

OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

**ON THE ALLEGED MISCONDUCT BY THE POLICE
TO INVESTIGATE COMPLAINTS OFFICIALLY**

LODGED

11 October 2006



REPUBLIC OF VANUATU

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SUMMARY OF EVENTS

This report provides two examples of misconduct and mal administrative practices at the Port Vila Police Station when the Officer commanding Port Vila Police Station improperly interfered with the investigating process.

The first is an example of delayed criminal investigation by the Criminal Investigation Unit of the Police Department. As a result of the delay, the matter was dismissed by the Magistrate court for lapse of time to prosecute. The Ombudsman then conducted the enquiry to find out why the Police took such a long time to investigate the matter especially when all the reliable witnesses were residents of the Port Vila Municipality.

The Ombudsman finds that the Police had deliberately delayed the investigation by giving all sorts of excuses to the complainant who lodged the criminal complaint to them.

The second example is the lost Criminal docket filed on the same date as the first one in which the complainant of the alleged criminal offence had sustained serious injuries of physical damage. From 24 November 2001 the date he lodged the complaint until November 2004 he never followed up with the Police about his complaint. He believed his complaint was being investigated. Unfortunately this was a false belief because the Police did not do anything about it. When he checked at the Police station about the progress of his complaint, he was informed the criminal docket had gone missing.

Upon the Ombudsman's enquiries it was found that the incident of assault in the second example was not recorded in the Occurrence the Book kept at the Port Vila Police Station. The assault was alleged to have occurred outside the Police station and the Officer Commanding Port Vila Police station at that time remembers assault. Despite complaints being filed, the Police did not open a criminal docket on this complaint.

These two examples of real life events give a very interesting overview of what happens to complaints filed with the Police. Whether or not complainants have regular contacts with the Police on the progress of their report, the Police Department through the General Duty Police and the Criminal Investigation Unit lack proper administrative and management procedures in place. On the other hand if these procedures are already in place then it is sad to say that certain Police officers are not following the procedures which is leading to continuous misconduct and mal administrative practices within the Police Department.

In this report, the Ombudsman finds that

- There was failure on the part of the Port Vila General Duty Police to properly register complaint filed by Mr. Jose Fity on 24 November 2001

- There was an improper conduct by Captain John Mahlon Taleo in improperly keeping Marie Noelle Ferrieux Patterson's complaint from the appropriate offices or sections dealing with investigation. As a result investigations were delayed.
- Captain John Mahlon Taleo failed to conduct himself in a proper and lawful manner as the Officer commanding Port Vila Police station.

The Ombudsman makes the following recommendations:

- That the Police Department through the Police Sector Reform develop an Accused/Complaints Manual for all the Police stations throughout Vanuatu.
- Commissioner of Police discipline any Police officers who is found bringing disrepute to the Vanuatu Police force by his or her mal administrative practices and improper conducts.
- .Ministry of Internal affairs through its Director General check on the current administrative reforms in place at the Port Vila Police station and all the other stations throughout Vanuatu and carry out necessary consultations and reforms with the Office of the commissioner of Police to effect positive changes in line with good governance principles.

1. JURISDICTION

- 1.1 The Constitution and the Ombudsman Act allow the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes the Police Department and different sections within this Department. The Ombudsman can also look into defects in laws and administrative practices, including the practices and procedures of the General Duty Police at the Port Vila Police Station.

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this report is to provide an over view of continued misconduct and mal administrative practices within the Police department especially the General Duty Police at the Vila Police station in properly registering, handling and conveying of criminal complaints received after working hours to the Criminal Investigation Unit or the Uniform Investigation Branch of the Police Department. Furthermore this report reveals the continued improper handling of complaints especially when these complaints are deliberately kept back by police officers in the General Duty Police Section. Most often these complaints do not end up in court because their time for possible prosecution are spent.
- 2.2 The scope of this investigation is to establish the facts surrounding the non action of the Police at the Vila Police station to properly record a complaint in a criminal case by a Vila resident, and in another matter on the same night filed by another Vila resident, a complaint was lodged to the Police registered and investigated but the file was deliberately kept by a Police Officer to

suppress the criminal justice procedures and to determine whether the conduct of the Police Officers at the Port Vila Police Station was improper, and defective.

- 2.3 This Office collects information and documents by informal request, summons, letters, interviews and research and responses from working paper.

3. RELEVANT LAWS

- 3.1 Section 107 of the Penal Code Act covers the crimes of assaults and the penalties. The penalties are imposed according to the types of injuries sustained. For injuries of **none physical damage to the body** a maximum of 3 months imprisonment. For injuries of **temporary damage** on the victim one year maximum imprisonment is imposed while **damage of a permanent nature** carries maximum penalty of five years and that of assault causing death faces 10 years imprisonment.
- 3.2 Section 15 of the Penal code Act sets out limitation regarding prosecution of cases in court depending on the penalties provided by law. For example non physical damage to the body in assault cases must be prosecuted within one [1] year of the commission of the alleged offence. This was the case in PP v. Jose Fity
- 3.3 For the matter in which Jose Fity was the complainant the injuries sustained were of a permanent nature thus this allegation must be prosecuted within five[5] years of the date of the assault.

