasses both the traditional and current modern approaches.

### ***Why have a Law and Justice Sector?***

Consultations among stakeholders indicate that the principal rationale for developing the Law and Justice Sector is primarily service delivery and aid coordination, specifically to:

- raise recognition of the importance of law and justice;
- improve the direction, planning, management, communication, coordination and monitoring of government services;
  - vertically – from national to agency levels
  - horizontally - integrate and link services between sectors
- harmonise service delivery, and improve effectiveness and value for money;
- provide a government-owned priority-setting mechanism for development; and
- facilitate international development assistance to support the Government of Samoa's priorities.

Additionally, the sector provides a potentially powerful means to:

- Mutual interdependency – between agencies, and between sectors;

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<sup>41</sup> The MoWCSO is responsible for the oversight of the GoS's compliance with UN treaties, notably The *Convention on the Elimination of Discrimination against Women* (CEDAW), and the *Convention on the Rights of the Child* (CROC).

- Support each other – *it will make our lives easier*
- Agencies collectively advise the MoF how to allocate needed funding and not the other way round
- Possibly increase funding – *voice of sector louder than individual agencies.*

### ***Development Mechanisms for the Sector***

Following work on the sector identity, scope and rationale; the CEOs of the Law and Justice Sector agencies, on 8 August 2007, introduced the planning process for the proposed sector, and decided amongst other matters that:

- a. Membership of the Steering Committee initially comprise the CEO's of the 5 sector agencies being, specifically: the AGO, MJCA, MoPP, MWCSO and the OM, together with representatives of central agencies, notably, the MoF and PSC.
- b. The Attorney General was nominated to be the Chair of the Steering Committee.
- c. The purpose of the Steering Committee was to direct and oversee the sector planning process.
- d. A Working Group of senior officers from each agency was established to provide support to the Steering Committee.

Subsequently, the following mechanisms were put in place to support the establishment and ongoing development of the sector and the Plan:

- **Steering Committee** – the CEO's of all agencies have formed this leadership body which is responsible to direct, coordinate and oversee the establishment and development of the law and justice sector and its Plan.
- **Lead agency** for the sector – the AGO was nominated by the MoF at the donor roundtable meeting, to perform this role; this has been accepted by the AGO, and agreed by other agencies. The MJCA may be available to assist, if/as required, though this would need to be cleared by the judges.
- **Working Group** – Senior officers of each agency have been appointed to support the CEO's in establishing the sector and serve as agency liaison officers to coordinate sector development. Based on experience in other sectors, it is recognised that the Working Group should continue to address the finer details of sector planning to ensure coordination and continuity of implementation.
- **Secretariat** – experience in other sectors indicates that there is the need for a secretariat that sits in the lead agency to provide day-to-day management and administrative support to the development and implementation of the sector plan.

### ***Support from International Development Assistance***

It has already been seen that the rationale for sector development includes enabling donor assistance to support the law and justice priorities of the Government in a more integrated and coordinated manner.

Over recent years, the international community has been actively and extensively engaged in supporting the development of law and justice in Samoa, bilaterally, regionally and multilaterally. Ongoing assistance to agencies operating in the law and

justice sector is presently being provided by Australia, New Zealand, Asian Development Bank, United Nations Development Programme, European Union and China.<sup>42</sup>

In 2006, the Government entered the Joint Samoa Program Strategy (JSPS) with the Governments of Australia and New Zealand to support Samoa's development efforts in line with the SDS 2005/7.<sup>43</sup> Strategic objective 2.5 of the JSPS specifically relates to strengthening law and justice to support a safer Samoa, in relation to which it has been agreed between governments that AusAID will take the lead-donor role.<sup>44</sup>

*Traditional authority systems have been instrumental in maintaining law and justice in Samoa but are increasingly challenged to cope with the extent and range of crime. The JSPS will include a focus on improving the integration of modern and traditional justice systems and widening engagement with civil society.*<sup>45</sup>

The JSPS is also focusing on improving donor coordination and management, harmonising aid delivery approaches and procedures, and strengthening policy coherence and planning and management capacity across the law and justice sector.<sup>46</sup> The scope of work of this project to support the development of the law and justice sector is the most current application of such assistance.<sup>47</sup>

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<sup>42</sup> Current projects to agencies in the law and justice sector include:

- AusAID's Samoa Police Project
- NZAID's MoJCA Institutional Strengthening Programme
- ADB's Capacity-building of financial and business advisory intermediaries project (ADB TA 3549SAM) – relating to the economic use of land
- Regional assistance through the Pacific Judicial Development Programme (PJDP); Pacific Legal Information Institute (PACLI), Pacific Islands Chiefs of Police (PICP) Secretariat; Pacific Regional Policing Initiative (PRPI); and Pacific Islands Law Officers Meetings (PILOM)
- UNDP support of Regional Rights and Resources Trust (RRRT); and case-studies on access to justice in Samoa
- China's ISP valued at 40m Tala, which includes building the new court complex.

