



OFFICE OF THE OMBUDSMAN

**PUBLIC REPORT
ON THE**

**ALLEGED DELAY AND INACTION IN INVESTIGATING MOTOR
VEHICLE BY POLICE AND THE PUBLIC PROSECUTOR.**

13 August 2004

9236/2004/07

**REPUBLIC OF VANUATU
PUBLIC REPORT ON THE**

**ALLEGED DELAY AND INACTION IN INVESTIGATING MOTOR VEHICLE ACCIDENT
INVOLVING DUDLEY ARU BY POLICE AND THE PUBLIC PROSECUTOR.**

SUMMARY

Police delay in investigating any complaint that has been reported to the police is an on-going issue that have always been investigated and reported by this Office.

This report is issued publicly in order to highlight the lack of commitment on the part of police and more specifically the Traffic Department relating to a car accident that involved Mr Dudley Aru sometimes in 1997 under the influence of alcohol.

The Ombudsman has found that despite the Police presence on the scene, the police has only started to investigate this matter, as from 19 May 1999, two years later to recover the case. There was no clear information and explanation on such delay of investigation in this case.

The Ombudsman also found that the office of the Public Prosecutor has also contributed in delaying the process of the case before it went to court. The Police record indicated that the case has been completed on June 1999 and was sent to the Office of the Public Prosecutor. However, the case was completed and listed for hearing on November 2001, which means two years and five months. As a result of the delay of investigation on the part of both Police and the Office of the Public Prosecutor, the case was rejected on the grounds of unreasonable lapse of time.

Both the Office of the Public prosecutor and the Police Traffic Department being regarded as Law Enforcement Authorities were not able to explain the reason for the delay in handling this case properly for almost five years.

The Ombudsman recommends that the Office of the Police Commissioner should be responsible for the proper management and coordination of all traffic and other cases to avoid such unjustified delays in the future.

It is also recommended that Police officer, Edward Kalnura who was in charge of investigating the case should be reprimanded by the Police Commissioner for failure to carry out his lawful duty within a reasonable time.

The Ombudsman finally recommends that Public Prosecutor should have in place a proper administration and case management system to handle all cases that have been reported and all Police investigation files forwarded to his office.

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1. JURISDICTION

- 1.1 The Constitution, the Ombudsman Act and the Leadership Code Act allow the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes, the Police, the Office of the Public Prosecutor, the Commissioner of Police and the Public Prosecutor.

The Ombudsman can also look into defects in laws or administrative practices, including the Police Act, and the administration of the Office of the Public Prosecution.

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this investigation is also to determine whether the conduct of the former Commissioner of Police, Mr. Peter Bong ("Mr. Bong") and the Public Prosecutor, Mrs. Heather Lini Leo ("Mrs. Leo") in handling the case was proper
- 2.2 The scope of this investigation is to establish the facts over the alleged unjustified delay to investigate a car accident involving Mr. Dudley Aru ("Mr. Aru") in 1997 and whether the Police Act which provides for the duty of the force was defective.
- 2.3 The scope of the paper is also to provide an overview of whether the administration practice of the Office of the Public Prosecutor for not presenting the case to the court was defective.
- 2.4 This Office collects information and documents by informal request, summons, letters, interviews and research.

3. RELEVANT LAWS

The relevant laws, regulations and rules are mentioned in the **Appendix A**.

4. OUTLINE OF EVENTS

- 4.1 On 12 March 1999, the Ombudsman took the initiative under section 11 (2) (b) of the Ombudsman Act of 1998 to investigate the case on the alleged unjustified delay of investigating Mr. Aru's car accident. The complaint alleges that sometime in 1997 Mr. Aru who was at that time working with Motis Pacific Lawyers, had a car accident while under the influence of alcohol. It is alleged that despite the police presence on the scene, there was no investigation made.
- 4.2 On 12 March 1999, Acting Public Prosecutor, Ms. Kayleen Tavoia confirmed that the Office of the Public Prosecutor had not yet received the file concerning the accident from the Police.
- 4.3 On 6 April 1999, the Ombudsman had reminded Mr. Pakoa Tarimas ("Mr. Tarimas"), Officer In-Charge of the Traffic Section to provide him with the status of the case. On the same date, the Ombudsman also requested the Commissioner of Police, Mr. Bong to confirm whether there was an action to investigate this case by Police.
- 4.4 On 8 April 1999, in response to the Ombudsman request, Mr. Bong had instructed the Ombudsman to refer this matter to the Acting Commissioner of Police, Mr. Holi Simon who was in-charge of queries regarding Traffic Operation. In addition to his letter of 8