PENAL CODE ACT [CAP135]

Section 107 states:

“Intentional Assault

107. No person shall commit intentional assault on the body of another person.

Penalty	[a]	if no physical damage is caused imprisonment for 3 months
	[b]	if damage of temporary nature is caused, imprisonment for 1 year;
	[c]	if damage of permanent nature is caused, imprisonment for 5 year;
	[d]	if damage caused results in death imprisonment for 10 years.

Section 15 states:

LIMITATION IN CRIMINAL PROSECUTION

15. No prosecution may be commenced against any person for any criminal offence upon the expiry of the following periods:
- [a] in the case of offences punishable by imprisonment for more than 10 years – 20 years;
 - [b] in the case of offences punishable by imprisonment for more than 3 months and not more than 10 years – 5 years;
 - [c] in the case of offences punishable by imprisonment 3 months or by fine only - 1 year .

4. OUTLINE OF EVENTS

- 4.1 To fully understand the events that happened on the night of 24 November 2001, it is important to stress that there were two separate incidents that occurred that night. The first incident was an assault on Marie Noelle Patterson by Jose Fity and the second assault was on Jose Fity by John Patterson and his friend a man named Troy who used to work at Erakor Island Resort.
- 4.2 On 24 November 2001 at about 10.50 pm Marie Noelle Patterson filed an official complaint with the Police alleging that a man by the name of Jose Fitty had assaulted her after he had been harassing her and three other women during a social function at Alliance Francaise building. Attached as **APPENDIX "A"** is a copy of the Complaint.
- 4.3 This particular complaint was lost at the Port Vila Police station.
- 4.4 On 19 December 2001 Ms Patterson lodged a new complaint on the same matter as she was informed the first complaint was lost. Attached as **Appendix "B"** is copy of the re-lodged complaint.
- 4.5 On 29 January 2002, Ms Patterson wrote a letter to Police Constable Morris Seule providing copy of her statement filed on 24 November 2001. Attached as **Appendix 'C'** is copy of the letter.
- 4.6 On 14 October 2002 Ms. Patterson wrote a second letter to Constable Morris Seule airing her concerns about the delay in investigating her complaint. Attached as **Appendix "D"** is a copy of the letter.
- 4.7 On 11 November 2002 PC Morris Seule cautioned Jose Fity at the Vila Distribution and asked him to provide his side of the story about his alleged assault on Ms Patterson. Mr Fity stated in the statement that he would not talk because Inspector Jon Mahlon Taleo has already obtained his statement. Attached as **Appendix 'E'** is copy of the statement.

- 4.8 On 13 February 2003 Ms. Patterson wrote to Captain John Taleo who was then moved from officer commanding Port Vila Police Station to Officer commanding Prisons putting to Mr Taleo certain allegations she had collected from PC Morris Seule on the alleged improper handling of her case by Captain Taleo. Attached as **Appendix "F"** is copy of the letter
- 4.9 On 15 May 2003 Ms. Patterson wrote a letter to the former Commissioner of Police Robert Diniro complaining about the way the Police Officers were handling her complaint. Attached as **Appendix "G"** is copy of the letter.
- 4.10 On 8 July 2001 Ms. Patterson wrote a second letter to Police Commissioner Diniro asking him to ensure the matter is brought to court and to investigate reasons for Police delay. Attached as **Appendix "H"** is copy of the letter
- 4.11 On 2 October 2003 Ms Patterson wrote to former Director of Public Prosecutions Nicholas Mirou saying that Police have completed their investigation and have forwarded the file to the State Prosecutions. Ms. Patterson requested Mr. Mirou to find out the delay in investigating this matter. Attached as **Appendix "I"** is copy of the letter.
- 4.12 On 3 February 2004 the Public Prosecutor formally charged Mr. Fity for Intentional Assault contrary to section 107 [a] of the Penal Code Act [CAP 135]. Attached as **APPENDIX "J"** is copy of the charge Sheet.
- 4.13 CR/345/03 was a minor charge dealing with intentional assault where no injuries were caused to the complainant. [Refer to section 107 [a] of the penal code Act]
- 4.14 Pursuant to section 15 of the Penal Code Act [CAP 135] these types of cases must be prosecuted within 12 months from the date of alleged offence.
- 4.15 On 18 February 2004 some three years later the matter was listed for plea in the Magistrate court at Port Vila. Attached as **APPENDIX "K"** is copy of the Summons specifying date of appearance in court
- 4.16 By 2004, the period in which Prosecution must lay charges in court had lapsed.
- 4.17 On 18 November 2004 the State Prosecutor Rexton Langon withdrew the matter from the Magistrate Court, due to lapse of time.
- 4.18 It was then that Jose Fity wanted to know about his complaint filed on the same night against John Patterson and a man named Troy from Erakor Island Resort.
- 4.19 He was informed his complaint had gone missing and the Police could not find it.
- 4.20 At about 1 am that night Mr Fity and his friend were at a wedding party at Fresh Wota when they were picked up by the Police in a police van and brought to the Port Vila Police Station. It was alleged they were not invited and that the Police who had provided security were not happy with them being so drunk and acting disorderly.
- 4.21 Outside the Police Station, it is alleged that John Patterson and Troy opened the door to the police vehicle and started assaulting Mr. Fity. Attached as **APPENDIX "L"** is copy of the medical reports on injuries sustained by Fity from the assault that night