<sup>43</sup> Joint Samoa Program Strategy (2006-2010), November 2006; see also: Tripartite High Level Aid Discussions, February 2004.

<sup>44</sup> JSPS, 5.

<sup>45</sup> JSPS, 24.

<sup>46</sup> [www.oecd.org/dac/effectiveness](http://www.oecd.org/dac/effectiveness) ; see also AusAID's *whitepaper on Australian aid* of 2006.

<sup>47</sup> See the scope of work for this project, attached. The subject scope of work is the most recent example of AusAID and NZAID collaborating in the JSPS to jointly support law and justice in the establishment of this sector.



## **SITUATION ASSESSMENT**

In developing the Plan, an assessment of the needs of the law and justice agencies and the sector were undertaken and are summarised in the following table:

### ***Needs of Law and Justice Agencies***

<i>Agency</i>	<i>Institutional Performance Needs</i>
<b><i>MJCA &amp; the Courts<sup>48</sup></i></b>	<ul style="list-style-type: none"> <li>• The <b><i>courts</i></b> are generally regarded as independent and fair – some argue, more so than the customary system – but delay is a severe problem involving chronic backlog. Some outstanding decisions are up to 10 years old in the Supreme Court, and 10-year delays routinely exist in appeals in the Land &amp; Titles Courts. The Court of Appeal convenes only once each year owing to restricted funding, which delays the final resolution of matters under appeal. Some additional research assistance is required for judges.</li> <li>• Systems and procedures are often markedly inefficient, due partly to the need to update and review rules and procedures, and partly to resource shortages.</li> <li>• Separate jurisdictions for juvenile justice, divorce and family law are being called for.</li> <li>• Courts are seen by some as being permissive to the police and failing to exercise authority to impose accountability for low standards.</li> <li>• Significant barriers exist in community access to justice through cumbersome procedures and low public awareness and education of basic rights and obligations. Laws are mainly published in English only. Most people have little understanding of their rights, and cannot afford private lawyers. There is legal aid but this service is limited to court-ordered facility for criminal matters in the Supreme Court.<sup>49</sup> To many people, ‘the law’ is seen as the source of punishment by the state, rather than protection and enablement of the citizen.</li> <li>• MJCA suffers longstanding staff shortages due to budget reductions and requires more in-service training of its administrative support staff. Increasing caseload is stretching existing resources available to the courts, and there is a need for more case management.</li> <li>• Renovation of dilapidated court facilities is needed – and now underway with substantial assistance from the Government of China.<sup>50</sup></li> </ul>
<b><i>MoPP – Police<sup>51</sup></i></b>	<ul style="list-style-type: none"> <li>• Many acknowledge that police performance has recently improved as the result of training, though more is required, in relation to organisational effectiveness.</li> <li>• More focus is needed pertaining to managing, investigating and prosecuting crime so as to reduce frequent delays, miscarriage of justice</li> </ul>

<sup>48</sup> The judiciary comprises 24 judicial officers, of whom 3 sit in the Supreme Court, and 2 in the District Court. In addition, 19 judicial officers sit in the Land & Titles Court which resolves disputes relating to customary land, titles, and all other traditional justice at village level, applying customary principles and process; four of these officers also constitute the Faamasino Feasoasoani (FF) Court which administers minor traffic offences.

<sup>49</sup> excluding narcotic offences

<sup>50</sup> Construction of a new court complex commenced in September 2007, and is expected to be completed by the end of 2009.