April, 2002, Mr. Bong also confirmed on 9 April 2002, that the case has been recorded in the Occurrence NO 602 of 1997 and that Mr. Tarimas was asked to inform the Commissioner of the progress of the file. It was also mentioned that Police Officer, Edward Kalnaru was tasked to this car accident. **See appendix B.**

- 4.5 On 21 April 1999, Mr. Tarimas informed the Ombudsman that Mr. Aru's accident case file had been recovered and that the Police had now decided to investigate the case. He mentioned in his letter (**see Appendix C**) that the case was recorded at the general duties in the Occurrence book NO 602/97 and later registered in traffic Occurrence Book as 75/99. He assured the Ombudsman to provide him with all necessary documents once the Police investigation docket was completed.
- 4.6 On 4 May 1999, the Ombudsman requested Mr. Tarimas to provide an explanation on the delay of Police for not investigating this matter for almost two years.
- 4.7 In response to that particular information, Mr. Tarimas said that the Traffic Office was only notified to inquire on this matter by 17 May 1999. However he could not do much on this matter because he was involved in an operation of the Vanair Crash and the disappearance lost of MV Latua. He could not provide the Ombudsman with specific reason on the delay of investigation by police over this matter. **See appendix D.**
- 4.8 On 1 July 1999, the Ombudsman received confirmation from Mr. Bong that the case has been completed and sent to the Office of the Public Prosecutor.
- 4.9 On 12 July 1999, when the Ombudsman contacted the Office of the Public Prosecutor to confirm Mr Peter Bong's letter of 1st July. Prosecutor Kiel Loughman ("Mr. Loughman") advised that the case reached the Office of the Public Prosecutor on 19th June 1999 and will be assessed before listed for hearing by 19th August 1999. **See Appendix E.**
- 4.10 On 2 September 1999, the Ombudsman sent another letter to Mrs. Leo, to confirm whether the case was already heard in Court. We received information that the case has been postponed until 16 November 1999.
- 4.11 On 6 October 1999, Mr. Loughman advised the Ombudsman that the Office of the Public Prosecutor could not furnish the Ombudsman with a copy of the file until the Prosecution is completed. In any event he could not find from the file any material showing that there is a delay in investigation of the accident.
- 4.12 On 26 October 1999, Mrs. Leo also confirmed that she could not pass the file to the Ombudsman as a matter of policy and law until the case is being heard in court. **See Appendix F.**
- 4.13 On 1 February 2000, we requested Mrs. Leo to provide the Ombudsman with a copy of the court judgement of the case which apparently was heard in Court on 16 of November 1999. In response to our inquiries Mrs. Leo confirmed to the Ombudsman that the **case was not listed for trial**. She added that because of the two weeks Criminal Justice Administration Workshop, most of participants include Lawyers, Magistrates and Prosecutors and all cases of November 1999 were postponed until further notice.
- 4.14 On 19 May 2000, the Ombudsman also requested the Office of the Public Prosecutor to up date the Office with the result of that case. No response was received from the Office of the Public Prosecutor until we got confirmation from the Chief Registrar, Mrs. Rita Naviti ("Mrs. Naviti") that this case is among 700 backlog of cases that are listed for conference on 14 November 2000 at 8.30am.

- 4.15 On 8 February 2001, the Ombudsman requested Mrs. Naviti whether the case has been heard in November 2000, we were told that the above case has been struck out for want of Prosecution. **See copy of the Court judgement in appendix G.**
- 4.16 On 22 April 2001 in a telephone conversation between Mrs. Leo and one of the investigators from the Ombudsman Office, Mrs. Leo said that the case has been rejected by the Court due to lack of evidence provided from the Police investigation. She added that, Mr. Less Napuati ("Mr. Napuati") who was at that time one of the Prosecutors was tasked for this case. However, the case may have been left out for prosecution while he was attending a 9 months overseas course of Masters Degree in Malta. He reassumed his duties by June 2001.
- 4.17 On 13 August 2001, the Ombudsman sent a letter to Mr. Napuati to confirm why the case was not brought to the court on 14 November 2000.