- 4.22 On 6 November 2002, Constable Rexton Langon wrote to Chief Inspector Taleo informing him that State prosecutions Department had not received any criminal docket with Jose Fity as the complainant. Attached as **APPENDIX "M"** is copy of the letter.
- 4.23 Between 10 and 17 February 2004, he enquired at the Police station about his complaint. There was no record of it in the Occurrence Book.
- 4.24 However the Officer commanding Port Vila Police station at that time John Mahlon Taleo remembers the incident. Attached as **APPENDIX "N"** copy of the letter John Mahlon Taleo as OCPS to Mr. Nicolas Pouleau.
- 4.25 Although this matter was officially filed as a complaint to the Police there was no record of it in the Occurrence Book nor was it registered as a matter for investigation
- 4.26 The delay in investigating Fifty's complaint was due to the fact that it was never registered in the first place although the complaint was officially lodged.
- 4.27 The Police do not seem to remember any thing about this File except that there has been exchange of correspondences with the Police on this matter especially a letter from Captain John Mahlon Taleo to Jose Fifty's employer Mr. Nicholas Pouleau of Vila Distributions Ltd.
- 4.28 Mr. Fity did not follow up his complaint with the Police at all until February 2004 when he was told the incident at the Police station was not recorded in the occurrence Book and further that the criminal docket is missing and could not be found.
- 4.29 On 28 February 2005, Mr Taleo responded to the allegations that were put to him by Ombudsman. Attached as Appendix O is copy of his letter.

5. RESPONSES BY THOSE WITH COMPLAINTS AGAINST THEM

- 5.1 The working Paper [WP] in this matter was issued on 4th April 2006 to the following people :

Jose Fity;	private person
John Patterson	private person named in the report
Marie Noelle Patterson,	private person named in the report
Morris Seule	Police Constable
Arthur Caulton	Acting Commissioner of Police,
John Mahlon Taleo	Superintendent
Nicolai Pouleau,	private person named in the report
Kayline Tavoia ,	Director of Public Prosecutions
Kelson Bule.	Chief Inspector in charge of Criminal investigation

- 5.2 Only two of the above persons responded to the Ombudsman's letters.
- 5.3 On 18 April 2006 Ombudsman received letter from Marie Noelle Ferrieux Patterson acknowledging receipt of the Ombudsman WP and informed the Ombudsman that she would provide her responses.

- 5.4 On 19 April 2006 Marie Noelle Ferrieux Patterson by a letter responded to the working Paper .Extracts from her responses are attached as **Appendix "P"**
- 5.5 In her response she stated there seems to be a lot of facts missing or appear to be erroneous. She further stated that Ombudsman might have the view that she was more favourably treated by the Police than Mr. Fity but this was not true as her complaint was treated the same as Mr. Fity's complaint.
- 5.6 She informed the Ombudsman that she had to repeatedly follow up her complaint with the Police and later with the state prosecutor. She also made numerous phone calls and visits to both the Police and the State Prosecutor.
- 5.7 She stated she never knew Mr. Fity had been charged but the charge was rejected due to limitation of time to prosecute.
- 5.8 She went on to say that her complaint was diminished by the Ombudsman for saying that it was a minor charge of intentional assault where no injuries were caused.
- 5.9 She complained about the Ombudsman naming another member of her family but not the names of the members of the public and Troy who assaulted Mr. Fity at the Police station.
- 5.10 She stated that her complaint was blocked by John Mahlon Taleo for thirteen months and it only went to court after she approached him personally and approached the Public Prosecutor and Commissioner of Police.
- 5.11 On 20 April 2006 the Ombudsman received a reply from Mr. John Patterson. In his response he stated that Jose Fity had gone to the wedding at FresWota Area uninvited so the Police had asked him to leave. While escorting him out Jose Fity punched him at the back of his head and he fell. The Police took him away.
- 5.12 John Patterson in his reply stated he also was treated the same as Mr Fity when he was assaulted by a man and reported the matter to Police. His file got missing and he made a complaint to the Ombudsman He felt the ombudsman was treating Mr. Fity more favourably than himself. The Ombudsman has personally replied to Mr. Patterson regarding his allegation against the Ombudsman. Attached as **Appendix Q** is copy of John Patterson's response.

