

REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

(Pursuant to art 63(3) of the Constitution)

on

DELAYED ACTION

by

POLICE

**TO CURB UNREST AT
PAUNANGISU VILLAGE**

This report contains the findings of fact, opinions, views and of unlawful conduct and the recommendations of the Ombudsman pursuant to the Constitution of the Republic of Vanuatu and the Ombudsman Act No.14 of 1995.

12th August 1997

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PREAMBLE

"He openeth also their ear to discipline, and commandeth that they return from iniquity. If they obey and serve him, they shall spend their days in prosperity, and their years in pleasure; but if they obey not, they shall perish by the sword and they shall die without knowledge" **Job 36 v 10 -12**

This report concerning the behaviour of Police appears at a time of some moral and ethical crisis in the affairs of Vanuatu. It reveals persistent slackness indiscipline, arrogance and ignoring of legitimate duty by members of all ranks of the Police.

It will come as little surprise to the people of Vanuatu who have become accustomed to being ignored, or treated with contempt, or abused when seeking protection and justice. Complaints go unchecked while apparent indifference and protection of relatives is commonplace. There are numerous complaints about Police "taking sides" because of supposed loyalty or preference to people from the same island, or people related to them, or people seen as "big men".

The French Emperor Napoleon Bonaparte once said something like "there is no such thing as bad soldiers, only bad officers" however there should be nonetheless a personal duty and commitment on the part of lower ranks to obey without question the orders of their superiors when these orders are given, and to wait for an appropriate occasion to discuss and settle grievances. Mutiny cannot be tolerated in any form since it poses such a grave threat to the peace of the country and the rule of Law. It is shameful treatment of these men that the incidents four years ago in this report, showing that Police and military refused to obey legitimate orders because they believed they were owed funds of one kind or another should have gone unpunished at that time instead they still apparently form the basis of the festering discontent and insubordination of both forces at the present time.

Adding fuel to this sense of grievance has been the realisation that extravagant allowances and salaries often illegal in nature, have been paid out to political leaders and favourites who are determined to obtain financial gain, so that moral in both forces has been brought to a disillusioned low.

It is obvious that a different kind of discipline and sense of duty is overdue - and we hope we can take encouragement from all the recent talking that has been taking place about "Reform" of all departments of public life. The public await the implementing of all these discussions in a tangible form with a clear lead in selecting appropriate priorities in order to restore confidence.

A regime of strict discipline and effective instructions within the two forces, accompanied by clear commitment and actual actions by political leaders to remedy all these defects, will go a long way to restoring the self respect and trust of the people in Vanuatu that they can look forward to a safe and prosperous future. Investors also, both present and potential, will be encouraged to increase their role in producing economic prosperity.

However as the Chiefs and Churches have been diligent in reminding us, it is not a lack of money that is crippling the country, but a need for shame and penitence and humility and an increasing respect for the value of duty, moral, family harmony and a determination to stop the slide into thieving, assault rape and contempt for authority both secular and spiritual which is undermining the future of the nation.

1 SUMMARY

- 1.1 This report that heavily criticises former Police Commissioner Luc Siba and senior policemen Deputy Commissioner John Bill Ierongen (on suspension), Assistant Commissioner Patu Lui, former VMF Commander Seule Takal (on suspension), Commanding Officer (Southern District) Samuel Willie, Superintendent Noel Tamata (on suspension) and Chief Inspector Knox Kalkaua for the police's failure to deal with the civil disorder and unrest that occurred at Paunangisu. Law and order was lost at Paunangisu for a three month period during July, August and September 1996. The worst of this unrest happened on 18 September 1996 when people were assaulted and injured, houses damaged (16 burnt down), looting occurred, animals stolen, gardens destroyed and general mayhem.**
- 1.2 The unrest was the result of a dispute between two men both claiming to be chief. One of the chiefs and his supporters who appear to have committed criminal acts during the period of civil disorder were actually subject to a Court order specifically restraining them from interfering with the other chief and his people. However, the report is not about the dispute between the chiefs but rather about the police's failure to do their main duty to prevent and suppress crime when this dispute got completely out of hand and people took the law into their own hands. The report contains detailed accounts of the ongoing attacks on property and fighting that occurred and the inaction or incompetent action of the police to respond to what was a very dangerous and disturbing situation.**

- 1.3 The Ombudsman reports that the police to an extent actually heightened tensions when the Police Public Relations Officer Chief Inspector Pakoa Samuel issued an oral media release on 31 August 1996 saying that the police could not get involved and that it was for the chiefs to sort out. Following this some people from Paunangisu left their homes to go to safer places. It was only when the then deputy Prime Minister, Hon Donald Kalpokas, got involved in early September that the police started to do something. However, their actions were badly planned and poorly executed. This is well demonstrated by one example taken from the report. On 18 September when Captain Fred and 25 military personnel arrived at the Paunangisu village at 6.45 p.m they had only 3 torchlights between the 26 of them to try and catch the people responsible for the mayhem in the dark of night.
- 1.4 The report criticises all of the senior officers involved for different instances of poor judgment and leadership and their failures to follow written police procedure. The Ombudsman lies the final blame with Mr Luc Siba and recommends that Mr Siba not be reappointed to a senior public post again. For the other officers involved still in the force the Ombudsman has recommended that they be disciplined and/or reprimanded and be called to account.

THE FACTS

- 1.5 On 25/09/96 Chief Y, the chief of Paunangisu Village, North Efate (Paunangisu Village), complained to the Office of the Ombudsman that the police delayed action to curb the unrest at Paunangisu Village during the period 07/07/96 to 18/09/96. The complaint was directed at the Vanuatu Police Force whose main functions are to enforce the laws, protect life and property and prevent and detect crimes as specified in the Police Act CAP 105.
- 1.6 This unrest arose due to a feud caused between two men at Paunangisu village. Both were claiming the chiefly title "W" after the death on 16/06/94 of the previous holder Chief Thomas Manlaewia.

On one part was Chief Y

and on the other part, Chief X. Chief Y claimed this chiefly title immediately after the death of the late Chief W as his right to succeed as the next "W title". This enquiry was not

conducted into the procedure whether this chiefly title dispute was resolved but against the police delayed action to deal with criminal offences committed as a result.

- 1.7 The Ombudsman's investigation suggested that the Police Force delayed action (even though criminal actions were committed) and ignored their duties and responsibilities to maintain law and order, protect life and property, prevent, detect, and prosecute crime during the unrest situation at Paunangisu Village.**
- 1.8 For the reasons that follow in this report, the present opinion of the Ombudsman is that the complaint is justified.**
- 1.9 The facts relevant to this opinion are that:**
- a) criminal offences were committed due to the delayed action of the Police Force;**
 - b) people who committed these criminal offences repeatedly breached a Court Restraining Order restraining them from threatening, harassing, insulting, abusing, or communicating directly with the Chief Y, his family and staff in any way whatsoever verbally or physically;**
 - c) the breaches of this Court Order were reported to the police but no action was taken;**
 - d) residents of Paunangisu Village moved out of the village for security and safety when others took the law into their own hands; and**
 - e) non-residents of Paunangisu Village were brought into the village to provide security because the police failed to do so.**

A copy of this Court Restraining Order is attached as Annex A.

- 1.10 The Vanuatu Police Force was under the command, superintendence and direction of the former Commissioner of Police Mr Luc Siba (Mr Siba) at that time. He must bear final responsibility for what happened. The failure by the police to take appropriate actions promptly to curb the unrest at Paunangisu Village resulted in the commission of criminal offences of:**

- a) arson,**
- b) damages to properties,**
- c) intentional assault, and,**
- d) unlawful entries into properties and theft,**

by people living in Paunangisu Village and also those who came to the village specifically to commit these offences.