<sup>51</sup> The Police Service has an establishment of 460 sworn officers who are located at two main stations with two outposts - 40 of whom administer the prisons

	<p>and wastage of scant court resources.</p> <ul style="list-style-type: none"> <li>• Public trust and confidence in the police are qualified, and there are issues surrounding professional standards.<sup>52</sup> Questions as to the usefulness and consistency of the services being delivered by the Police have also been raised by some informants. Complaints of failures to respond to crime call-outs are common.</li> <li>• Lack of visible police leadership on key issues of professional standards is problematic.</li> <li>• There are longstanding and frequent problems of 'lost' files and failure to prosecute by police, due to alleged corruption which is still described as 'a big problem', organisational inefficiency or the shortage of resources.</li> </ul>
<b>MoPP - Prisons</b> <sup>53</sup>	<ul style="list-style-type: none"> <li>• Conditions in the prisons are very basic and are often in violation of international standards.<sup>54</sup></li> <li>• Treatment of prisoners is on occasion quite shocking, as exposed by the Supreme Court in the recent case of starving a naked prisoner in the notorious now-closed 'cell block 9'.</li> <li>• Due to budget constraints, infrastructure is decrepit and lacking adequate maintenance, and conditions are often unfit for human habitation.</li> <li>• The current practice of 'supervising' paroled prisoners is due to the fact that there are no facilities and very limited programs for rehabilitation, occupational training and counselling.</li> <li>• Excessive pre-trial detentions continue, due to tardy prosecutions, inefficient court procedures / practices and a lack of alternative diversionary facilities.</li> <li>• While relations between warders and inmates appear mutually respectful, security is lax with regular escapes.</li> <li>• There are no separate institutional facilities for women or pre-trial detainees.</li> </ul>
<b>AGO</b> <sup>55</sup>	<ul style="list-style-type: none"> <li>• AGO performs a range of often complex high-level functions including advising government on the law, law drafting, prosecuting serious crimes and representing the state in civil proceedings. It is staffed by bright, enthusiastic but relatively under-experienced officers working in an environment that often lacks efficient operating systems; files are routinely mislaid, and staff is regularly confronted by competing priorities.</li> <li>• Consequently, AGO is seen by some public sector stakeholders as a bottleneck in the government's law-making program, owing largely to an historical shortage of adequately experienced professional staff.</li> <li>• Retention of staff and know-how has been an historic problem due to unsatisfactory working environment and uncompetitive compensation structures, causing the capacity of the office to be regularly depleted, which it is hoped recent adjustments by the PSC may have at least temporarily halted.</li> <li>• The recent appointment of a highly respected new Attorney-General from the private bar is hoped to transform organisational effectiveness.</li> <li>• Joint initiatives with MoPP have recently been taken to improve the preparation and coordination of prosecutions.</li> </ul>
<b>Ombudsman</b>	<ul style="list-style-type: none"> <li>• Its core function includes the investigation of administrative complaints against public bodies and of defective administration.</li> </ul>

<sup>52</sup> See: related findings of police community confidence survey, 2005, below.

<sup>53</sup> Prison muster is approximately 180 prisoners, of whom some 5% are female; and some 45 (25%) are on pre-trial remand, in three prisons: Upolu, Savai'i and juvenile.

<sup>54</sup> UN Standard Minimum Rules for the Treatment of Prisoners; UN Charter of Human Rights; International Covenant of Civil & Political Rights

<sup>55</sup> The AGO employs some 20 lawyers, and is the largest law firm in Samoa.

	<ul style="list-style-type: none"> <li>The work of this office is generally respected, but rarely known about, understood or used by the public owing to the office being poorly resourced and lacking profile.</li> </ul>
<b>MWCSD</b>	<ul style="list-style-type: none"> <li>This Ministry is responsible for social development and exercises internal affairs responsibilities by supporting Pulenu'u and village Fono, women, youth, children and special interests including those with disabilities and <i>faafafine</i>; and serves as the government's gateway to the community level. Its services are stretched thinly by numerous vacancies across its establishment.</li> </ul>
<b>Law Society</b> <sup>56</sup>	<ul style="list-style-type: none"> <li>The performance of some lawyers is described by some informed observers as sloppy. Under-preparation of court matters and non-compliance with rules causes frequent adjournments and delays. Professional standards are patchy due in part to the Law Society of Samoa operating over many years on a shoe-string, without office facilities or administrative staff. Oversight of ethical matters is fragmented and weak, and continuing legal education has historically been sparse and unsystematic. In the community's interest, there is a pressing need for capacity-building assistance to this professional association, which has historically experienced difficulties performing its mandated responsibilities.</li> </ul>