5.13 **OMBUDSMAN'S COMMENTS ON THE RESPONSES**

- 5.13.1 The Ombudsman does not agree with what Ms Patterson said in paragraph 5.9 of this report . Although Ms Patterson takes this assault seriously the law does not take it seriously and considers it as a minor assault according to section 107 [a] of the Penal Code Act CAP 135. This was the charge against Mr Jose Fity for assaulting Ms Patterson. **Refer to Appendix B.**
- 5.13.2 It is not the Ombudsman intention to only disclose John Patterson's name and not others. This has been what the Ombudsman collected through his enquiries. The facts that are important to the complaint lodged are to support improper and mal administrative conduct of the Police. The concerns stated in paragraph 5.10 are concerns for the Police for criminal investigation which is not the role of the Ombudsman.
- 5.13.3 In regard to John Patterson's concern raised in paragraph 5.13 the Ombudsman wish to state that all the enquiries are confidential until a public report is issued. Therefore as a matter of confidentiality the Ombudsman has personally replied to John Patterson.

5.13.4 The issue whether or not John Patterson and his friend a man named Troy continued to be at Fres Wota or jumped into the Police Van to the Police Station is not important in an Ombudsman enquiries. The issues raised by John Patterson are important in criminal investigations to establish who inflicted the injuries on Mr. Fity and where.

5.13.5 The issues for enquiries in this matter are mal-administrative practices by the Port Vila General Duty Police.

6. FINDINGS

6.1 Finding 1: **FAILURE OF THE PORT VILA POLICE GENERAL DUTY OFFICERS TO PROPERLY REGISTER A COMPLAINT MADE TO THEM**

The Police Officers who worked at the Port Vila Police Station on the night of 24 November 2001 had failed to carry out their duties properly by not registering Mr Fity's criminal complaint officially lodged with them.

The Ombudsman finds that this is very poor work from the Police that night especially when the assault happened at the Police station and the police officers would be the main witnesses.

There was no reason for difficulty or excuse in investigating as all potential witnesses were at the Police Station and there was no need to get out of the Police station. All the witnesses were and are at the Port Vila Police Station.

6.2 Finding 2: **Alleged improper conduct of Captain John Mahlon Taleo in improperly keeping Marie Noelle Ferrieux Patterson's complaint from the officer in charge of Investigation.**

The Ombudsman finds that Captain John Mahlon Taleo interfered in the investigation of Ms Patterson's complaint and was the main Police Officer behind the failure to properly investigate the two cases lodged on the same date.

Constable Seule had difficulties trying to investigate Mrs Patterson's complaint because of Mr. Taleo's interference.

Mr Taleo was not part of the Investigation Unit or the Uniform Investigation Branch. He was the Officer Commanding Port Vila Police station.

6.3 Finding 3 **The Ombudsman finds that Captain John Mahlon Taleo failed to conduct himself in a proper and lawful manner as the Officer commanding Port Vila Police station.**

The Ombudsman finds that Mr Taleo as Officer Commanding Port Vila Police station [OCPS] took personal interest in the two complaints and caused the delay in investigation. Due to his position at the Port Vila Police Station he directly contributed towards the failures of the other sections to properly investigate the complaints. This is because as the person in charge of the Police station any reference of cases to other sections of the Police had to be done initially by him.

For cases received after hours he failed to refer these cases to the appropriate investigating agencies within the Police department and had kept these complaints himself which had led to delay in investigation and loss of criminal docket.

7. RECOMMENDATIONS

The Ombudsman makes the following recommendations:

RECOMMENDATION 1:

7.1 POLICE DEPARTMENT THROUGH AND WITH THE ASSISTANCE OF POLICE SECTOR REFORM PROJECT DEVELOP AN ACCUSED / COMPLAINTS HANDLING MANUAL

The Ombudsman recommends that the Police Department develop and approve for use in all Police stations AN ACCUSED / COMPLAINTS HANDLING MANUAL which will cover handling of all issues relating to accused persons, complainants and their rights when at the Police station.

Such a manual will assist the Police officers to carry out their investigative duties more effectively and make them to treat every complainant and accused person equally when at the Police Station despite sex, race, political status or standing in community.

RECOMMENDATION 2:

7.2 COMMISSIONER OF POLICE DISCIPLINES ANY POLICE OFFICERS WHO IS FOUND BRINGING DISREPUTE TO VANUATU POLICE FORCE BY HIS OR HER MAL ADMINISTRATIVE PRACTICES AND MISCONDUCT.

It is further recommended that any police officer who fails to perform the duties prescribed in the job description or performs the duty which is not authorised and brings the Vanuatu Police force into disrepute must be promptly disciplined.