- 1.11 The senior police officers that must also be held responsible for this delayed police action were:**

Mr John Bill Ierongen	-	Deputy Commissioner of Police
Mr Seule Takal	-	Commander, VMF
Mr Noel Tamata	-	then Officer Commanding, Police District(Southern)

- 1.12 Both Chief Y and Chief X and their supporters were involved in the commission of these criminal offences.**

- 1.13 The result of the police's delay to respond has gravely affected confidence in the police by the people. They did not carry out their legal duties as the servant of the public.**

2 JURISDICTION

- 2.1 This enquiry was conducted in accordance with art 62 of the Constitution and Section 14 of the Ombudsman Act No. 10 of 1995 ('Act'). Under art 62 of the Constitution the Ombudsman is empowered to inquire into matters either on his own initiative or upon receiving complaints from any person affected as a result of a particular conduct or action by another person. The Police are a public authority/State Service and fall within the jurisdiction of the Ombudsman by reason of art 62(2) of the Constitution and s14(1)**

3 SCOPE OF ENQUIRY

- 3.1 The scope of this enquiry was to establish:**

- (a) the causes of this delayed action by police;**

- (b) the breaches of the Police Act and laws of the Republic of Vanuatu by the Police;
- (c) whether the Police, by their delayed action, is responsible for the damages caused to properties and assault to people; and
- (d) whether the Police acted to the best of their ability to prevent a breach of the peace or commission of offence (section 23 of the Criminal Procedure Act).

4 PRELIMINARY REPORT

4.1. A preliminary report was issued by the Ombudsman which outlined the Ombudsman's preliminary findings of facts and of wrong conduct or defective administration. The Ombudsman gave 15 days from the receipt of the preliminary report to people who had been involved in the matter to give their comments and submissions. This discharged the Ombudsman's constitutional obligation of granting "*the person or body complained of an opportunity to reply to the complaints made against them.*" (article 62(4) of the Constitution), and of the legal obligation provided under section 16(4) of the Act to allow a person who is the subject of an "*adverse*" or "*derogatory*" opinion. My preliminary report was circulated on and around 13 May 1997.

4.2 The preliminary report was issued to the following senior police officers:

Mr Luc Siba	- Former Commissioner of Police
Mr John Bill Ierongen	- Deputy Commissioner of Police
Mr Patu Lui	- Assistant Commissioner of Police
Mr Seule Takal	- Former Commander, VMF
Mr Samuel Willie	- Officer Commanding Police District (Southern)
Mr Noel Tamata	- Superintendent of Police
Mr Knox Kalkaua	- Police Chief Inspector (retired)
Mr Peter Bong	- Commissioner of Police

4.3. I received replies from the following:

Mr Seule Takal (Annex G)
Mr Patu Lui (Annex H)
Mr Samuel Willie (Annex I)
Mr Peter Bong (Annex J)
Mr Pakoa Samuel (Annex K)

- 4.4. The other people did not answer and must be assumed to agree with the report where it concerns them. My comments to the replies which I received are set out Section 7 of this Report. The main person, Mr Luc Siba did not answer either.**

5 RELEVANT LAWS

- 5.1. Section 4 (1) of the Police Act CAP 105 provides:**

It shall be essential duty of the Force to maintain an unceasing vigilance for the prevention and suppression of crime.

- 5.2 Section 4(2) of the Police Act CAP 105 provides:**

The Force shall be employed throughout Vanuatu and its territorial waters for:

- a) the preservation of peace and the maintenance of order;**
- b) the protection of life and property;**
- c) the enforcement of the laws;**
- d) the prevention and detection of offences and the production of offenders before the court;**
- e) such other duties as may be expressly provided for by laws.**

- 5.3 The Act therefore clearly defines the obligatory functions of the Vanuatu Police Force. It is a 24 hours a day responsibility.**

- 5.4 Section 6(1) of the Police Act sets out the powers of the Commissioner of Police. It provides that:**

The Commissioner shall have the command, superintendence and direction of the Force...

- 5.5 The Commissioner of Police is responsible to the Vanuatu Government and people to ensure that the Vanuatu Police Force is operating efficiently and effectively to achieve its legal obligations. The Vanuatu Mobile Force also comes under his responsibility.**

- 5.6 Section 7 of the Police Act CAP 105 provides:**

- (1) The command and control of any unit of the Force in any place shall be vested in such member as may be appointed by the Commissioner of Police to be in charge thereof. Any member so appointed shall be an officer in charge of police for the purpose of this Act.**
- (2) An officer in charge of police shall be subordinate to and carry out the orders of the Commissioner in all matters connected with:-**

- (a) the discharge of the general functions of the Force as provided by section 4.

5.7 The Commissioner is to appoint a police officer as the officer in charge of police in each particular unit in the Police Force. It also empowers the Commissioner to delegate some of his duties to the police officer he appoints as the officer in charge of police to ensure that the obligatory functions of the Police Force as provided under section 4 of the Police Act are properly attended to and achieved. It is important to note here that the Commissioner can only delegate some of his duties but he cannot delegate his responsibilities. He alone is responsible to the people for the overall efficiency and effectiveness of the Police Force.

5.8 Section 23 of the Criminal Procedure Code Act CAP 136 provides:

Every police officer may intervene for the purpose of preventing, and shall to the best of his ability prevent, a breach of the peace or commission of any cognisable offence.

5.9 This Act clearly empowers the police to prevent any breaches of any cognisable offences. A cognisable offence is an offence which already has an immediate power of arrest attached to it. This means that the Police do not need to go the Court to get an Arrest warrant to make an arrest.

5.10 Section 12 (1) of the Criminal Procedure Code CAP 136 provides:

- (1) Any police officer may, without an order from a judicial officer, or warrant, arrest any person whom he suspects upon reasonable grounds of having committed a cognisable offence.
- (2) (a) any person who commits a breach of the peace in his presence¹.

5.11 This Act empowers a police officer to make an arrest without a court warrant of arrest when he has reasonable grounds to do so for a commission of a cognisable offence (which is an offence that has an immediate power of arrest), or for a non-cognisable offence (which is an offence that has no immediate power of arrest) when it is committed in the presence of such police officer.

5.12 Order 1 of the Force Standing Orders No. P.1 on Offences And Complaints Reported - Action By Police provides:

All Officers-in-Charge of Police Stations and departments within the Force, have the responsibility to ensure that:

- a) All offences and complaints are promptly attended to at the time they are received; and.

- b) That proper supervision is given to ensure the subsequent investigation is thoroughly and speedily completed.

5.13 The Commissioner of Police, in this case Mr Siba, delegated some his duties through these Orders to all OIC Police Stations and Sections. However, regular check ups and reviews are needed to ensure these Orders are being carried out properly and are viable. The Commissioner was not alone to supervise his officers, he had to assist him a Deputy Commissioner (Operation) Seule Takal, a Deputy Commissioner (Management Services) John Bill Ierongen, an Assistant Commissioner (Northern District) Holi Simon (who was based in Santo). The post of the Assistant Commissioner (Management Services) was left vacant for many months.

5.14 The police officer Mr Siba appointed as officer in charge of the general duties police unit in the Police District (Southern) jurisdiction was Superintendent Noel Tamata. The TAFEA and SHEFA Provinces come within this jurisdiction. Paunangisu Village comes within SHEFA Province. Officer Tamata's duties were provided under the Force Standing Orders No. B.11 (Duties of Officer Commanding Police District). Order 1 provides:

An officer Commanding Police District is responsible to the Commissioner of Police for the efficiency and well-being of all ranks under his command, the maintenance of security and public order and for the prevention, detection and prosecution of crime in his area.'

5.15 Mr Tamata poorly performed these duties given to him by the Commissioner of Police through this Order.

5.16 In summary these laws and the Orders issued by the Commissioner of Police basically require the police:

- a) to respond quickly and efficiently to civil disorder;
- b) to promptly follow up with inquiries, and,
- c) to arrest people suspected of committing crime.

6 FACTUAL BACKGROUND

**6.1 On 12/03/96 Chief X and his supporters appeared in court for damage caused to a cattle fence and injuries caused to cattle belonging to Chief Y. The court issued a Restraining Order on the defendants who were: X, A, B, C, D, E, F, G, H, I, and J
A copy of this Restraining Order is attached as Annex A to this report.**

- 6.2** It is very important to note that this restraining order authorises the Commissioner of Police or any police officer instructed by him to immediately take before the court any of the defendants mentioned in this Order for any breaches of these Orders.

Order number 4 of this Restraining Order provides:

That in the event of any breach of any of these Orders by all or any of the Defendants, a power of arrest shall attach so that the Plaintiffs may, without further recourse to the Court, advise the Police Department of the breach of the Order and the Police Commissioner or any police officer instructed by him shall immediately take the offending Defendants into custody and bring them before this Court.

There was no immediate action taken by the Police for repeated breaches of these Orders even though the Police was aware of them.

