

**REPUBLIC OF VANUATU
OFFICE OF THE OMBUDSMAN**

**PMB 9081
Port Vila
Vanuatu**

**PUBLIC REPORT
ON THE
LOSS OF OCCURRENCE BOOK
USED DURING POLICE OPERATION
KLINIM NOT 2000**

1072/2003/04

21 March 2003

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SUMMARY

This report shows the failure of Police in safeguarding the occurrence book used during the Police operation "Klinim Not 2000". The occurrence book is a book use by Police to record names of suspects and complaints brought before them. The book is very important as it contain names of law breakers and most of all it was mandated by law to end up at the Police Commissioner after an operation. Though Police Officers may often choose to ignore certain simple matters at times as less important with no cause, for the occurrence book, its welfare is recognised and protected by law as per section 7 (4) of the Police Act CAO 105.

The occurrence book was discovered lost when an investigation into Police unlawful action is being conducted. The Ombudsman was unable to continue his investigation thereafter because of lack of information contained in the occurrence book.

The Ombudsman finds evidence that the Officer in charge of the operation, Police Superintendent Erick Pakoa, failed to safeguard the occurrence book. The Ombudsman recommends that the Police Commissioner issue a warning and reminder to all Senior Police Officers including Erick Pakoa to be more careful when dealing with the occurrence book.

1. JURISDICTION

- 1.1 The Constitution and the Ombudsman Act allow the Ombudsman to look into the conduct of government, related bodies and government employees. This includes the Police Department and Police Superintendent Erick Pakoa who is implicated in this report.

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution and the Ombudsman Act.
- 2.2 The scope of the investigation had been to establish facts about the occurrence book used during the Police Operation Klinim Not 2000 which was found missing when investigations of various alleged unlawful Police actions during the operation were being conducted in Santo. The Ombudsman was unable to continue his investigation after the police informed this office that either the occurrence book went missing or had been misplaced.
- 2.3 This Office collects information and documents by informal request, letters, and research.

3. RELEVANT LAWS, REGULATIONS AND RULES

3.1 POLICE ACT CAP 105

OFFICER IN CHARGE OF POLICE

7. (1) The command and control of any particular unit of the Force in any place shall be vested in such member as may be appointed by the Commissioner to be in charge thereof. Any member so appointed shall be an officer in charge of police for the purposes of this act.
- (4) Every officer in charge of police shall keep such books and records and shall render such returns as the Commissioner may from time to time direct.

4. OUTLINE OF EVENTS

- 4.1 On 24/11/00, a complaint was lodged with this office claiming that a group of Police Officers within the Operation Klinim Not 2000, under the command of Police Officer Tarimas John, arrested a group of people and kept them in custody from 17/01/00 to 19/01/00. The complaint stated that the arrest was without warrant and the offenders were kept in custody for more than 48 hours.

During the course of the enquiry, this office tried to locate the occurrence book to verify the action and confirm it with the Police but without success.

- 4.2 On 7/8/01, in an interview with this office, Chief Inspector Robert Boe of Santo Police explained that the Police Officer in charge of the operation, Superintendent Erick Pakoa authorised the occurrence book used during the Operation Klinim Not 2000 to be transferred to Vila (see **Appendix A**).
- 4.3 On 22/01/02, Superintendent Pakoa in a telephone conversation with this office said that the occurrence book is with Santo Police and this office should check with Chief Inspector Robert Boe (See **Appendix B**).

- 4.4 On 25/04/02, the Ombudsman contacted Chief Inspector Robert Boe following the information of Superintendent Erick Pakoa and was told that the occurrence book is at the VMF barracks in Santo and contact should be made with Warrant Officer Jimmy Silas (see **Appendix C**).
- 4.5 On 16/5/02, we interviewed Warrant Officer Jimmy Silas and he informed that he had no knowledge of the occurrence book (see **Appendix D**).
- 4.6 On 30/8/02, we made another contact with VMF barracks in Santo via telephone and spoke to Mawa and Jara who were officers in charge of clerical. They advised that there is no sight of the occurrence book at VMF camp in Santo.

5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM

- 5.1 Before starting this enquiry, the Ombudsman notified all people or bodies complained of and gave them the right to reply. Also a working paper was provided prior to this public report to give another opportunity to respond. Of the individuals, only VMF clerical officers, Mr. Mawa Robert & Jara Simon and Warrant Officer Jimmy Silas responded. They mention of having no comments concerning this report.

6. FINDINGS

- 6.1 **Finding 1:** **Police Officer Superintendent Erick Pakoa may have breached section 7(4) of the Police Act CAP 105 when he failed to safeguard the occurrence book.**

Under section 7(4) of the Police Act, every officer in charge of a police unit like the Operation Klinim Not 2000, are entitled to keep record of books, other records and shall return it as the Commissioner of Police may direct from time to time.