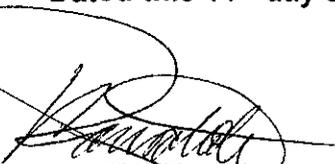
RECOMMENDATION 3

7.3 MINISTRY OF INTERNAL AFFAIRS THROUGH ITS DIRECTOR GENERAL CHECK ON THE CURRENT ADMINISTRATIVE REFORMS AT THE PORT VILA POLICE STATION AND ALL THE POLICE STATIONS THROUGHOUT VANUATU

It is further recommended that the Ministry carry out necessary consultations and reforms with the office of the commissioner of Police to effect positive changes in line with principles of good governance.

For positive reforms to happen at the Police stations through out Vanuatu there needs to be developed for the Vanuatu Police Department proper Practice and Procedure Manuals. This will assist the Police general duty in carrying out their responsibilities and also help them know how to handle people requesting police assistance and those brought in as accused persons.

Dated this 11th day of October 2006.



P.K.TAURAKOTO
OMBUDSMAN OF THE REPUBLIC OF VANUATU

8. INDEX OF APPENDICES

- A.** copy Marie N. Patterson's complaint
- B.** copy of Marie N. Patterson's re-lodged complaint
- C.** copy of letter from Ms Patterson to Police Constable Morris Seule
- D.** copy of Ms. Patterson's second letter to Police Morris seule
- E.** copy of Jose Fity's statement as accused person
- F.** copy of Mrs Patterson's letter to Captain John Taleo putting allegations she had collected from PC Morris Seule on the alleged improper handling of her case
- G** copy of Ms. Patterson's letter to the Commissioner of Police Robert Diniro
- H** copy of Ms. Patterson's second letter to Police Commissioner Diniro
- I** copy of Ms Patterson's letter to former Director of Public Prosecutions Nicholas Mirou
- J** copy of Jose Fity's charge sheet
- K** copy of summons issued to Jose Fity
- L** copy of the medical reports on injuries sustained by Fity
- M** copy of Constable Rexton Langon's letter to Chief Inspector Taleo informing him that State prosecutions Department had not received any criminal docket with Jose Fity as complainant
- N** copy of the letter from John Mahlon Taleo as OCPS to Mr. Nicolas Pouleau.
- O** copy of John Taleo's letter to the Ombudsman
- P** copy of Ms Patterson's reply to the Ombudsman
- Q** copy of John Patterson's reply

A

VANUATU POLICE FORCE / POLICE DE VANUATU
PROCESS VERBAL / STATEMENT OF WITNESS

Station/Poste: VILA HQ

Date: 24/11/01 Place: PORT VILA Time: 10:50 pm

Name/Nom: PATTERSON Surname/Prenom: MARIE NOELLE

Situation matrimoniale: Celibataire Marié/concubinage Séparer/divorcer Veuf/veuve
Marital Status: Single Married/de facto Separated/divorced Widowed

Nationality: NI-VANUATU Ethnic origin/origine ethnique: _____

Statut résidentiel: ni-Vanuatu expatrié touriste Visiteur pour affaires
Resident status: ni-Vanuatu Expatriate Tourist Visitor on business

Age: _____ Sex: M F Statement in: BISLAMA
Declaration en: _____

Occupation/profession: DEPUTY COMMISSIONER, V.M.A.

Home island/village: _____ Ile et village d'origine _____

Business Address: _____ Adresse d'emploi _____

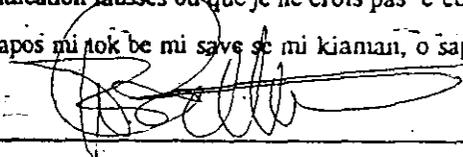
Residential Address: P.O. BOX 605 Adresse de domicile _____

Interpreter/Interprete: _____

I hereby declare that my statement is the expression of the truth 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 which I know to be false or I do not believe to be the truth.

Je déclare que ma déposition est l'expression à la vérité au mieux de ma connaissance et de ma conviction. Je la fais en sachant que me m'enpose a des poursuites au cas ou je donnerais intentionnellement des indication fausses ou que je ne crois pas c'etre vrais.

Mi talemaot se tok blong mi ia i tru. Mi save bambac mi go long Kot sapos mi tok be mi save se mi kiaman, o sapos mi talemaot ol ting we mi no ting oli tru.

Signature: 

LONG TEDEL NAET WAN MAN WE MEM BLONG
HEM JOSE WE HEMI WOK LONG VILA
DISTRIBUTION HEMI BIN DRINK TUMAS LONG
WAN SOCIAL EVENING LONG ALLIANCE FRANCAISE
MO HEMI TOK TOK TUMAS LONG TU OR THREE
WOMEN MO HEMI FORCEM HEM WAN LONG
OL WOMEN INCLUDAM MI. MAN BLONG MI
HEMI BIN TOK TOK LONG JOSE FINIS LONG
9 PM BLONG TALEM HEM SE IWO SUD DRINK ANI
MOA BEER FROM HEMI DRONG-BIG-WAN-FINIS
BE HEMI GOHED DRINK MO TOK TOK LONG OL
KRAVKE FASIN. HEMI BREKEM WAN BOTTLE BIA
CLOSAP LONG BAR. SAM TAEM LONG 10:15 PM
HEMI CALLEM MI WAN "BITCH" LONG FRANIS
MO MI BACE OFF LONG HEM FROM HEM I
DRONG MO HEMI WAN BIG MAN. BE SHART
TAEM AFA HEMIE TRAE FILEM MI MO HEMI

VANUATU POLICE FORCE / POLICE DE VANUATU

PROCESS VERBAL / STATEMENT OF WITNESS

Station/Poste PORT VILA Place: Port Vila... Date 19.12.01 Time:

Name/Nom ... FERRIEUX PATTERSON Surname/Prenom MARIE-NOËLLE.....