- 6.3** On 08/07/96 Chief Y rang the Vila Police station to request police assistance when Chief X and his supporters erected road blocks and released their cattle from their fences into the gardens to damage crops. The replies he got from the police were: **'MIFALA INO KAT TRUCK', 'MIFALA INO GAT FUEL', 'BOSS INO KAT'**. When he requested to know the identity of the policeman answering the phone the reply was **YU WANTEM SAVE BLONG WANEM, YU NO GAT BUSINESS LONG HEM.**
- 6.4** During this enquiry the Ombudsman discovered that this telephone call was made to the Police Station in the afternoon of 8/7/96 during the afternoon shift period. Sergeant Malachai George was in charge of the afternoon shift. The police did not immediately attend to this complaint. This complaint was not immediately recorded in the Vila Police Station record by Sergeant George but only done so on 03/11/96, nearly four months later. Failure to immediately record this complaint was a breach of the Police Standing Orders as discussed in paragraph 5.12 by Sergeant George. He never mentioned this telephone call to his superiors.
- 6.5** On 15/07/96 Chief Y called in to see Deputy Commissioner Ierongen. He reported damage being done to his gardens by the Chief X's cattle. This was the same complaint he reported to the Police Station by telephone on 08/07/96. Chief Y submitted a statement of complaint on the same day. One of the suspects he mentioned in his statement is Mr E who was the 6th defendant mentioned in the court Restraining Order. The police only interviewed Mr E on 07/03/97, eight months after the police became aware of the complaint.

- 6.6** On 05/08/96 Superintendent Willie Samuel led a team of police officers to provide security at Paunangisu Village during the Vaturisu Council of Chiefs meeting. The supporters of Chief X were harassing and abusing Chief Y during this meeting breaching the restraining order. It was a contempt of court but the complainant alleged that Superintendent Samuel failed to take appropriate actions to bring the people involved before the court.
- 6.7** On 06/08/96 the supporters of Chief X damaged a vehicle belonging to Mr K. It appears from reports received from the police that the supporters of Chief X and Chief Y were both involved in an incident that led to the damage of this vehicle. The supporters of Chief Y were travelling in this vehicle to inspect a road block erected by Chief X's supporters when it was damaged. The supporters of both chiefs were arrested.
- 6.8** On 15/08/96 the Tongoa people residing at Man Ples area in Vila went to Paunangisu Village at the request of Chief Y in order to provide security due to failure by the police to respond to his requests for police assistance. They became directly involved in committing criminal offences of damage to property, arson, unlawful entry, theft, threatening and abusive words.
- 6.9** On 31/08/96 the Police Public Relations Officer Chief Inspector Pakoa Samuel released a press statement. He said that the police could not interfere or get involved with the situation at Paunangisu Village and that the be handled by the chiefs. As a result some people left their homes and properties for safe places. When Chief Inspector Samuel was interviewed by the Ombudsman he said that he gave that press release verbally to Radio Vanuatu and the situation he was referring to was the customary settlement of the chiefly title.

He said speaking about the disturbances (ie.: frightened people running away from the village following some strong action and the dispute) that the Police could not interfere or involve themselves in this problem because it was a matter which was for the Chiefs to resolve. This press release is attached as Annex B of this report.

- 6.10** On 02/90/96, 6 months later the first problems, the Deputy Prime Minister Hon Donald Kalpokas summoned the Deputy Commissioner Ierongen to his office. Also present was the Minister of Home Affairs Hon Charley Nako. The Deputy PM raised his concern about the continuing unrest at Paunangisu Village. Deputy Commissioner

Ierongen left to visit Paunangisu Village and Takara immediately after this meeting where he met Chief X at Takara but did not meet Chief Y at his home when he called in see him.

- 6.11 On 03/09/96, after his visit to Takara and Paunangisu Village on 02/09/96, Deputy Commissioner Ierongen submitted a report to the Minister of Home Affairs reporting that 153 people had left Paunangisu Village and were now living at Takara, including a break-in into a store and VT 300.000 in cash stolen, theft of poultry and animals, a break-in into the Cooperative Store, and theft of garden crops. This report is attached as Annex C of this report.

- 6.12 On 04/09/96 at last an Operation Order for OPERATION PAUKARA was issued by the Commissioner of Police, Mr Luc Siba. The mission for this Operation Orders read:

"The Vanuatu Police Force is to provide full Security Coverage and full investigation in order to prevent further damages to the properties and Community of Paunangisu and Takara North Efate".

7 police personnel were deployed to Paunangisu Village on 6/9/96 to execute Operation Paukara. During this operation 15 case files were initiated for investigation. Only 9 case files were completed according to a memo sent by the Acting Commissioner of Police J.B Ierongen to Hon Minister of Home Affairs.

Operation Paukara was conducted from 06 - 08/09/96.

A copy of the Operation Orders for OPERATION PAUKARA is attached as Annex D and a copy of a memo from Mr Ierongen to the Minister of Home Affairs as Annex E of this report.

- 6.13 On 18/09/96 the following incidents occurred according to Superintendent Samuel Willie:

- (a) The supporters of Chief X entered the compound of Chief Y and damaged his house, properties and also assaulted his wife.
- (b) Superintendent Samuel Willie, then a Senior Inspector as OC Rural Police, left Vila for Paunangisu Village at 10.00 hrs to attend the incidents. He found 16 houses burnt down, a small shop looted and a large crowd gathered together with the purpose of taking the law into their own hands.

- (c) At 1145 hrs Superintendent Willie phoned Deputy Commissioner Ierongen and the Police Operation Centre to request re-enforcement, riot gears, radios and torchlight. The Deputy Commissioner was not available. There was also no one in the Operation Centre.
- (d) Acting Operation Officer Chief Inspector Knox Kalkaua was supposed to be on duty in the Operation Centre during this time but he was not available. He also did not make any arrangement for extra policemen to be on duty in the Operation Centre.
- (e) At 1340 hrs the Operation Officer Chief Inspector Kalkaua was finally contacted on the request for re-enforcement and equipment to be used. He made arrangements with the Commander of VMF to provide re-enforcement.
- (f) At 1400 hrs Captain Toara Fred of the VMF received instruction from the Commander of VMF to provide re-enforcement at Paunangisu Village.
- (g) Pangarisu is only 40 to 50 mns from Vila.
- (h) At 1845 hrs, almost 5 hours later, the VMF lorry with Captain Fred and about 25 VMF personnel arrived at Paunangisu Village at night but only with 3 torchlights! The Operation Room was contacted but no one was there. The VMF personnel were instructed to set up overnight camp but they refused due to non-payment of subsistence allowances. There was a total number of 34 members from the General Duties and VMF sections of the Force at that time but had to be withdrawn to Vila with no police presence at Paunangisu Village that night.

6.14 The explanation given by Captain Fred for the late arrival of the VMF members was that because it was a Wednesday and a normal police sport day so every one was in sport clothing before he received instruction to provide re-enforcement at Paunangisu Village. He said as an excuse that some VMF members could not change into uniforms very quickly because they live very far. The third factor was that the VMF members were complaining about non-payment of their outstanding allowances in which they stated that they would not participate in any police operation until their outstanding allowances were paid. These factors slowed down the preparation and departure of VMF to the Paunangisu Village.

- 6.15** These explanation given by Captain Fred cannot be accepted. The VMF has a 24 hours a day responsibility to maintain law and order which means that if they are called upon on a short notice at any hour of a day or night they must immediately respond. This meant that on the 18/09/96, even though they were in their sport clothing, they should have had that their uniforms immediately available to change into and most VMF live anyway on the camp premises. For non-payment of outstanding allowances, this cannot be also accepted as a reasonable excuse. During the time of this incident the VMF members were being paid on full salaries by the people of Vanuatu therefore, they expect the VMF to fully perform their responsibilities they were being paid for. They should have addressed their complaints to the people (Parliament) to get more money to pay for their outstanding allowances but not to victimise the people on the issue.
- 6.16** It is a normal operational procedure that when there is a police operation taking place the Operation Centre operates on a 24 hours basis until the completion of this operation. The Operation Officer Chief Inspector Kalkaua failed to ensure this was done when he left for lunch leaving noone in the Operation Centre during the lunch hours on 18/09/96. He also failed to get the required number of police officers to operate the Operation Centre on a 24 hour basis.
- 6.17** On 19/09/96 one group of police officers, led by Superintendent Samuel, went back to Paunangisu Village and at 1600 hrs and made 14 arrests.
- 6.18** There were no separate Operation Orders issued by the Commissioner of Police for the police operations into the 18/09/96 incidents at Paunangisu Village. These Orders, if issued, would have clearly set out a description of this operation including detail tasking, whom tasked, and a proper procedure to coordinate the operation. There should have been clear directions before the Police Force started such an operation.
- 6.19** On 24/04/97 Sergeant Malachai George was interviewed in the Ombudsman Office concerning a complaint of erection of roadblocks and release of cattle into gardens by Chief X's supporters. Chief Y said he reported this incident by phone to the police on 08/07/96 but the police did not immediately attend to it. Sergeant George said this telephone call was received in the afternoon when his shift was on duty in the Vila Police Station. By that time his superiors had already gone home as this phone call was made after working hours.