In response to the Ombudsman's letter Mr. Napuati said that before leaving for Malta, he had made prior arrangement to have the case heard in Court on 14 of November 2000. However, he will apply to court for further hearing of 5 November 2001. **See Appendix H and I.**

- 4.18 On 21 November 2001, we received a letter from Myranda Forsyth from the Office of the Public Prosecutor that the case could not be re-listed and was refused by the court on the grounds of unreasonable lapse of time. Therefore, the case is now closed. **See appendix J.**

5. RESPONSES BY THOSE WITH FINDINGS 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 preparation of this public report to give the individuals mentioned in this report another opportunity to respond.
- 5.2 Responses were only received from the following:
- Mr Less John Napuati who agrees that the Office of the Public Prosecutor does not have a proper administration system of filling file which also resulted of mishandling and loss of file.
 - Mr Arnolds Kiel Loughman who was also in-charge of dealing with this case explained that he had previously mentioned that the file he had received from the police does not contain any material from the police to show that there was a delay in investigating this case on the part of police.
 - The Prime Minister who is also Minister responsible for Police, acknowledge the recommendation which require a good step to put in place by police in order to avoid similar incident in the future **See Appendix K.**

6. FINDINGS

- 6.1 **Finding 1: THE ACTION OF POLICE IN TRAFFIC SECTION WITH RESPECT TO THIS ACCIDENT WAS DELAYED FOR UNJUSTIFIED REASONS AND CONTRARY TO PROVISIONS SET IN THE POLICE ACT AND POLICE STANDING ORDERS.**

The Ombudsman has found that this case was reported to the Police in the General Duty Section in 1997. However, the Police started to investigate the accident as from 1999. The Occurrence Book of the traffic Operation indicates that the matter was recorded only in the docket of the Police Traffic section on 16 May 1999.

The Ombudsman found that the inaction of Police not to investigate this car accident is contrary to section 4 (Cap 105) of the Police Act, section 23 of the Criminal Procedure Code Act (Cap 136) and the order N0 1 of the Police Standing Order N0. P.1 that provides guidelines of complaints received by Police to attend to complaint quickly and promptly.

- 6.2 **Finding 2:** **FORMER COMMISSIONER OF POLICE, MR PETER BONG AND THE DEPUTY COMMISSIONER, MR HOLI SIMON FAILED TO ENSURE THAT THE SENIOR OFFICERS APPOINTED UNDER SECTION 7 OF THE POLICE ACT PERFORM THEIR DUTIES EFFECTIVELY.**

The Ombudsman found that the Commissioner of Police, Mr. Bong and his deputy, Mr. Simon failed to ensure that the Senior Officers appointed in the Traffic section performed their duties effectively.

Inspector Eric Pakoa Tarimas was at that time in-Charge of the Traffic Unit, however, he could not justify the reason as to why the case was not processed for investigation. The Commissioner of Police and his deputy may not have a check or follow-up system to monitor the various cases handled by the Police Department. As a result of this poor case management system, this case was not investigated for almost two years without any justified reason.

- 6.3 **Finding 3:** **FAILURE TO PERFORM THE DUTIES AND RESPONSIBILITY AS POLICE OFFICERS UNDER THE LAWS AND VANUATU POLICE FORCE STANDING ORDER.**

The Ombudsman also found that Mr. Pakoa Tarimas who was Officer in-charge of the Traffic Section at the time of the accident should be held responsible of the delay of investigating Mr. Aru's car accident for almost two years. Mr. Tarimas knew he had a lawful duty to carry out investigation of any matter that is reported to him. However, he failed to carry out his duties responsibly.

Police Officer, Edward Kalura from the Traffic Section was tasked for this case.. The Ombudsman finds that Mr. Kalura also failed to carry out his lawful duties as a Police Officer.