Nationality ... NI-VANUATU..... Age: Home Island EFATE.....
Ile Natale

Occupation DIRECTOR AT VMA Statement in ... ENGLISH.....
Déclaration en

I hereby declare that my statement is the expression of the truth 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 which I know to be false or do not believe to be truth

Signature:

COMPLAINT OF INTENTIONAL ASSAULT (SECTION 107 OF THE PENAL CODE) AGAINST MR. JOSE FITTY.

I wish to lodge a complaint against Mr Jose Fitty, who, I understand is a French citizen and works at Vila Distribution.

I already lodged a complaint the night of the incident but I understand that the document was lost at the Police station. I understand that Mrs Sylvie Roblot and Jenny (Wife of Ralph Reganvanu) went the next Monday to the Police to lodge their statement as witness to support my complaint to Sergeant George Solong.

I do not know what happened to their statements as my original one was lost.

I wish to report that I was attacked by the above person..

On Saturday 24th ^{evening} December 2001, I was among guests attending a fundraising "Belgian Beer Tasting" evening at the Alliance Francaise premises next to the French Embassy.

When I arrived at about 8:30 pm Mr Fitty was already there with 50 or so others, and it was clear he was already drunk. He was draping his arms around people's shoulders and was somewhat wobbly on his feet.

About an hour later he staggered at the bar where my husband was standing and knocked a bottle of beer off the counter. This caused beer to spill down my husband's trousers and the bottle smashed onto the floor.

Mr Fitty and a friend started to apologise to my husband and offered to buy him a beer to "drink together". My husband declined this offer and told Mr Fitty that Mr Fitty had already too much to drink and that he should slow down.

It was clear Mr Fitty was becoming more drunk, and my sister-in-law and I mentioned to Mr Georges Cumbo, the head of the Alliance Francaise, that he should be careful and keep an eye on him or even ask Mr Fitty to leave.

Neither I nor my husband had met or spoken to Mr Fitty before that evening but I had heard from others that when he is drunk he is violent, and I know of two incidents where he physically assaulted staff or family members of staff of a restaurant and café in Port Vila that led to his being banned from entering these premises.

About half of those present were women, and I expect many of them shared by reaction of being anxious in the vicinity of someone drunk like this

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Shortly after 10 pm I was talking with two other women (Sylvie Reblot and Jenny, friend of Mr. Reganvanu). Mr Fity kept trying to impose himself into our conversation, and became increasing insistent. He simply would not back off. Eventually I asked him to go away and leave us in peace. He got angry and confronted me, by coming a few centimetres from my face, I asked him to step back so that I could get waway as I was comered against the bar.

I finally walked away and did not sopeak again with him, as I stayed away, seeing that he was drunk.

Mr Fity, who was still close to me, then grabbed a sandwich with a ^{plate} sauce from Mr Patrick Pedica the Vanuatu Manager of Shell Pacifique Vila and pushed it in my face. The sauce went all over my dress, and the shock of the blow make me loose one of my earrings was pulled out.

At the point my husband intervened and pushed Mr Fity away from me and he hell on the floor. Several men then took Mr. Fitty outside. I phoned the police station from the Alliance Francaise office and an officer came to the premises. The Police station is less than 100 metres away. I then walked with the officer and made a formal police complaint against Mr Fity.

Because of Mr Fity's condition, the Police officers on duty assured me that they would hold him to "cool off" especially since he was in no fit condition to drive.

The Management of Alliance Francaise invited me to return to the premises and offered us a complimentary drink.

They were numerous witnesses to the assault.

- Patrick Pedica, Manger of the Shell Compnay
- George Combo, Director of alliance Française
- Sylvie Roblot
- Jenny (wife of Ralph Reganvanu)

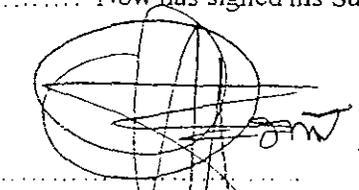
I understand that the Police also took his statement at the police station the nioght of the incident (check with Sergeant along)

Statement received by: PC M Seule (Police Officer/Officer de Police)

Declaration recue par Port Vila On/le 18-12-01 at/a 3:30 p.m. Hrs.