- 6.20** Sergeant George stated that it was true that this telephone call was received in the Vila Police Station on the 08/07/96 but it was not Chief Y who called but his wife. Sergeant George went on to say it was unfortunate that at that particular time there was no fuel in the duty vehicle which made it impossible to go to Paunangisu Village immediately. He told Mrs Cyril that when she came to Vila she was to call in at the Police Station to submit a statement of complaint. Chief Y submitted a statement of complaint on 15/07/96 to the police. The people involved have not appeared yet in court for contempt of Court because no copy of the Restraining Order was available at the time of our enquiry. The Court House did not have a copy either in their file. However since the beginning of our enquiry a copy has been located and been remitted to the Police. The Police failed to prosecute the people involved in breaches of this restraining order dated 12th March 1996. (see Annex A)
- 6.21** If prosecution had proceeded under this order of 12th March 1996, all the violent actions and destruction which occurred after this date would never have taken place as the people would have been remanded in custody and prevented from acting criminally. but they are likely to have been encouraged by the Police's lack of action

7 REPLIES RECEIVED AND COMMENTS BY OMBUDSMAN

7.1 Seule Takal's Reply (Annex F)

7.2 In his reply he stated that:

- The request for re-enforcement made to him by Chief Inspector Kalkaua was not clear on 18.09.96 because of communication breakdown between senior police officers involved. He said that he had already sent a small VMF team to Paunangisu Village in the morning. By that time the situation at Paunangisu Village had already calmed down.
- He did not give instruction for the issue of riot equipment because this would first need approval from the Commissioner before he could do so and that by that time the situation had already calmed down.
- The delay in the preparation and departure of VMF personnel to Paunangisu was the weakness of Captain Fred because he already tasked him the job to provide re-enforcement at Paunangisu Village.

- Information received in the Police Operation Centre were not relayed to responsible senior police officers in time due to communication break down.

Ombudsman's Comments

- 7.3 This reply cannot be accepted. Mr Takal was responsible for the overall efficient and effective operation of the VMF because he was the Commander, of the VMF, at that time. He cannot delegate this responsibility placed on him. It was his responsibility to ensure that the information the VMF received were clear before he tasked his officers. He was also responsible to ensure that his officers carried out their tasks.**

Mr Patu Lui (Annex G)

- 7.4 I do not have any comments to make as it is self explanatory as he states that he was not in the Office at the time.**

Mr Samuel Willie (Annex H)

- 7.5 In his reply he stated that:**

- He led a police patrol to Paunangisu Village on 05/08/96 to provide security during the Vaturisu Council of Chiefs meeting. There was no chief of the village that time so this meeting was convened to elect a chief. Chief X's group came to the nakamal at Paunangisu Village but refused to sit in the meeting together with Chief Y's group so he had to sent them away. He was not in possession of a copy of the court restraining order that time.
- The policemen (VMF included) who went to Paunangisu on 18/9/96 refused to stay overnight due to non-payments of their allowances. Captain Toara Fred was the only one to do so to monitor the situation because he is from Paunangisu Village. When they went back the next morning Captain Fred briefed them on the situation when they started making arrest.
- For the complaint that Chief Y reported on the 8/7/96, he was suspended from duty that time therefore, he could not be blamed for that.

Ombudsman's Comments

- 7.6 The only comment I will make is that on 18/9/96, it is sad to see that Messrs Willie and Fred could not control their men when their men refused their order and came to Vila instead of providing security overnight at Paunangisu Village.

Mr Peter Bong (Annex I)

- 7.7 However the new Police Commissioner who was not part of the Police Force at the time of the incident stated at the time of our Preliminary report in defence of the force inter alia that: *"The Vanuatu Police Force was going through a lot (sic) of internal problems which affected most of our operational units and the morale of our men". In addition the police took a more moderate and careful consideration in dealing with the PAUNANGISU UNREST because we believed the issue steamed from chiefly tittles and land disputes which we thought was a civil matter in the first instance "*

Ombudsman's Comments

- 7.8 Whilst Mr Bong was not personally involved in this matter as he was not part of the Police Force, I took his reply as the official statement from the Office of the Commissioner of Police on the matter. However this statement cannot be accepted as an excuse, because it would mean that the Police does not feel responsible for civil unrest if it involves chiefly matters, when it is their very duty to maintain law and order in society.

Mr Pakoa Samuel (Annex J)

- 7.9 In his reply he stated that the root of this unrest was the chiefly title of this village and the police news release he released meant that the chief must solve the root problem but it was not the role of the police to do so. Once this root problem is solved then criminal activities will cease.

Ombudsman Comment

- 7.10 Mr Samuel is the Police Force spokesman. His statement was inappropriate as it seemed to indicate that even if there was violence or people running away from the village i.e: total civil unrest, because it dealt with chiefly matters the Police would not do anything, allowing

rioting and potentially killings. He did not take enough care and should not have released such a statement as it could have and maybe has worsened the situation.

8 FINDINGS OF MISCONDUCT

MR SIBA - FORMER POLICE COMMISSIONER

FINDING No. 1: FORMER COMMISSIONER OF POLICE , MR SIBA, FAILED TO ENSURE THE ENFORCEMENT OF THE FUNCTIONS OF THE VANUATU POLICE FORCE AS PROVIDED UNDER S4(1) AND (2) OF THE POLICE ACT CAP 105 WERE BEING ENFORCED.

8.1 The former Commissioner of Police poorly enforced the legal functions of the Vanuatu Police Force. He cannot escape blame.

8.2. These functions are in themselves goals that the people entrusted the Vanuatu Police Force to achieve for the very purpose that law and order is maintained every day for the individual rights of people to be respected including the freedom of movement. The people of Vanuatu employed the Commissioner of Police and members of the Vanuatu Police Force to achieve these goals. They failed at Paunangisu village.

FINDING NO. 2: FORMER COMMISSIONER OF POLICE, MR SIBA, POORLY PERFORMED HIS LEGAL RESPONSIBILITIES PROVIDED UNDER SECTION 6 OF THE POLICE ACT.

8.3 As Commissioner of Police, he was responsible for the command, superintendence, and direction of the Vanuatu Police Force. These responsibilities were vested in him from the day he was appointed as the Commissioner of Police and he accepted them as his responsibilities.

8.4 Mr Siba cannot make any excuse to escape blame if the Police Force, whilst under his command, was not operating effectively and efficiently in order to achieve its goals. He had all the required support in trained personnel and also equipment available but he did not use them appropriately.

FINDING NO. 3: FORMER COMMISSIONER OF POLICE, MR SIBA, FAILED TO ENSURE THAT SENIOR OFFICERS HE APPOINTED UNDER SECTION 7 OF THE POLICE ACT WERE PERFORMING THEIR DUTIES EFFECTIVELY.

- 8.5 Mr Siba, as Commissioner of Police, appointed some senior officers as Officer in Charge of each police unit. By doing so he also delegated some of his duties. However, it appears that he never conducted any assessment on their work performance. He did not conduct appraisal interviews where weaknesses would have been discovered and remedial courses of action immediately taken.
- 8.6 On 18/09/96 the Police Operation Centre was poorly equipped to deal with the situation that arose at Paunangisu Village. There was a communication break down because the senior officer he appointed to take command of Operation Centre did not take his duties seriously. This officer left the Centre unattended, ignoring the actual police operation taking place at Paunangisu Village at that time and the Centre's operation procedures concerning the information or tasks received. He failed to pass on transmission of these information and tasks to appropriate senior police officers.
- 8.7 The senior officer he appointed as the then Officer Commanding Police District (Southern), Mr Noel Tamata, did not even take the situation seriously as he should showing slackness because he was always absent. Mr Tamata should have stayed in the office and be available to his men after he started this special operation "PAUKARA" so that he could issue further instructions to his officers if they faced any problems to monitor the incident. SHEFA Province came under his responsibility. Mr Siba did not check on Mr Tamata as to whether he was on duty or never on duty.
- 8.8 It appears that Mr Siba did not do regular checks with each officer in charge of each police unit to ensure that work plans and instructions existed for each unit to achieve Vanuatu Police Force goals.