### **Needs of the Law and Justice Sector**

<i>Sectoral Performance Needs</i>
<ul style="list-style-type: none"> <li><b>Government</b> <ul style="list-style-type: none"> <li>Within the context of limited public sector financial resources, the law and justice sector is becoming seen as a relatively poorly-resourced priority which requires higher levels of budget allocation</li> <li>Government priority-setting is often seen as ad hoc, changeable; there is a need to develop a more integrated, coherent strategic approach to law and justice priorities</li> <li>Across the sector, more resources, staff and training are needed. Senior officers complain of an overwhelming mismatch of demands and resources, and of frustration at being unable to deliver services at the standard required. Government organisations lack the operating systems to provide often even basic services –in the words of one senior member of the business community: <i>nothing happens!</i></li> <li>The public sector at large is seen as slow, inefficient and characteristically non-responsive to the needs of the community – and lacking a service orientation</li> <li>There is a general need for improved operating systems. The efficiency of many aspects of agencies' operations is hampered by limited institutional capacity, at often quite basic levels, and cumbersome procedures – for example, centralised procurement.</li> <li>Improved human resource management: recruitment, on-the-job-training, career paths development, compensation and incentives to retain experienced staff</li> <li>Information management – there is a need for computerisation and harmonisation of sector data and reporting</li> <li>Laws need review as many colonial-era laws are out of date, for example: <i>Crimes Ordinance 1961, Evidence Ordinance 1961, Supreme Court (Civil Procedure) Rules 1980,</i></li> </ul> </li> <li><b>Formal and customary systems</b> <ul style="list-style-type: none"> <li>There are some deep and widely-held concerns that Samoa is vulnerable to the</li> </ul> </li> </ul>

<sup>56</sup> The Law Society of Samoa has some 60 registered members, of whom 20-30 are in general practice.

process of modernisation and change, and needs to develop special mechanisms to address these challenges. More leadership is required on the need to learn to change, specifically, more proactive government leadership on sensitive issues affecting modernisation and economic development, and the role/responsibilities of traditional mechanisms in this process.

- There is a high-level need to formalise the roles, responsibilities, resources and relationship of the village Fono and the Pulenu'u. Greater integration between formal and informal systems is required to reduce collisions and confusion. The steady upsurge of the formal sector is leading to increasing collisions with traditional, customary, and village authority. Numerous informants comment on the rising incidence of courts becoming charged to review complaints involving the 'rights' of individual villages, resulting in an erosion of the authority of the village Fono and Pulenu'u, notably, in Article 14 of the *Constitution* overriding the power of the Fono to banish from the village.
- Many see a pressing national need for the development of new mechanisms for the economic use of customary land, though all acknowledge that this raises complex and sensitive issues – as evidenced by controversy on the *Land Titles Registration Act 2008*.
- Related to the above, many observe that Samoa pressingly needs a more pro-business enabling environment to encourage and support private investment. Within this context, the present review of the economic use of customary land focuses on a strategic transition of pivotal significance to economic development at large, notwithstanding its manifold cultural sensitivities.<sup>57</sup>
- There are concerns about rising levels of violent crime and drug-related offences. These are, at least in part, related to concerns about erosion of traditional authority structures.
- Transitional trends towards urbanisation and growth in fringe settlements - for example Vaitele - lack customary authority structures, leading by default to the transfer of authority to the police which is often lacking or inappropriate – this requires a policy-based planned response, supported by an adequate shift in resources.
- There is a need for more proactive Government leadership to address tabooed issues - for example, endemic problems of domestic violence, sexual violence and incest in the community.
- *Community*
  - Many stakeholders comment on the need to improve relationships, participation and communications with the community; and more effective representation and participation of civil society, including the law society which describes itself as being 'outside the loop'. Related needs include:
    - Widespread lack of transparency by the Government and lack of openness with important public information -- for example, the incidence of crime.
    - Oversee the development of policy to rationalise and consolidate community-service providers -- for example, of community-based sentencing, probation and parole presently under review in the *Young Offenders Act 2007* and the *Community Justice Act 2008* – who does what?
    - More public legal education and promotion of civil rights.