The witness not knowing how to sign his statement, was read out to him in the presence of
témoin ne sachant lecture de sa declaration lui a ete faite en presence de:
..... Now has signed his Statement with us/que a signe le presence
procès verbal avec nous.


The Witness
Le Temoin


Police Officer
L'Officer de Police

Interpreter
L'interprete

MARIE-NOËLLE FERREIUX PATTERSON

P.O. BOX 615
PORT VILA
Tel: (678) 22231 fax: (678) 25660

11/11

Port Vila, 29th January 2002

PC M SEULE
Criminal Investigation Department
Police Headquarters
PMB 014
Port Vila

Handwritten mark resembling a stylized 'C' or 'U' with two short horizontal lines above it.

Dear Sir,

RE: CRIMINAL COMPLAINT AGAINST JOSE FITTY

I refer to my complaint against Mr. Jose Fitty, which was lodged with your department on 19.12.01.

His assault occurred in front of tenths of witnesses at Alliance Française.

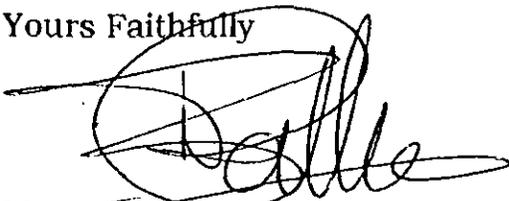
Please find enclosed copy of the statement handed over to you on the night of 24.11.01 and which was lost already by your Police Department when I came the night of the incident to report it.

Please note that the date of the incident was **24.11.01** and not 24.12.01

I would be grateful to hear whether the case has now been forwarded to then State Prosecutor and when it will be prosecuted.

I thank you in advance for your action in this case.

Yours Faithfully



Marie-Noëlle Ferrieux Patterson

Encl.: Copy of the statement
CC: O/C CID, Mr. George Namaka

COPY

D

P.O. Box 615 Port Vila Vanuatu
Email: patclane@vanuatu.com.vu
Fax: (678)25660
Phone (678) 23441

MARIE-NOËLLE FERRIEUX PATTERSON

10/11

October 14, 2002

Officer Seule Morris
Criminal Investigation Department
Police Headquarter

Dear Sir,

I refer to my complaint dated 24.11.01, lost by your department and resubmitted to your Department on 19.12.01 concerning an assault by Mr. Jose Fitty against myself.

Now, almost one year has passed. I have seen you many times about this. I brought to you two reliable Ni-Vanuatu witnesses and the only job the Police have to do according to yourself is to collect the statement from the accused Jose Fitty.

I wish to record here that Mr. Fitty, as you told me refused to give you originally his statement as he said that he had given it to another Officer Taleo who had nothing to do with the inquiry process.

May I mention that one of the Ni-Vanuatu witnesses mentioned to me that she had seen Mr. Taleo with Mr. Fitty the delivery man and agent for Vila Distribution sitting at the Café la Terrasse shortly after the case of assault against me with the Policeman Taleo.

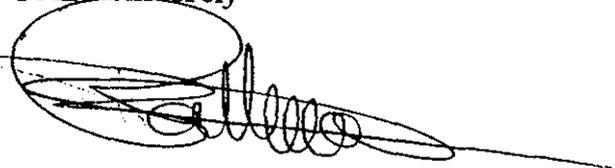
I also wish to bring your attention that one of the Ni-Vanuatu women has been recently harassed by the same French man around her house. It would therefore be better to have the case finalized to avoid such additional incidents.

Please let me know whether the case has now been finalized and whether the statement from Mr. Fitty has been obtained and given to the State Prosecutor.

I can be contacted at the Vanuatu Maritime Authority where I work as Deputy Commissioner of Maritime Affairs.

Thank you in advance for your cooperation.

Yours sincerely



Marie-Noelle Ferrieux Patterson

CC: OC CID,
Acting Commissioner of Police, Major Arthur Caultron
Superintendent, Mr. Rakau

VANUATU POLICE FORCE / POLICE DE VANUATU
 PROCESS VERBAL / STATEMENT OF WITNESS

'E'

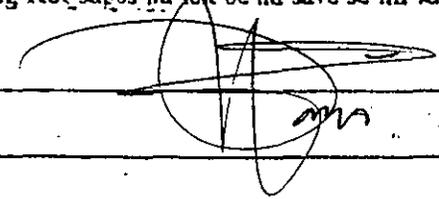
VILA

Station/Poste: _____
 Date: 11/11/82 Place: VLB Time: 11:45
 Name/Nom: MORRIS Surname/Prénom: SENLE
 Situation matrimoniale: Célibataire Marié/concubinage Séparé/divorcé Veuf/veuve
 Marital Status: Single Married/de facto Separated/divorced Widowed
 Nationality: NI - SAN Ethnic origin/origine ethnique: MELANESIAN
 Statut résidentiel: ni-Vanuatu expatrié touriste Visiteur pour affaires
 Resident status: ni-Vanuatu Expatriate Tourist Visitor on business
 Age: 24 Sex: M F Statement in: Bislama
 Declaration en: _____
 Occupation/profession: Investigator
 Home island/village: TRUSIA Ile et village d'origine
 Business Address: P.M. 214 Adresse d'emploi
 Residential Address: VILA Adresse de domicile
 Interpreter/Interprete: _____