FINDING NO.4: BREACH OF LEADERSHIP CODE, MR SIBA

- 8.9 Mr Siba has breached the Leadership Code in Chapter 10 of the Constitution. He has demeaned his Office as the Commissioner of Police and allowed his leadership and integrity to be called into question when the Vanuatu Police Force delayed its action to curb the unrest at Paunangisu Village. He was placed in command of the Police Force which is the supreme body in the enforcement of the laws. He failed to

some of the people involved in the commission of criminal offences on 18/9/96 would have already appeared in court before the 18/09/96 on previous allegations they were reported to the police for.

- 8.14 A Court restraining order had already issued on 12/03/96 against some of the people involved in the commission of criminal offences on 18/09/96. These orders were poorly enforced by Mr Siba, as the then Commissioner of Police, and by Messrs Ierongen and Takal, his Deputy Commissioners.

MESSRS SIBA, IERONGEN AND TAKAL

FINDING No.7: THE ISSUE OF NON-PAYMENT OF SUBSISTENCE ALLOWANCE TO MEMBERS OF THE POLICE FORCE WAS DEALT WITH UNPROFESSIONALLY

- 8.15 The VMF is not a separate Force but is a section within the structure of the Vanuatu Police Force. Mr Siba was the Commissioner of Police responsible for overall operation of the Vanuatu Police Force. Mr Ierongen was the Deputy Commissioner of Police responsible for management services and Mr Takal was the Deputy Commissioner of Police (Colonel) responsible for the daily control and administration of the VMF.
- 8.16 The entitlement for the payment of the subsistence allowance is provided under Chapter E Section 6 paragraph 601(1) of the Police General Orders which provides:

An officer travelling on duty within Vanuatu away from his designated permanent station will be eligible for Subsistence Allowance at the prevailing rate prescribed in Public Service Instruction. this allowance is payable only in respect of a night, which for this purpose will be regarded as running from 0001 hours until 0600 hours, spent away from his permanent duty station.

They failed to deal with the Police Force complaints of non payment of these allowances.

- 8.17 These subsistence allowance claims were made for approved official tours made by members of the Police Force but Messrs Siba, Ierongen and Takal failed to address the long delay in paying these outstanding allowances appropriately by talking to Force members, especially the VMF members, to explain to them as to what steps they had already taken or will be taken to settle the issue. By failing to do so, the issue affected the police operation to curb the unrest at Paunangisu Village.

MR NOEL TAMATA - FORMER OFFICER COMMANDING POLICE DISTRICT (SOUTHERN)

FINDING NO.8: FAILURE TO PERFORM THE DUTIES AND RESPONSIBILITIES VESTED ON HIM BY THE LAWS AND VANUATU POLICE FORCE STANDING ORDERS

- 8.18 As a senior officer appointed to take command of the Police District (Southern), which covers the SHEFA and TAFEA Provincial Councils regions, Mr Tamata failed to take this situation of unrest at Paunangisu Village seriously.
- 8.19 He failed to perform his duties issued to him by the Office of the Commissioner of Police through the Force Standing Orders No. B.11 (Duties Of Officer Commanding Police District). He was responsible to the Commissioner of Police for the maintenance of security and public order and for the prevention and detection of crime and the prosecution of offenders in the region of the SHEFA Province.
- 8.20 He failed to carry out his responsibilities as provided under s1 of Force Standing Orders No. P.1. (Offences And Complaints Reported - Action By Police) to ensure all offences and complaints are promptly attended to and to ensure proper supervision is given on their subsequent thorough and speedy investigation.
- 8.21 As the Operation Commander for OPERATION PAUKARA he was not always available for consultation and issuing of new instructions. As a result the mission of OPERATION PAUKARA, to provide full security and investigation in order to prevent further damage to properties, was not achieved.

MR KNOX KALKAUA - FORMER ACTING FORCE OPERATION OFFICER

FINDING NO.9: RESPONSIBLE FOR THE POOR OPERATION OF THE POLICE OPERATION CENTRE.

- 8.22 Mr Kalkaua failed to carry out the police operations at Paunangisu Village properly. As a result the Police Operation Centre was left unattended on the 18/9/96 during lunch hour when criminal activity was occurring. The operation of the Police Operation Centre is explained above at paragraph 6.12.

- 8.23 There was no proper coordination of police operations at Paunangisu Village by the Police Operation Centre. The Police Operation Orders for OPERATION PAUKARA on the police operations into the unrest at Paunangisu Village was only prepared by the Operation Centre after Deputy Prime Minister Hon Donald Kalpokas raised his concern in his office with Deputy Commissioner Ierongen on 2/9/96. Had the Deputy Prime Minister not raised his concern no immediate police actions would have been taken.
- 8.24 The Operation Centre should have prepared further Operation Orders for the operation the police carried out on 18/09/96 when the houses were burnt down. These Orders would have issued detail tasking to each police officer and coordination system of the operation as each police officer would know who was doing what particular task. As acting Operation Officer he failed to initiate this.
- 8.25 Before police officers went on a police operation it was the responsibility of the Operation Centre to ensure that rations, transport, torchlight, radios, fund, accommodation, etc., were provided before they left for the area of operation. Chief Inspector Kalkaua failed to address these matters before the police officers left for unhappy Village on 18/09/96 (they had only 3 torches).

MR PAKOA SAMUEL POLICE PUBLIC RELATION OFFICER

FINDING NO.10: RELEASE OF A CONFUSED MEDIA RELEASE.

- 8.26 On 31/08/96 a news item came on Radio Vanuatu in Bislama where Chief Z of Takara Village voiced his concern on the unrest at Paunangisu Village. It also contained a police response on its side of the story that was released by Chief Inspector Samuel saying *"..polis i no save intafia or involv long ol problem olsem we i wan matta we i stap long level blong ol jif nao blong solvem"*.
- 8.27 This press release was too general. Mr Samuel should have issued a clearer release than this by saying that the issue as to who was entitled to a chiefly title was a matter for the chiefs to deal with but not the police. However when anyone commits any criminal acts as a result of this that they will be dealt with by the police.

- 8.28 After the release of this press release people took the law into their own hands at Paunangisu Village by committing criminal offences of damage to property, arson, unlawful entry into property, theft, threatening and abusive language.

9 RECOMMENDATIONS

Recommendation No. 1

9.1 Mr Luc Siba.

Mr Siba resigned from the Vanuatu Police Force on 14/02/97 therefore, I recommend that he should never be appointed again to a senior post in any of the Vanuatu Government Departments or Government Statutory Bodies because that:

- a) His actions indicated that he lacks management skills and had some previous criminal convictions. He did not appreciate the responsibilities and accountability placed on him when he was the Commissioner of Police.
- b) Mr Siba failed to seek extra funds to manage his funds in such a way as to enable him to pay for the outstanding allowances claimed by members of the Vanuatu Police Force.

Recommendation No. 2

9.2 Mr John Bill Ierongen.

- a) He is the Deputy Commissioner of Police, and as an immediate assistant to Mr Siba. He was directly responsible to Mr Siba for all management of services of the Vanuatu Police Force. He showed lack of commitment and judgement where as a result the incidents, which are the subject to this report, occurred. There were no follow-up of instruction he issued.
- b) He should be reprimanded for his actions or his lack of actions and sense of responsibility and his legal breaches of his duties as outlined above.

Recommendation No. 3

9.3 Mr Seule Takal

- a) He is the Deputy Commissioner of Police and an immediate assistant to Mr Siba. He was directly responsible to Mr Siba for the daily operation of the Vanuatu Mobile Force. He also showed lack of commitment, judgment and accountability. The delayed action by the VMF at Paunangisu Village happened due to his lack of managerial skill as the then Commander, VMF. There no follow-up of instructions issued.**
- b) The non-payment of outstanding allowances for the members of the VMF was delayed to long. He never made any effort to settle this issue even though every year he prepared the budget for the VMF.**
- c) He must also be held responsible for the delayed VMF action to curb unrest at Paunangisu Village, and he should be reprimanded for all the breaches outlined above.**

Recommendation No. 4

9.4 Mr Noel Tamata

- a) He must also be held responsible for the police delayed action to curb unrest at Paunangisu Village because he showed total lack of supervision, commitment, direction, and firm decision. The Paunangisu Village comes within his areas of responsibility but he did not take the matter seriously, which is a disciplinary offence.**
- b) He must also be held responsible for the police delayed action and :**
 - not be appointed to the post of Officer Commanding Police District (Southern) again and,**
 - face disciplinary charges in that he poorly performed the duties and responsibilities vested on him.**

Recommendation No. 5

9.5 Mr Knox Kalkaua

- a) Mr Kalkaua has since left the Vanuatu Police Force however, he must also be held responsible for the delayed police action subject**

to this report. As the senior police officer and acting Operation Officer he poorly performed his duties in the Police Operation Centre.