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<sup>57</sup> *Doing Business in Samoa*, World Bank, 2005+

## ANNEXES

- A. Terms of Reference**
- B. Methodology**
- C. List of Documents Reviewed**
- D. Membership of Steering Committee and Working Group**
- E. Initial Consultations**

## **Annex A - Terms of reference**



### **GOVERNMENT OF SAMOA**

### **OFFICE OF THE ATTORNEY GENERAL**

### **TERMS OF REFERENCE**

### **FOR DRAFTING A LAW AND JUSTICE SECTOR PLAN**

#### **Background**

The Samoa Law and Justice Sector comprises of various agencies. For the time being there is no coordination in respect of the Sector's approach to collectively improve its services as each agency pursued its own strategy to improve its services. This unilateral approach has resulted at times in duplication of services. Aid donors have also expressed their desire for a more coordinated approach to the improvement of the sector's various requests for assistance to enable them to respond in a more coordinated manner.

As part of an initiative to introduce a Sector Wide Approach the Government of Samoa wishes to prepare a Law and Justice Sector Plan. This plan will translate the national strategic plan (Strategy for the Development of Samoa) into sector development goals and activities for the Law and Justice sector.

The aim of the Plan is to provide a link between the national strategic plan and goals and the corporate plans and objectives of the Law and Justice key stakeholders namely, Office of the Attorney General, Ministry of Justice and Courts Administration, Office of the Ombudsman, Ministry of Police and Prisons and the Ministry of Women Community and Social Services.

A Steering Committee has been established to oversee and provide direction for the formulation of the Sector Plan and include the Chief Executive Officers of the Ministry of Finance, Office of the Attorney General, Ministry of Justice and Courts Administration, Office of the Ombudsman, Ministry of Police and Prisons and the Ministry of Women Community and Social Services.

A Working Group from the key stakeholder ministries will be selected to assist the Technical Advisor in drafting of the Justice Sector Plan.

#### **Project Objective**

The Government anticipates that the development of a Sector Plan will have two phases. Phase one will consist of drafting the Sector Plan and Phase two will consist of the implementation of the Sector Plan. This Terms of Reference applies to the first phase only.

#### **Scope of Services**

The technical advisor will:

1. Devise the framework for the Law and Justice Sector Plan
2. Preparing and drafting a draft Sector Plan
3. Preparing a Consultation Strategy for conducting wider stakeholder consultations on the draft Sector Plan.
4. Amend the Draft Sector Plan according to comments from stakeholders during Consultations.
5. Submit a Finalized Justice Sector Plan for Steering Committee approval.

#### **Work Program**

The Technical Advisor is required to submit for the Steering Committees approval a work programme which may include but is not limited to his carrying out of the following;

- (i) Collaborate with a selected working group, to consolidate and analyse all information gathered for writing up the Sector Plan;

- (ii) Together with the Working group identify information relevant to preparation of the sector plan and identify any research gaps, this also includes identifying short term, medium term and long term goals for the Law and Justice Sector;
- (iii) Conduct any further research, information collection and analysis needed;
- (iv) Write up of the final draft of the Sector Plan;
- (v) Prepare a Consultation Strategy for conducting wider stakeholder consultations on the draft Public Administration Sector Plan;
- (vi) Together with the Working Group, present the draft Sector Plan and proposed Consultation Strategy to the Steering Committee;
- (vii) Based on feedback from the Steering Committee work with the Working Group in the preparation and write up of the final draft Sector Plan;
- (viii) Present the final draft of the Sector Plan to the Steering Committee;
- (ix) Provide the final draft of the Sector Plan in both hard and soft copy to the Steering Committee;
- (x) In addition to the above components of the scope of services the Technical Advisor may suggest additional components which he thinks should be part of the services or suggest some components which he thinks should not be included in the services to the Steering Committee. Upon written approval of the Head of the Steering Committee of such suggestions the components of the Services may be added upon or excluded.

#### **Duration**

The duration of time for the Technical Advisor to provide the services will be 8 weeks.

Before commencement of Services the Technical advisor should submit for the Steering Committees approval a work plan which sets out the amount of time he would use on each component of the Services. The work plan may be varied by agreement between the Technical Advisor and Steering Committee, and must be approved by the Steering Committee before commencement of the Services.

#### **Stakeholder Input**

All stakeholders will make available a member of their staff to be part of the working group.

All stakeholders will make available to the technical advisor all relevant information which may assist the Technical advisor in carrying out of the services, this includes but is not limited to their up to date Corporate Plan.