- 6.4 **Finding 4:** **POOR CASE MANAGEMENT BY THE PUBLIC PROSECUTOR'S OFFICE WHICH LED TO DELAY OF CASE.**

The Ombudsman also found that the case was sent to the Prosecution on 19 June 1999. However, despite numerous correspondence between the Ombudsman's Office and the Office of the Public Prosecutor, it was found that there was no clear information from the Public Prosecutor as to whether the case would be listed in court or not.

This case was neglected and no follow-up system was in place resulting in the case being struck out for want of prosecution on 21 November 2000.

6.5 Finding 5: MALADMINISTRATION BY POLICE AND THE OFFICE OF THE PUBLIC PROSECUTOR.

The Ombudsman found that both Police and the Office of the Public Prosecutor should be held responsible for the poor administration and case management in dealing with this case responsibly.

7. RECOMMENDATIONS

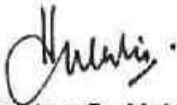
7.1 Based on the above findings the Ombudsman recommends that:

Recommendation No. 1: The Office of the Police Commissioner should be responsible for the proper management and coordination of all traffic and other cases to avoid such unjustified delays in the future.

Recommendation No. 2: Police officer, Edward Kalnura who was in charge of investigating the case should be reprimanded by the Police Commissioner for failure to carry out his lawful duty with a reasonable time.

Recommendation No. 3: Public Prosecutor should have in place a proper administration and case management system to handle all cases that have been reported and all Police investigation files forwarded to the Office of the Public Prosecutor.

Dated the 13th day of August 2004.



Hannington G. ALATOA
OMBUDSMAN OF THE REPUBLIC OF VANUATU

8. INDEX OF APPENDICES

- A** Relevant Laws, Regulations and Rules.
- B** Copy of letter from Mr. Peter Bong dated 9 April 1999
- C** Copy of letter from Mr. Tarimas
- D** Copy of letter from Mr. Tarimas dated 27 May 1999.
- E** Copy of letter form Mr. Kiel Loughman dated 19th July and October 1999
- F** Copy of Letter from Mrs. Heather Lini Leo
- G** Copy of the Court Judgement
- H** Copy of Letter from Mr. Less Napuati dated 20 August 2001
- I** Copy of letter from Mr Less Napuati
- J** Copy of letter from Mrs Myrandah Frosyth from the Office of the Public Prosecutor
- K** Response letter from Mr Less Napuati
- L** Response letter from Kiel Loughman
- M** Copy of letter from the Prime Minister, Honorable Edward Nipake Natapei

Appendix A

Relevant Laws, Rules and Regulations

CONSTITUTION OF THE REPUBLIC OF VANUATU

CONDUCT OF LEADERS

- 66.(1) Any person defined as a leader in Article 67 has a duty to conduct himself in such a way, both in his public and private life, so as not to-
- (a) place himself in a position in which he has or could have a conflict of interests or in which the fair exercise of his public or official duties might be compromised;
 - (b) demean his office or position;
 - (c) allow his integrity to be called into question; or
 - (d) endanger or diminish respect for and confidence in the integrity of the Government of the Republic of Vanuatu.
- (2) In particular, a leader shall not use his office for personal gain or enter into any transaction or engage in any enterprise or activity that might be expected to give rise to doubt in the public mind as to whether he is carrying out or has carried out the duty imposed by subarticle (1).

DEFINITION OF A LEADER

67. For the purposes of this Chapter, a leader means the President of the Republic, the Prime Minister and other Ministers, members of Parliament, and such public servants, officers of Government agencies and other officers as may be prescribed by law.

POLICE TO PREVENT BREACHES OF THE PEACE OR COGNISABLE OFFENCES

- 23 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 the commission of any cognizable offence.

Police Act Cap 105:

Section 4 (1) It shall be an essential duty of the Force to maintain an unceasing vigilance for the prevention and suppression of crime.

Section (2) The Force shall be employed throughout Vanuatu and its territorial waters for-

- (a) the preservation of peace and the maintenance of order.
- (c) the enforcement of laws
- (d) the prevention and detection of offence and the production of offenders before the courts; and
- (e) such duties as may be expressly provided by law.

Section 7 Officer-In-Charge of Police.

- (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 purpose of this Act.
- (1) 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 function of the Force as provided by section 4.