- b) This delayed police action affected the integrity and confidence on the Vanuatu Government therefore, he should not be re-appointed to a post in the Vanuatu Government again without careful consideration by the authorities.

Recommendation No. 6

9.6 Mr Pakoa Samuel

- a) As the Police Force spokesman he issued press statement on behalf of the Commissioner of Police. He failed to ensure that the press statement he issued on this issue was clear and could not be confused before he issued it.
- b) He must be reprimanded for his action.

Recommendation No. 7

- 9.7 The Police members must give their names and numbers where they are being asked. It is contrary to their orders not to answer or to be arrogant about it. Such incidents should be reported to the Police Commissioner. As indicated in 6.4, Sergeant Malachai George appears to have been in charge of the shift when Chief Y received an arrogant and negative answer to give the policemen's name.

The Commissioner of Police should remind all his force their general duties and especially never to refuse to give their names.

Recommendation No. 8

- 9.8 The Chairman and members of the Police Service Commission must review the police operations on these incidents and immediately take disciplinary actions against senior officers involved.
- 9.9 All members of the Vanuatu Police Force must draw lessons on these examples of gross negligence and inefficiency in order that they are not repeated.

The general public expect proper protection of the law but when the police does not provide this service no excuse can be expected from the police.

- 9.10 All members of the Vanuatu Police Force must review their attitude and thinking process towards their duties in order to achieve the police objectives as provided under the Police Act. These are their daily responsibilities.**

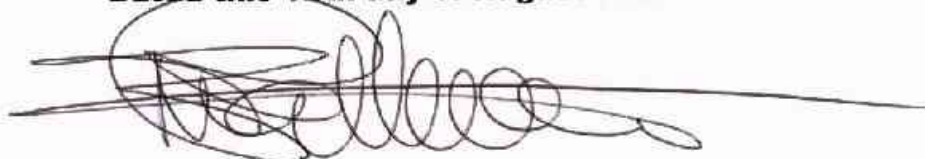
10 CONCLUSION

- 10.1 In accordance with art 63(4) of the Constitution and s23 of the Ombudsman's Act No.14 of 1995, I am forwarding a copy of this report to the President of the Republic of Vanuatu, the Prime Minister, and the Minister of Home Affairs responsible for the Vanuatu Police Force and relevant public authorities. According to the Constitution, their duty is to "decide upon the findings of the Ombudsman within a reasonable time and the decisions with reasons, shall be given to the complaint forthwith".**

I therefore request all the appropriate authorities to decide upon these findings within 21 days upon the date of receipt of this report:

- His Excellency the President of the Republic of Vanuatu**
- Honourable Prime Minister**
- Honourable Minister of Home Affairs**
- The Chairman of the Police Service Commission**
- The Commissioner of Police**

Dated this 12th day of August 1997.



Marie-Noëlle Ferrieux PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU

11 ANNEXES

Annex A	-	Court Restraining Order issued on 12/03/96
Annex B	-	Police Press Release
Annex C	-	Mr Ierongen's letter of 03/09/96, after his visit to Paunangisu Village to Mr Nako
Annex D	-	Operation Orders for OPERATION PAUKARA
Annex E	-	Mr Ierongen's letter of 19/09/96 on the Police operations at Paunangisu Village
Annex F	-	Mr Seule Takal's reply
Annex G	-	Mr Patu Lui's reply
Annex H	-	Mr Samuel Willie's reply
Annex I	-	Mr Peter Bong's reply
Annex J	-	Mr Pakoa Samuel's reply

ANNEX A

IN THE MATTER OF: A RESTRAINING ORDER ON BEHALF OF
[REDACTED]

BETWEEN:

[REDACTED] & [REDACTED] v. [REDACTED]
[REDACTED]

Plaintiffs

AND:

[REDACTED]
of Paunagisu Village, North Efate.

1st Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

2nd Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

3rd Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

4th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

5th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

6th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

7th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

8th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

9th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

10th Defendant

AND:

[REDACTED]
of Paunagisu Village, North Efate.

11th Defendant

ORDERS

Upon the usual undertaking as to damages given by counsel for the Plaintiffs for and on behalf of her clients, and UPON hearing Ms. Stacy Lei Cowell, Counsel for the Plaintiffs and UPON reading the Affidavit of Stacy Lei Cowell sworn and filed herein it is hereby ordered as follows:-

1. That the above-named Defendants be and are hereby restrained from threatening, harassing, insulting or abusing the Plaintiffs, the Plaintiffs family, and/or the Plaintiffs staff, in any way whatsoever including verbally and physically and that the Defendants be and are hereby restrained until further order from communicating directly with the Plaintiffs or their family at all.
2. That the Defendants be and are hereby restrained from entering onto the Nagar Resort property and/or any other real property or belonging to the Plaintiffs.
3. That the Defendants be and are hereby restrained from touching, tampering, or interfering with in any way, the personal property of the Plaintiffs and their family or the property of Nagar Resort.
4. That in the event of any breach of any of these Orders by all or any of the Defendants, a power of arrest shall attach so that the Plaintiffs may, without further recourse to the Court, advise the Police Department of the breach of the Order and the Police Commissioner or any police officer instructed by him shall immediately take the offending Defendants into custody and bring them before this Court.
5. That copies of these orders, the Exparte Summons and the Originating Summons and the Affidavits filed herein be served upon all named Defendants as soon as possible.
6. That there be liberty to apply on two (2) days notice.
7. That the costs of this application be reserved.

Dated this day of 1996.

BY ORDER TO THE COURT

Magistrate

Q505-12

Ombudsman's Note

The Ombudsman Office has a copy of this Order that was duly signed by the Magistrate On 12/3/96, however, it was not clear to read. There is no copy in any Court House file or a readable copy from the lawyer for the defendants.

ol nius. Bis. [REDACTED]. Orig. 31/08/96

Tede plande pipol blong Paunagisu vilij, oli ronwei long
ol propati blong olketa long vilij, folem sam strong aksen we i stap
happen long vilij ia, from ol rao rao ova long jifly nem ia
Manlaewia we [REDACTED] i tekem i stap tede....
Jif blong Takara, Jif [REDACTED] i ripotem long Radio Vanuatu se hem i
no glad long sam aksen we i stap tekem ples long vilij ia tede,
we i givim fraet long plande family mo oli ronwei i go stap liv
long ol difren vilij long North blong Efate.
Jif [REDACTED] i stap claim tu se sam sapota blong jif [REDACTED] we oli
long ol difren seelan oli stap go involv long ol kasen ia. Mo hemi
askem [REDACTED] blong lukluk blong stretem ol problem ia kwiktaem.
Hemi stap claim tu se ol pipol ia i stil long samfala sto mo
cooperatif blong vilij, pig mo faol.
Hemi talem tu se sapos ol polis i save help.
Toktok wetem pablik rilesen ofisa blong polis, Senia inspekta
Pakoe Samuel i talem se polis i no save intafia or involv long ol
problem olsem we i wan matta we i stap long level blong ol jif nao
blong solvem.

Command Sigs

Operation Paukara is to be commanded and controlled by OCPD{S} at the Force Operation Centre.

All matters related to this Operation are to be directly reported to the Operation Centre for his decision and recommendation into the Operation.



A. J. Usamoli
Chief Inspector
Force Operation Officer
for Commissioner of Police.

Distribution List.

OCPD{S}
OC CID
SO Ops VMF
Transport Officer
Comms. Officer
FAO
FOO

For Info:

Commissioner of Police
DCP
Commander VMF

FAX : (678) 25315
TELEX : (0771) 1127 VPF NOC
TELEPHONE : (678) 22222



ANNEX C
Vanuatu Police Headquarters

Private Mail Bag 014
Port Vila
VANUATU

REPUBLIC OF VANUATU

Your Reference

Our Reference 20/01/01

Date 03 September 1996

Honourable Charly NAKO
Minister of Home Affairs
Port Vila.