The Attorney General will make available to the Technical Advisor its library to work in.

#### **Reporting Requirements**

The Technical Advisor is required to report on a weekly basis to the lead stakeholder agency, Office of the Attorney General.

The Steering Committee shall be convened to consider the draft Sector Plan and Consultation Strategy and shall approve (endorse) or suggest amendments to it within 2 weeks of receipt.

## **Annex B – Methodology**

The principal methodologies used during the term of this consultancy to develop this plan were outlined in the work plan for this project dated 8 August 2007 (also annexed to this report), and approved by the Steering Committee. These methodologies included the following:-

- *Stakeholder consultations* (x60+) – detailed discussions with:-
  - Leaders of the sector – the Steering Committee comprising of the CEO’s of both central and line agencies, being all law and justice agencies, including the Chief Justice and the President of the Land & Titles Courts; and the CEO’s of relevant central agencies, such as the Ministry of Finance (MoF), PSC; with the Working Group of senior managers of these agencies;
  - Representatives of the community – selective consultations with Pulenu’u, and members of Women’s Committees;
  - Representatives of civil society – members of the law society, legal academics, churches (NCC + CCCS), NGO’s including SUNGO, Victims of Crime and FLO, media, and public commentators;
  - Donors – AusAID and NZAID.
- *Appraisal of data* – analysis of the Constitution and all enabling legislation; SDS 2000/1, 2002/4 + 2005/7; all strategic, corporate and annual plans of sector agencies; annual reports of all agencies, including PILOM reports; GoS Financial Estimates (budget) for 2007/8; MoF sector guidelines 2003, and conceptual framework 2007; sector plans (x4) for health, water, education and public administration; Report on the Status of Women in Samoa 2001; Village Profiles, MoWCSD 2001; donor documentation including JSDS 2007-11, Paris Declaration 2005; AusAID’s *whitepaper on Australian aid* 2006, Australia’s Pacific Regional Strategy 2004-2009, Pacific Plan 2005, Pacific 2020; NZAID’s *Towards a Safe and Just World Free from Poverty* 2002, *A just safe and secure society* - white paper on law and justice in Papua New Guinea, 2007; and, Law and justice sector strategy, Fiji – a schedule of documents is annexed to this report.
- Active participation through workshops and meetings of the Steering Committee and the Working Group since August 2007 to December 2008.
- *Review of the literature and related experience* – informal review by the consultant of related international development experience of AusAID, NZAID, OECD/DAC, ADB, UNDP, World Bank and USAID.
- *Community Consultations* – A number of community consultations are scheduled to be held in September 2008 to inform the community of the Plan and to obtain their views and comments on the Plan.



## **Annex C– List of Documents Reviewed**

### **Office of the Attorney General**

- Corporate Plan 2007+ (draft)
- AGO status report to PM - June 2007
- PILOM (Pacific Island Law Officers Meeting) Reports 2004/6
- Corporate Plan 2004-2006 + Organisation Chart

### **Ministry of Police & Prisons**

- Corporate Plan 2007-2010
- Annual Plan 2007-2008
- Annual Report 2006

### **Ministry of Justice & Courts Administration**

- Corporate Plan 2008-2011
- ISP Annual Report 2006
- Service Charter
- Corporate Plan 2005-2007
- Annual Plan + Performance Measures 2007-2008
- Case statistics – SC, CC + FF 2005-7
- ISP (NZAID) Annual Report + Annual Plan
- IT strategic plan

### **The Office of the Ombudsman**

- Corporate Plan 2007-2010
- Annual Plan 2007-2008
- Annual Report 2006
- Sample report

### **Ministry of Women, Community & Social Development**

- Annual Plan 2007-2008
- Strategic plans @ division
- Corporate Plan 2003/4
- Management Plan 2004/5
- Annual Report 2003/4
- Report on Status of Women 2001
- Village profiles
- Service charter
- Directory of Women 1991-2004
- Directory of Women's Organisations 2004

### **Central Agencies – Ministry of Finance & the Public Service Commission**

- The Constitution of the Independent State of Samoa 1960
- Village Fono Act 1990
- Internal Affairs Act 1995
- Strategy for the Development of Samoa (SDS) 2002-4, 2005-7.
- Statement of Economic Strategy (SES) 1996-7, 1998-9, 2000-1
- Sector Planning Guidelines 2003
- Government of Samoa Manual on Project Planning and Programming
- Conceptual framework for SDS 2008/11
- Sector Plans
  - Public Administration
  - Health
  - Education
  - Water

- Cabinet Office Study:  
Economic Use of Customary Land 2005
- Public Service Commission Corporate Plan 2003-2005
- Budget 2007 - Treasury Estimates.