Section 35 (1). Every member shall exercise such powers and perform such duties as are by law conferred or imposed upon him, and shall obey all lawful directions in respect of the execution of his office which he may from time to time receive from his superiors in the Force.

(2) Every member shall be considered to be on duty at all times and may at any time be detailed for duty in any part of Vanuatu.

(3) It shall be the duty of every member to promptly obey and execute all orders and warrants lawfully issued to him by any competent authority, to collect and communicate intelligence affecting the public peace, to prevent the commission of offences and public nuisances, to detect and bring offenders to justice and to apprehend all persons that is legally authorised to apprehend and for whose apprehension sufficient grounds exists .

Order 1 of the Standing Orders N0.P.1 on offences and complaint reported-Action by Police provides:

- 5 All offences and complaints are promptly attended to at the time they received; and.
- 6 That proper supervision is given to ensure the subsequent investigation is thoroughly and speedily completed.

Disciplinary offence under section 36 (1) of the Public Service Act N0 11 of 1998.

An employee commits a disciplinary offense who:

- (c) is negligent, careless, indolent, inefficient, or incompetent in the discharge of his or her duties

LEADERS

5. In addition to the leaders referred to in Article 67 of the Constitution, the following are declared to be leaders:

(k) the Commissioner and Deputy Commissioner of Police;

2 the Public Prosecutor;

PART 2 – DUTIES OF LEADERS

DUTIES OF LEADERS

13. (1) A leader must:

(a) *comply with and observe the law;*

(c) *comply with and observe the duties obligations and responsibilities established by this Code or any other enactment that affects the leader; and*

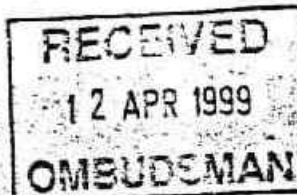
lx: (678) 22300
tel: (678) 22222
Extension: 111



Vanuatu Police
Headquarter
Private Mailbag 014
PORT VILA
Vanuatu

Your Ref:
Our Ref: 01/02/26
Date: 9th April 1999

REPUBLIC OF VANUATU



Mrs. Marie Noelle FERRIEUX PATTERSON
Ombudsman of Vanuatu
PORT-VILA

Dear Madame,

RE: CAR ACCIDENT OF MR. DUDDLEY ARU

Further my letter of 8th April 199, it has come to my notice that the case in question was actually reported at Vila Central Police Station on the 8th of March 1997. The accident took place at about 05.00 hrs in the morning. It was then recorded in the main occurrence book OB No. 602 of 1997.

The OC Traffic and OCPD(S) Supt. Pakoa SAMUEL have been instructed to check on the progress of this case.

For your information the investigation officer dealing with this case is Police Constable Alfred KONMAWI.

You may conduct Insp. Pakoa TARIMAS should you need further information relating to this case.

Peter BONG
Commissioner of Police





OFFICE OF THE POLICE COMMISSIONER
PMB 014, PORT VILA

Telephone: (678) 22 222
Fax: (678) 22 800

REPUBLIC OF VANUATU

April 08 1999

01/02/26

Alfred B. Maho
Director of Leadership Code
Office of the Ombudsman
PMB 081
PORT Vila

Dear Sir,

**ALLEGED DELAY AND INACTION OF THE POLICE IN THE INVESTIGATION OF
CAR ACCIDENT OF MR DUBBLEY ARU**

I acknowledged receipt of your letter on the above referenced
2437/9236/L44/op.

For your information, any queries relating to traffic accidents or of
operational nature should be addressed to the Deputy Commissioner of
Police incharge of Operations Mr. Holt SIMON.

Please redirect your letter to Mr. Holt SIMON who will be responsible to
attend to your queries.