POLICE INVESTIGATION - CHIEF KALARONGO MARIBOBONGI
TAKARA NORTH EAST EFATE

Followem Meeting blong Deputy Prime Minister mo you mo mi Deputy Commissioner long Office blong Prime Minister long Monday 2nd September, 1996 long 10.00hrs hemia now short report.

Deputy Prime Minister hemi askem yu mo Police blong you mi look long assistance long problem blong Chief [REDACTED] we hem mo people blong hem oli bin out long Paunagisu Village.

Followem meeting blong mi witem Chief [REDACTED] long Takara Village long Monday 2nd September, 1996 long 15.30hrs (3.30pm) Chief hemi report se :-

- a) Ikat 153 people blong hem we oli out long Paunagisu now oli live olsem squatters long Takara witem Chief [REDACTED].
- b) Ikat Brake in long Store blong [REDACTED] mo some money kasem VT 300 ,000 oli stealem.
- c) Ikat steal blong Chicken, Pig mo killing blong Buttuck blong ol people blong hem.
- d) Ikat Brake In long Cooperative mo stealing mo ikat damage long olketa samting.
- e) Ikat stealing long Garden.

Mi talem long Chief se bae Police hemi go blong takem statement mo tu takem hem mo olketa people iko long Paunagisu blong oli look property blong olketa mo reportem long Police.

Chief hemi se hem mo people blong hem oli wantem go back be oli fright long olketa man Tongoa we Chief [REDACTED] hemi takem olketa iko.

Bae Police hemi go blong takem talk talk blong olketa Families concern mo makem report.

Mi go blong look Chief [REDACTED] be hemi no stap.

Hemia nomo short report followem Meeting blong Deputy Prime Minister mo yumi.

Thank you.


J.B. IERONGE
DEPUTY COMMISSIONER OF POLICE



cc : 1st Secretary Prime Minister's Office.

VANUATU POLICE FORCE

OPERATION PAUKARA

**SECURITY COVERAGE AND INVESTIGATION ON ALL REPORTS
AT PAUNANGISU - NORTH EFATE.**

SITUATION

1. A meeting was held on Monday the 2nd of September by the Deputy Prime Minister requesting immediate Police Investigation into the matter between the both Chief of Paunangisu ie. Chief [REDACTED] and Chief [REDACTED].

MISSION

2. The Vanuatu Police Force is to provide full Security Coverage and full investigation in order to prevent further damage to the properties and Community of Paunangisu and Takara North Efate.

Execution

General Outline

This Operation will be conducted over a three day period commencing 060800 Hrs 96 and to be completed by 080800 Hrs. 96.

Groupings and Taskings.

SOUTHERN POLICE DISTRICT

Provide 3 Men for Security and further investigation at Paunangisu Village North Efate.

CID

Provide 3 Men for Security and further investigation at Paunangisu Village North Efate.

VMF

Provide 1x Radio Operator to the AO Paunangisu Village North Efate.

Provide 1x Generator for lightings and battery Charger for Radios.

Provide 1x Ten Man Tent.

TRANSPORT OFFICER

Provide 1x TCV drop Off/and pick-up.

Provide 1x Spare Jerry Can and Fuel.

Provide 1x Hilux for Base Transport.

COMMUNICATION OFFICER

Provide 1x Base Radio to communicate with the Ops Room.

Provide 6x Hand held Radios.

Provide 1x Battery Charger.

DATE/ TIMINGS

Operation Room is to be actively Monitoring the Area of Operation commencing 060800 Hrs. 96.

Investigation Squad is to be fully prepared and ready to be deployed by not later than 060800 Hrs. 96.

Investigation Squad is to be fully prepared and ready to be re-deployed by not later than 080800 Hrs 96.

Coordinating Conference at 1500 Hrs. 05/09/96.

ADMINISTRATION / LOGISTIC

A three days ration including 1xCook provided by the Catering Wing of the Vanuatu Police Force.

Private belongings is requested including allowance Forms to be filled at AO.

FAX : (678) 25315
TELEX : (771) 1127 VPF NOC
TELEPHONE : (678) 22222 - Ext. : 222



REPUBLIC OF VANUATU

ANNEX E
VANUATU POLICE FORCE

Private Mail Bag 014
Port Vila
VANUATU

To: Hon Minister of Home Affairs
Ministry of Home Affairs
PORT VILA

Your Reference :

Our Reference : 01/07/02

Date : 19 September 19

Dear Sir

POLICE OPERATION IN PAUNAGISU VILLAGE INCIDENTS

This memo serves as a brief on police actions taken into the investigation into the incidents which happened between two groups of people in the Paunagisu Village on North Efate.

The team of 7 police officers left for Paunagisu Village on Friday 6 September 1996 arriving at the village at 1130hrs the same day. Investigation was carried out where statements were obtained from Chief [REDACTED] and other witnesses and complainant who are now temporarily residing at Takara area after being chased out of the Paunagisu Village by Chief [REDACTED] and his people.

During this investigation Chief [REDACTED] refused to permit his group of people to be interviewed by the police with his reason being that this matter is a customarily affairs. It was explained to him that the dispute between him and his group of people and Chief [REDACTED] and his people on the chiefly title is a customarily matter in which the police cannot interfere but when criminal offences are committed as a result of this dispute, that is when the police become involved. After this explanation he agreed to submit his statement together with his group of people.

After this investigation cases files were opened for the following offences:

a)	Unlawful entry and theft	-	10 cases
b)	Damage to property	-	7 cases
c)	intentional assault	-	4 cases
d)	Threatening	-	2 cases
e)	Maltreatment to animal	-	2 cases

This police team returned to Vila on 10 September 1996 after completing 9 case files. The outstanding case files will be completed when another investigation team is arranged to go to North Efate again.

The similar incidents will continue to occur until when this chiefly title is resolved by all parties involved. It is now a matter for all responsible leaders to seriously appreciate the situation and find ways to resolve it.

(J.B. IERONGEN)
Acting Commissioner of Police



cc: Hon. Prime Minister
: Hon. Deputy Prime Minister

REPUBLIC OF VANUATU
STATEMENT OF WITNESS

ANNEX F.

DEPARTMENT: **POLICE**


DATE: **24.06.97** PLACE: **OFFICE OF THE OMBUDSMAN** TIME: **15.15 hrs**

NAME: **SEULE** SURNAME: **TAKAL**

DATE OF BIRTH: 22/4/53 NATIONALITY: **NI-VANUATU**

OCCUPATION: **POLICE OFFICER** STATEMENT IN: **ENGLISH**

I hereby declare that my statement is true to the best of my knowledge and belief, and is made by me knowing that I am liable to be prosecuted criminally if I wilfully give information that I know to be false or do not believe to be true.

Signed: 

I am making this statement concerning the Preliminary Report on the Delayed Action by the Police to Curb the Unrest at Paunangisu village.

I am referring to paragraph 16.13 of this Report.

- e) Chief Inspector Kalkaua telephoned me and requested re-enforcement. He did not clarify what sort of re-enforcement. To me this was for man-power and for the VMF re-enforced the VMF personnel who were already sent to Paunangisu village on 18.09.96 in the morning. This VMF team went before the general duties police.
- f) I spoke to Captain Toara Fred because he was the Officer Commanding Special Services Company (OC SSCOY), and told him of a request for re-enforcement at Paunangisu village. The tasking I gave Capt. Fred were:
 - i) Collect the available VMF Personnel.
 - ii) Arrange for transport for extra VMF personnel and people to be arrested
 - iii) Issue of torchlight and truncheon.


No other equipment (riot equipment) were issued because I will have to obtain the approval of the Commissioner of Police. At that time the situation at Paunangisu had already calmed down.

- iv) Arrest the ring leaders.
- g) The Breakdown of communications was the factor. There were two VMF Groups that went to Paunangisu on 18/9/96. One went in the morning and another in the afternoon. Tasking sent from the Police Operation Centre to the VMF Headquarters were not clear as they were only made by phone calls. In addition to that the situation at Paunangisu had already calmed down. I never gave instruction for the VMF to set up camp overnight.

- h) First and second factors were the weaknesses of Captain Toara as OC SSCOY. I already gave the tasking to him and he should carry out my instructions. Captain Toara also had some Senior Officers under his command to chase up the VMF personnel into uniform and departure for Paunangisu. I told Captain Fred and VMF personnel that went to Paunangisu that should they stay overnight they will be paid their night allowances for attending this particular incident.