**Other**

- Joint Samoa Program Strategy 2006/10 (Governments of Samoa, Australia and New Zealand)
- World Bank – Doing Business in Samoa 2004+
- MDG's 2000
- SVSG statistics
- Pacific Plan
- Pacific 2020
- Fact-sheet on Samoa 2005
- UNDP Samoa Human Development Report 2006.

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## **Annex D– Membership of the Steering Committee & Working Group**

The **Steering Committee** comprised of Chief Executive Officers of the following agencies:

- Aumua Ming Leung Wai, Attorney General, Office of the Attorney General, Chairperson
- Masinalupe Tusipa Masinalupe, Chief Executive Officer, Ministry of Justice and Courts Administration
- Papalii Lorenese Neru, Police Commissioner, Ministry of Police and Prisons Services
- Maiava Iulai Toma, the Ombudsman, Office of the Ombudsman
- Luagalau Foisaga Eteuati Shon, Chief Executive Officer, Ministry of Women, Community and Social Development
- Hinauri Petana, Chief Executive Officer, Ministry of Finance
- Faamausili Dr Matagialofi Luaiufi, Chief Executive Officer, Public Service Commission

The **Working Group** comprise of senior officials from the Law and Justice Sector agencies:

- Office of the Attorney General - Mareva Betham-Annandale, Senior State Solicitor
- Ministry of Justice and Courts Administration - Siufaga Tauauvea, ACEO Corporate Service, Serah Skelton & Rita Ale
- Ministry of Police & Prisons – Masepau Lio Masepau, Assistant Police Commissioner, Sina Tafua, Michael Soonalole, Fatu Pula
- Office of the Ombudsman - Maualaivao Pepe Seiuli & Vaiao Eteuati
- Ministry of Women, Community and Social Development – Roger Stanley
- Ministry of Finance - Benjamin Pereira, ACEO Economic Planning Division
- Public Service Commission – Viola Levy, ACEO Professional Development

An AusAid funded Consultant assisted the Steering Committee and Working Group with its work in setting up the sector and in the development of the Plan. Mr Livingston Armytage began work in August 2007.

As lead agency, the Office of the Attorney General put together a support team to assist with coordination and organisation of meetings and the paperwork for the various meetings and workshops of the Steering Committee and Working Group and to support the work of the Consultant:

- Sector Coordinator - Mareva Betham-Annandale
- Team members - Kalameli Seuseu & Salote Wright.

## **Annex E - Initial Consultations**

<b>Name</b>	<b>Designation</b>	<b>Organization</b>
<b>Ming C Leung Wai</b>	<b>Attorney General</b>	<b>Office of the Attorney General</b>
Malietau Malietoa	Parliamentary Counsel	Office of the Attorney General
Teleiai Lalotoa Mulitalo	Parliamentary Counsel	Office of the Attorney General
Samuel Leslie Petaia	Asst. Attorney General (Criminal)	Office of the Attorney General
Rebecca Wendt	Asst. Attorney General (Civil)	Office of the Attorney General
Precious Chang	Principal State Solicitor	Office of the Attorney General
Mareva Betham-Annandale	Senior State Solicitor (Civil)	Office of the Attorney General
<b>Patu Tiavaasue Falefatu Maka Sapolu</b>	<b>Chief Justice</b>	<b>Supreme Court</b>
Vui Clarence Nelson	Judge	Supreme Court
Tuala Sale Tagaloa	President	Land and Titles Court
<b>Masinalupe Tusipa Masinalupe</b>	<b>CEO</b>	<b>Ministry of Justice &amp; Courts Administration</b>
Lio Heinrich Siemsen	ACEO: Courts	Ministry of Justice & Courts Administration
Tuli F Samuelu	ACEO: Correction, Enforcement, Maintenance & Affiliation	Ministry of Justice & Courts Administration
Serah Skelton Sokimi	Principal Policy, Planning & Evaluations	Ministry of Justice & Courts Administration
Rita Ale	Consultant (Court Analyst)	Ministry of Justice & Courts Administration
Siufaga Tauauvea	ACEO: Corporate Services	Ministry of Justice & Courts Administration
<b>Papalii Lorenese Neru</b>	<b>Police Commissioner</b>	<b>Ministry of Police &amp; Prisons</b>
Papalii Lio Masipai	Deputy Commissioner	Ministry of Police & Prisons
Matau Matafeo	Chief Inspector/ Acting Warden	Ministry of Police & Prisons
<b>Maiava Iulai Toma</b>	<b>Ombudsman</b>	<b>Ombudsman</b>
<b>Luagalau Foisagaasina Eteuati Shon</b>	<b>CEO</b>	<b>Ministry of Women, Community and Social Development (MWCSO)</b>
Luisa Apelu	Acting Director – Women	MWCSO
Sydney Faasau	ACEO Youth	MWCSO
Faafetai Korcia	Senior Program Training Officer	MWCSO
Roger Stanley	Policy Officer + Working Group	MWCSO
<b>Hinauri Petana</b>	<b>CEO</b>	<b>Ministry of Finance</b>
Noumea Tate Simi	ACEO: Aid Coordination	Ministry of Finance