Yours Sincerely,

Peter Bong
Peter Bong
Commissioner of Police



FAX : (678)2800
TELEX : (0771) 1127 VPF NOC
TELEPHONE : (678)2222



Vanuatu Police Headquarters

Private Mail Bag 014
Port Vila
VANUATU

REPUBLIC OF VANUATU

Your reference
Our reference
Date : 21/4/99

Vanuatu Police Force
Traffic Section
Private Mail Bag 014
Port-Vila
VANUATU

Fax (678) 22800
Tel: (678) 22222
Extention: 109

Your Ref: 2754/9236/L44/PT
Our Ref: 4/4/99
Date: 20/4/99

Mrs Marie Noelle Firrieux Patterson
Ombudsman Of Vanuatu
Port - Vila

Dear Madame,

THE POLICE INVESTIGATE MR DUDDLEY ARU ACCIDENT

The TRF Office would like to confirm to your Office since it has recovered Mr Duddley Aru Accident Record and Sketch Plan for the Accident, we now open a Case File and Investigation is underway.

Therefore, as soon as the Case is completed the Case will be brought before the Court.

Ref: Traffic Occurance Book No 75/99
: SR 08 4 99 CASE No
General Duty Occurance Book No 602/97

At this point of time no Document will be release until the Case Docket is complete.

Thank you for your understanding.


Insp. JP. TARIMAS
Acting OC TRF
Vila

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TELEGRAMS : VANPOLI VILA

TELEPHONE : 2222



REPUBLIC OF VANUATU

Vanuatu Police Headquarters

Private Mail Bag 214
Port Vila
VANUATU

To : Marie Noelle Ferreirax Patterson
Ombudsman of the Republic

Your reference

Our reference

Date : 27/05/99

Dear Madame,

RE: INVESTIGATION TO DUDLEY ARU CAR ACCIDENT
(3942/9236/L44)

My office would like to apologize for my delayment of giving your enquiry (Ref: 3496/9236/L44)

My delayment base on two 2 reasons

- (1) My office receive the Notice of Enquiry, after the due date (17/05/99).
- (2) By the time I receive the Notice I was involve in the Ops Sea plane/Missing Ship.

Therefore as being request to give Reasons/Ex Planation I will only give what I am allowed to give.

1. Your question 1,2 for delay of Investigation, as present OC Traffic I have no idea, since the case is two(2) years old.
2. Quest 3 the matter will be reconsider and deal with, If only by means of negligence.
3. The Docket is only waiting for two(2) eye witness statement to be obtain and the case will be sent for Prosecution.

No other document.

Your sincere


J. X. TAPPAH
A/CC Traffic
Vila





OFFICE OF THE PUBLIC PROSECUTOR

TEL: 22271 & 26166
Fax: 26168

PRIVATE MAILBAG 035
PORT VILA, VANUATU
SOUTH WEST PACIFIC

Our ref: CR. 687/99
Your Ref: 5270/9236/L44/hll

19th July 1999

Office of the Ombudsman
Port Vila
Attn: Patricia Kalpokas

Dear Madam,

RE: CAR ACCIDENT BY MR. DUDLEY ARU

I refer to your letter dated 12th July 1999.

Mr. Aru's file reached the office of the Public Prosecutor about 19th or 20th June 1999.

We will consider the brief of evidence and lay charges against Mr. Aru where appropriate and have the case before the Court on the 19th of August 1999.

Since you are investigating an alleged Police delay in the case, which is now over, and as indicated on other occasions, we decline to produce Mr. Aru's full file or any document or information relevant to the case at this stage, until the case has been completed.

Yours Sincerely

Arnold Kiel Loughman
Assistant Legal Officer

Cc: File



3



Office of the Public Prosecutor

PMB 035
Port Vila
Vanuatu
Ph.: 678 22271
Fax: 678 26168

6 October 1999

Ms. Patricia Kalpokas
Office of the Ombudsman
PMB 081
Port Vila

Dear Ms. Kalpokas,

Motor Vehicle Accident involving Dudley Aru

I refer to your letter dated 28 September 1999.

I am not in possession of the materials to which you have sought access. All the materials are with the police as I have sought further information from the police for the purposes of the prosecution. Accordingly I am not in a position to supply anything to you.

In any event I have previously informed the Office of the Ombudsman that I do not intend to supply any materials in my possession in respect of any prosecutions until I have determined not to institute proceedings or where I institute proceedings until those proceedings are concluded. I have already informed you that the basis for this decision is the terms of the Ombudsman Act.

In any event I have already informed you that the materials contained on the file do not reveal anything which may reveal whether there was any delay in the investigation of the accident the subject of the proceedings I have instituted.