Information received were not relayed to the responsible people in time due to communication break down. We already had a VMF team of 6 at Paunangisu that time.

The order to arrest was never give by Superintendent S. Willie and Captain Toara Fred. Their men were waiting for this order. By this time the houses were already burnt down.

Signed:  (S. Willie)

I have read the above statement and have been able to correct, add, or alter anything I want. This statement is true.

Signed:  (S. Willie) Date: 27/06/97

Received by:

ANNEX G.

Vanuatu Police Headquarters

Private Mail Bag 014
Port Vila
VANUATU



REPUBLIC OF VANUATU

Your Reference

Our Reference 01/02/36

Date 09 June 1997

Mrs Marie Noelle Ferrieux PATTERSON
Ombudsman of the Republic of Vanuatu
P.O.Box 126
PORT VILA
Vanuatu

Dear Madame,

MY RESPOND ON YOUR LETER DATED 14 MAY 1997 AND 4 JUNE 1997

I refer the above subject matter as Acting Deputy Commissioner of Police Management Services as from 13th November 1996, I have no comments and response to make.

I was not in the office at that time when the complaint was made. Should you need further respond on this issue they be directed to those mentioned in your report as most of them are now on suspension after the issue of the VMF stand down claims.

Yours faithfully

Patu Navoko LUI
Acting Deputy Commissioner Management Services



Superintendent Willie Samuel
PMB 014
Port Vila

RECEIVED
(6.6.97)

ANNEX H.

1/3

OCPD (Southern)

Telephone (678) 22222
Fax (678) 22800

FROM: OFFICER COMMANDING POLICE DISTRICT SOUTHERN

TO: P THE OMBUDSMAN
VANUATU

23/5/1997

SUBJECT: COMMENT ON PRELIMINARY REPORT ABOUT PAUNAGISU VILLAGE

Mi been read through long Preliminary report about action blong police long Paunagisu case and mi like comment long some area consenem me. Mi been mekem wan statement finis follem order blong yu.

Mi wantem clearem ol area ia:

QARA/6.6

Long 5th August 96 mi been lidim wan patrol i go long Paunagisu Village blong providem security long wan meeting betwen vaturisu council of chief mo groub blong [redacted] mo [redacted].

Long team ia ino kat chief yet long village ia and oli stap toktok blong putum-up new chief. Long Makamal blong Paunagisu Village groub blong [redacted] oli kam mo no agree blong meeting together mekem mi sandem out olga ta. Emi clear that sepos oli no agree blong meeting together mekem mi santem out nara party and groub blong [redacted] wetem ol chiefs blong Vaturisu oli go head long meeting kasem end.

2078/6.7

Long 6th August 1996 ples ia yu talem se ol supporters blong [redacted] oli go blong inspectem road block created by groub blong [redacted] long damage mo assault hami take ples.

Long ples ia after long investigation nifala i finem out se groub long [redacted] we oli stap long vila nao oli go damage mo assaultem groub blong [redacted] inclutem [redacted] fastem. Truck hami damage mo assault hami taken ples them groub blong [redacted] we oli out long Vila mo go assaultem

3/...



Superintendent Willie Samuel
PMB 014
Port Vila

OCPD (Southern)

Telephone (678) 22222
Fax (678) 22800

2

23/5/1997

COMMENT ON PRELIMINARY REPORT ABOUT PAUNAGISU VILLAGE

groub blong [REDACTED] oli stap kam back long Vila mo fas long road block we groub blong [REDACTED] i setem-up istap.

PARA/6.13 (g) Long ples ia yu talem se i nokat any police i stap bihaen over long night.

Taem ol officers under long mifala oli refuse blong sleep from non payment of allowance then mifala i withdraw mo livim chief Inspector Toara Fred i stap blong monitorem movement blong ol man long Paunagisu from hemi man plas ia and emi save gud ol people mo area. Long next day blong hem chief Inspector Toara nao hemi briefem mifala long situation then mifala i just karem out arrest.

PARA/7.4 (a) Mi never karem wan copy blong restraining order we yu stap tok about. Emi tru we mi bean sentem out groub blong [REDACTED] long 5/7/96. Mi wok planti wotem ol people blong rural areas and bae yu no save talem se abituwe hemi olsem ol man blong town.

Most people long rural area oli no educated and blong deal wotem olgate yu must go down long level blong olgate blong oli understansem yu. Every Island oli ket custom and way blong solvem ol problems and taem mi stap lukoutem rural areas, most long ol simble cases mi handem over igo long ol chief blong deal wotem and oli solvem.

Before i nokat chief long Paunagisu but today i ket chief we hemi Manilewia.

Mi ting chief hemi should usum power or custom ways blong hem blong solvem ol problems long village blong hem.

Mi no minim se police i no wantem deal wotem ol cases blong hem but blong become wan high

3/...



Superintendent Willie Samuel
PMB 014
Port Vila

OCPD (Southern)

Telephone (678) 22222
Fax (678) 22800

3

23/5/1997

chief yu must save solvem ol problems blong
ol people blong yu.

Sapose police i deal wetem every problem blong
wan village then hemi no givim change long
chief blong exercisem power or title blong
hem. Long semtaem bae people oli no kat respect
or trust long chief mo community leaders.

PARA/7.4 (b) Long case blong 8/7/96 mi no been save long
hem from mi been stap long suspension and oli
putem mikam back long wok blong deal wetem
case blong [REDACTED] and mi no wok olsem
officer commanding police stations (rural)
long taem ia.

Emia nomo ol clearifications we mi save mekem
long participation long case blong Paunagisu.
Sapose yu nidim more clarification bae mi assist
long hem follem request blong yu.

Thank you long co-operation mo understanding.



Samuel
Superintendent
Officer Commanding Police District Southern



ANNEX I

OFFICE OF THE POLICE COMMISSIONER
PMB 014, PORT VILA

Telephone: (678) 22 222

Fax: (678) 22 800

REPUBLIC OF VANUATU

Marie Noelle FERREUX PATTERSON
OMBUDSMAN OF THE REPUBLIC OF VANUATU
Office of the Ombudsman
P.O.Box 126
PORT VILA
Vanuatu

In reply please quote 01/02/36
Date 12 June 1997

Dear Madame,

Re: PRELIMINARY REPORT ON DELAYED ACTION BY THE POLICE TO
CURB UNREST AT PAUNANGISU VILLAGE.

I refer to your letter of 04 June 1997, on the above matter.

While I do appreciate some of the facts mentioned in your preliminary report, I wish to state that at the time of the uprising at Paunangisu Village. The Vanuatu Police Force was going through a lot of internal problems which affected most of our operational units and the morale of our men.

In addition the Police took a more moderate and careful consideration in dealing with the PAUNANGISU UNREST because we believed the issue stemmed from chiefly titles and land disputes which we thought was a civil matter in the first instance.

Anyway we took the impression that it is now well over seven months since the incident took place, and that we have identified our weaknesses and failures at that time. May I assure you that in future we will try to concentrate on proactive action or policing and that this issue should no longer be bothering either your high office or the Police Department.

In the process of improving the efficiency and a more reliable Police Force, I have included in the recent Police Review a position for a permanent Legal Officer in the Force to attend to such situations in this issue.

I hope I have made my position clear to you in this issue and that you will bear with me in my effort to bringing back the Vanuatu Police Force to the standard in which the Public requires of them.

In conclusion, I understand that you have the legal authority to publish any final report of your enquires. However having explained the whole situation pertaining to THE PAUNANGISU UNREST, I do hope that you are now well aware of the situation and that you will no longer be considering publishing the final report on the matter.

Thank you for your attention.

Yours Faithfully,

Peter Bong
(Peter BONG)
Acting Commissioner of Police



There has been a tendency for Chief to call in the Police to deal with matters similar to the Paunagisu situation. The root of the problem here is the Chiefly Title of this village. The Criminal acts are just the side effects of the problem (Chiefly Title)

The Police cannot solve the Chiefly Title problem as it is a matter for the Chiefs to sort out.

If the root problem cannot be solved by the Chiefs then all its side effects (Criminal acts) will continue.

Therefore what I meant was for the Chiefs to solve the root problem. (the Chiefly Title)

~~The Police cannot solve the Chiefly Title.~~

If the Chiefly title is solved then all other problems (Criminal acts) will cease.

Thank you

Paul
(Paka Samu)