Benjamin Pereira	ACEO (Economic Policy & Planning Division)	Ministry of Finance
<b>Dr Faamausili Matagi alofi Luaiufi</b>	<b>CEO</b>	<b>Public Service Commission</b>
Tafua Maluelue Tafua	ACEO	Public Service Commission
Cam Wendt	Project Manager, PSIF	Public Sector Improvement Fund (PSIF – DPM)
Libby McMillan	Contracted Support Team	PSIF – DPM
Saleimoa Vaai Asiata	Partner, Vaai Law Firm; + MP	Leader of Opposition
Mata Tuatagaloa	Partner, Brunt Keil Law	Law Society – Acting President
Fotu Høglund	Partner, Vaai Lawyers	Law Society – Secretary
Daryl Clarke	Partner, Latu Ey & Clarke Lawyers	Law Society
Toleafoa Solomona Toailoa	Partner, Toailoa Law Office	Law Society
Dr Unasa Vaai	Lecturer	National University of Samoa
Leuluai alii Tasi Malifa	Law Lecturer / Lawyer	USP
Fiti Leung Wai	Head, Commerce Department	National University of Samoa
Maiava So'oalo A Visekota Peteru	Barrister Solicitor & Notary Public	Consultus Pasefika Ltd Consultants
Moeono Penitito	Pulenu'u; MoWCSD C'tee	Falefa Village
Tiumalu Visan Visan	Pulenu'u; MoWCSD C'tee	Leufisa Village
Rev Fepai Korua	General Secretary	National Council Of Churches
Dr Iutisone Salevao	General-Secretary	Congregational Christian Church of Samoa (CCCS)
Vaasilifiti Moelagi Jackson	President	SUNGO
Fuimaono Oli Schuster	Treasurer	SUNGO
Luisa Amituanai	President	Victim Support
Lina Lotau	Deputy President	Victim Support
Auna	Officeholder	Victim Support
Charelle Jackson	Journalist	Newsline Newspaper
Alan Ah Mu	Journalist	Samoa Observer
Afamasaga Toleafoa	Consultant, ex-diplomat	Samoa Observer
Grant Percival	Businessman, President	Samoa Association of Manufacturers + Exporters
Ofeira Tuatagaloa		Faatau le Ola (FLO)
Dr Ian Parkin		Faataua le Ola (FLO)
Nofovaleane Maposua	Disability Rights Group	Nuanua o le Alofa
Matt Anderson	High Commissioner	Australia High Commission

Amanda Roberts	First Secretary	AusAID
Frances Soon Schuster	Senior Activity Manager	AusAID
Andy Felton	Project Team Leader (ISP)	AusAID - Samoa Police Project
Luke James	Australian Youth Ambassador	AusAID – AYA Ministry of Justice
Caroline Bilkey	High Commissioner	NZ High Commission
Dr Helen Leslie	Manager/ First Secretary	NZAID
Christine Saaga	Development Program Coordinator	NZAID
Leslie Campbell	MoJ – ISP	NZAID – MOJCA/ISP
Peteru Iosia	MoJ – ISP	NZAID – MOJCA/ISP
Gavin Withers	MoJ – ISP	NZAID – MOJCA/ISP