Yours faithfully

A handwritten signature, likely of Kiel Loughman, is written over a horizontal line.

Kiel Loughman
for the Public Prosecutor





OFFICE OF THE PUBLIC PROSECUTOR

Tel. 22271 & 26166
Fax. 26168

PRIVATE MAILBAG 035
PORT VILA, VANUATU
SOUTH WEST PACIFIC

26th October 1999

Patricia Kalpokas
Office of the Ombudsman
Vila

Dear Madam,

RE: CAR ACIDENT BY MR. DUDDLEY ARU

I refer to your letter of 14th September 1999 on the above.

I regret I cannot pass the case file to you until such times, the case is completed in Court as a matter of policy and law.

Once the case is completed copies of documents can be obtained from the file for your purposes. In the meantime copies of documents are only made available to the Judiciary and the defence counsel.

Thank you for your understanding.

Yours Sincerely

Heather Lini-Leo
Public Prosecutor



Cc: chrono

3



THE OFFICE OF THE PUBLIC PROSECUTOR

TEL: 22271, 26166 & 25505
Fax: (678) 26168

PRIVATE MAILBAG 035
PORT VILA, VANUATU
SOUTH WEST PACIFIC

Date: 24th February 2000

TO: Mr Alain Molgos
C/- Office of the Ombudsman
PMB 081
Vila

Dear Sir,

RE: CR 687/99 PUBLIC PROSECUTOR V DUDLEY ARU

I refer to your letter of February 1, 2000 regarding the above.

I regret I cannot answer the questions posed until such time the Court gives the parties new date for trial.

All Court Cases between November 15, 1999 and November 26, 1999 were postponed due to Judges, magistrates and Prosecutors attending a two week criminal Justice Administration Workshop.

At this stage, the court has not advised yet of the new trial date.

I hope this information is sufficient for your for the time being.

Yours Faithfully


Heather L. Lee
PUBLIC PROSECUTOR

CC: File
* : Chrono



3

IN THE MAGISTRATE'S COURT
OF THE REPUBLIC OF VANUATU

CR No. 687 of 1999

	PUBLIC PROSECUTOR
-v-	DUDDLEY ARU

Date: 14th November 2000

Coram: Stephen D.FELIX

No parties appear

ORDER

In a pre-trial conference held on the 24th of June 2000 in the Port Vila Courthouse, the Court informed Mr John Les Napuati, a legal officer within the office of the Public Prosecutor, that all pending criminal cases for 1999 are re-listed for hearing on the 14th of November 2000. The prosecution was also directed to prepare new summons and make copies of the charge for service upon the defendants. This matter, CR 687 of 1999, was also included in the list of cases adjourned to November 14th 2000 at 8.30 am.

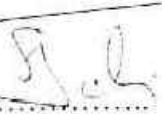
On the 14th of November 2000, the matter was called but the parties failed to appear. The Court was never informed, not even by the prosecution, about the reasons for not attending court.


UPON those findings, the Court therefor rules that the matter be discontinued for want of prosecution.

The Prosecution is at liberty to apply to the Court for leave for the matter to be re-listed.

No order is made as to costs.

Dated at Port Vila this 14th day of November 2000
BY THE COURT


.....
Magistrate







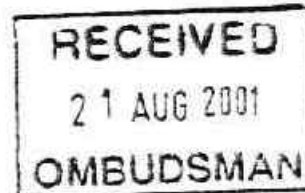
THE OFFICE OF THE PUBLIC PROSECUTOR

TEL: 22271, 26166 & 25505
Fax: 26168

PRIVATE MAILBAG 035
PORT VILA, VANUATU
SOUTH WEST PACIFIC

Date: 20th August 2001

Mr. Raynolds.T. Garae
C/- Office of the Ombudsman
PMB 081
Port Vila



Dear Sir

Re- CR 687/99 (PP v Dudley. Aru)

I refer to your letter dated 13th August 2001 regarding the above subject matter.