7. RECOMMENDATIONS

- 7.1 **Recommendation 1:** The Commissioner of Police issue a warning and remind either in writing or orally to all Senior Police Officers in charge of operations or normal duties, citing section 7(4) of the Police Act CAP 105 and asking them to be more serious when dealing with occurrence book.
- 7.2 **Recommendation 2:** The Commissioner of Police issue a separate notice either in writing or orally to Superintendent Erick Pakoa pointing out his contract in this report noting his breach of section 7(4) of the Police Act advising him to be more careful with the occurrence book next time. If he fails, he will be subject to disciplinary action.

Dated the 21st day of March 2003.



Hannington G ALATOA
OMBUDSMAN OF THE REPUBLIC OF VANUATU

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- A. Note on interview conducted with Chief Inspector Robert Boe on 7/08/01.
- B. Note on telephone conversation with Superintendent Erick Pakoa on 22/01/02.
- C. Note on telephone conversation with Chief Inspector Robert Boe 23/04/02.
- D. Note on interview with Warrant Officer Jimmy Silas 16/05/02.
- E. Note on conversation with Mawa and Jara of Santo VMF 30/08/02.

OMBUDSMAN - MEDIATEUR

INTERVIEW NOTE

Case Ref:	1072
Date:	7 August 2001

Date of interview:	7 August 2001
Person interviewed:	Chief Inspector Robert Boe
Address:	Northern Police Headquarter
Phone:	36222
Interviewer:	Brian Bani
Subject of interview:	Alleged Police Custody over 24hr

Operation Klinim Not 2000 incurred a lot of bad reports. Mostly against Police Force for brutality done on people who were suspected for crimes.

Operation Klinim Not 2000 involved force members who came down from Vila and not Police Force Members already existed in Santo. Thus Robert Boe and Police Officers he administered in Santo had no part in it. They may have help out in one way or the other.

Commanding Officer in charge of the operation was Erick Pakoa. The Operation was divided into 3 groups. Police Officer Tarimas John was in charge of the group that arrested Garae Raymond and his group.

He was not aware of this case. He became aware of the incident when he found them in the prison. He approach Tarimas and advised him that these people should be release as there arrest was unfounded. Tarimas then told him that he should not talk as they were doing their work. They should be the one doing these job but as they could not do it, they (Police in Vila) had to do it on their behalf.

Chief Inspector Robert Boe alleged that the arrest made by Tarimas John was family related. The Deceased wife of Tarimas (a Gilbertese) had a piece of land on the road leading to Belerue which Garae Raymond had been living on it and they want Raymond and his group to move out of the area. A village court meeting had been organised between the two parties to solve the matter but Raymond's group never turn up in the meeting. When Operation Klinim Not was effected in Santo, the families of the deceased wife of Tarimas reported the incident to the Police. The Police (group of Tarimas) call a meeting but again Raymond's group never turn up so they decided to arrest them.

Chief Inspector Robert Boe confirmed that the arrested was without warrant. They were put in custody for more than 24 hrs. A police Officer by the name of Roy Seule reported that they were in custody for more than 24hrs because they stay pending the next court sitting.

Later they were released on the authority of the commanding Officer of the Operation, Mr Erick Pakoa as it was discovered that they were in prison unlawfully.

OMBUDSMAN - MEDIATEUR

The occurrence book which was used to record cases of the operation klinim not 2000 was misplace somewhere. It was alleged that Erick Pakoa had authorised for the book to be transferred to Vila.

Chief Inspector Robert Boe had wrote a letter in answer to our queries and was stay put in his in tray and thought that the letter had been sent to this Office. He took the letter with him this morning and gave as suppliment to what he already stated above.

APPENDIX B

Telephone Message

22/01/02

From: Superintendent Erick Pakoa.

Investigator: Brian Bani

Case: 1072

Message

- The operation had arrested four hundred thirty something "suspect" (not implicator), He will find a list of the names and fax it over.
- The occurrence is in Santo, check with Robert Boe.
- Some suspects were kept for too long in prison because their (Police) screening is too slow.

APPENDIX C

Find out if a court sat to look into this matter and a order was made.

13 April 2002.

Telephone Conversation

25 April 2002.

2:10 pm.

From: Chief Inspector Robert Boe.

Message

The Occurrence is at VME's barracks in Sault.

Ask if we have a look through and return it.

Contact him tomorrow to find out more - 26/04/02

Two Issues

• custody for 48 hrs

• Private Interest of Tarunias John in the operation.

& Receive confirmation from Jimmy Selas.

NB/ ask about Court Order regarding brutal action of Police against Victim.

APPENDIX D

Interview with Jimmy Silas concerning our letter
of 16/5/02.

Message

Has no knowledge of the occurrence book.

He has worked under operation Lukoatom Not
but not Kluinui Not 2000.

APPENDIX E

Telephone Message

30/8/62

From: Mawa, VMF Santo.

Message

Mawa and Jara (officer) in charge of clerical
~~Sanford~~ advise there is no occurrence book in
Santo VMF Headquarters.