In a pre-trial conference held on the 24th June 2000, I was informed that all pending criminal cases for 1999 are re-listed for hearing on the 14th of November 2000. The above case was also included but was given to me on the 22nd of July 2000. However I had to leave for Malta at the end of October 2000 to do my Masters Degree for 9 months. Before leaving for Malta, I had made prior arrangements for my outstanding cases to be dealt with in my absence. However no prosecutor was present on the 14th of November 2000 and as a result the above case was dismissed for want of prosecution.

In any case I will be applying to the court on the 5th of November 2001 at 8.30am to seek leave of the court to have the matter re-listed.

Should you have further queries in this matter, please do not hesitate to contact me.

Yours faithfully

Less. John. Napuati.
Assistant Legal Officer



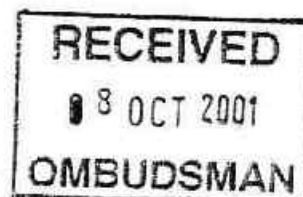
OFFICE OF THE PUBLIC PROSECUTOR

Tel. 22271 & 26166
Fax. 26168

PRIVATE MAIL BAG 035
PORT VILA, VANUATU
SOUTH WEST PACIFIC

8TH October, 2001.

Mr Raynolds.T.Garae
Office of the Ombudsman
P.O. Box 81
Port Vila



Dear Sir

Re: CR 687/99

I acknowledged receipt of your letter dated 21st September 2001. I was unable to respond by 2nd October as your correspondence was mistakenly given to the Public Prosecutor by my secretary without my knowledge until today. My apologies for any inconvenience caused.

In respond to your letter, I had indeed arrange with my then Advisor Mr. Terry Gardner to take up the matter on the 14th of November 2000. I inform him orally during my meeting with him regarding my outstanding cases and further attached a note on the file to indicate to him that this matter is listed for 14th November, 2000. I had hoped he should have taken up the case on that date. Please be informed that Mr. Terry. Gardner is in Australia. His contract with our office has expired.

I hope I have answer the issues so raised.

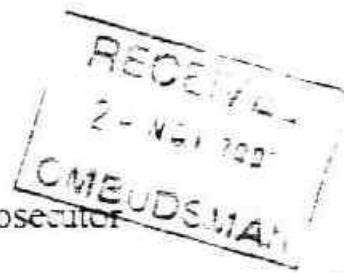
Yours faithfully,

Less John Napuati
Assistant Legal Officer
(for) Public Prosecutor.





Office of the Public Prosecutor



PMB 13
Port Vila
Vanuatu
Ph: 671 2207
Fax: 671 2615

21 November 2001

Reynolds T. GARAE
Senior Investigator
Ombudsman of the Republic of Vanuatu

Your ref: 4126/9236/L44/ln

Dear Sir,

**Re: ALLEGED DELAY AND INACTION OF POLICE IN INVESTIGATING
MOTOR VEHICLE INVOLVING DUDLET ARU CR 687/99**

I refer to the above matter and to your letter of 21 September 2001. I wish to inform your office that this morning I applied to have the matter re-listed for hearing. However, Magistrate Felix refused my application on the ground that the lapse of time was unreasonable. I have now closed the file.

Please let me know if I can provide any further information.

Yours sincerely

Miranda Forsyth
Legal Officer
Public Prosecutor's Office

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GOVERNMENT OF THE
REPUBLIC OF VANUATU
OFFICE OF THE PRIME MINISTER
P M B 053 Port Vila, Vanuatu
Tel: (678)22413 Fax: 26301



PM K'
GOUVERNEMENT DE LA
REPUBLIQUE DU VANUATU
BUREAU DU PREMIER MINISTRE
SPP 053 Port Vila, Vanuatu
Tel: (678) 22413 Fax:26301

12th May 2003

Mr. H. ALATOA
Ombudsman
P.M. Bag 9081
Port Vila

Dear sir,

Re: INACTION BY POLICE & PUBLIC PROSECUTOR ON D.ARU CAR
ACCIDENT

I refer to your letter dated 15 April 2003 to which was attached the report on the accident which was not properly investigated and prosecuted.

I agree with your re-commendations for the steps needed to be put in place by the Police to improve their performance.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Natapei', written over a circular official stamp of the Prime Minister of Vanuatu.

Hon. Nipake E. Natapei TUTA FANUA ARIKI
Prime Minister

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