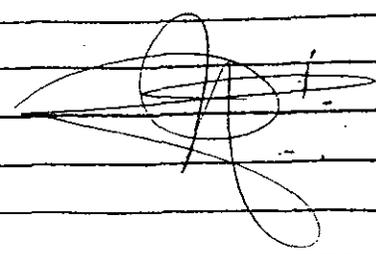
I hereby declare that my statement is the expression of the truth to the best of my knowledge and belief and is made by me knowing that I am liable to be prosecuted criminally if I wilfully give information which I know to be false or I do not believe to be the truth.

Je déclare que ma déposition est l'expression à la vérité au mieux de ma connaissance et de ma conviction. Je la fais en sachant que me n'expose à des poursuites au cas où je donnerais intentionnellement des indications fausses ou que je ne crois pas être vrais.

Mi talemaot se tok blong mi ia i tru. Mi save bambac mi go long Kot sapos mi tok be mi save se mi kiantan, o sapos mi talemaot ol ing we mi no ting oli tru.

Signature: 

Mi submission statement is blong talemaot
 re today 11/11/82 mi mo PC Denis
 SARANAN i bin approachem mi JUDGE FITZ
 folem allegation we Mrs Portson i puttin
 a suggestion hem put hemi na warden
 gavin any taktan ma clamen se
 suspected John malisa trad hemi
 tillim same case ia finis



MARIE-NOELLE FERRIEUX PATTERSON

S/11
13.02.03

Captain John Taleo
O/C Prisons
Police Headquarters
Port Vila

Dear Sir,

**RE : CASE CR/102/12/01
PROSECUTION AGAINST JOSE FITTY**

I refer to the above matter, which is an assault charge I made against Mr Jose Fitty on 19 December 2001. The original complaint was made on the 24 November 2001, the same night as the assault occurred, however, I was told that this file was 'lost.'

I understand from the Police Officer in Charge of this case, Mr. Morris Seule, that you took charge of the case with the CID in 2001.

Since the date of the incident when Mr. Fitty assaulted me at the Alliance Francaise in front of numerous witnesses, according to Morris Seule, Mr. Fitty, a French National, has alleged that you took his statement, even though Mr Seule was repeatedly asking him to give him his statement so that the case could be forwarded at the State Prosecutor.

Mr. Seule has told me that Mr Fitty has repeatedly told him that he gave his statement to you, and the result of this back and forth confusion has been a delay of the proceedings.

I went to see Mr. Seule again last week. He advised me that Mr. Fitty has now confirmed in writing that his statement was given to you and he is refusing to answer the Police Officer in Charge.

Corporal Seule has also informed me repeatedly during these last 13 months that he had contacted you to obtain a copy of Mr. Fitty's statement but he still had not seen it.

Perhaps as the Officer in Charge of Correctional Services you know nothing about this case, but since Mr Fitty has apparently claimed that he has given his statement to you, I would be grateful if you would confirm whether this is true or not.

If you have this statement, would you please forward it immediately to both Corporal Morris Seule and the State Prosecutor so that there is no further delay in bringing this matter to Court.

I hope to hear from you soon.
Yours Sincerely

Marie-Noëlle Ferrieux Patterson

Cc : Mr. George Namaka, O/C CID
Acting Commissioner of Police, Major Coulton
Mr. Vake Rakau O/C Southern District

MARIE-NOELLE FERRIEUX PATTERSON

Port Vila 15th May 2003

8/11

Mr. Robert OBED DINIRO
Commissioner of Police
Police Headquarters
Port Vila

G

COPY

Dear Commissioner,

RE: CASE/102/12/01 (Accused - Mr Jose Fitty)

I refer to the above case which appears to have had no action taken upon it to bring the matter to court since I made the complaint on the 24th of November 2001. The original complaint was "lost" and had to be re-lodged.

I enclose for your information the copy of the complaint dated 19.12.01, copies of two letters sent to the investigating Officer, Constable Seule Morris dated 29.01.02 and 14.10.02 and a letter sent to Captain John Taleo dated 13.02.03.

I personally went to see Constable Morris on different occasions to follow-up his investigation who assured me that the case was forwarded to the State Prosecution. However I never saw evidence of the transfer to that department.

I went many times to the State Prosecution and either no one could find the file or someone thought they may have remembered having seen it, but no-one could locate the file.

I tried to obtain an appointment with the State Prosecutor Graham Bihu but was not granted one, and was not called back either.

I would be grateful if:

1. You could insure that the matter is brought to Court by the State prosecutor as the evidence is clear and simple
2. You could investigate the reasons why this straightforward matter has been so delayed.

As the complainant, I would like to see this matter finalized.

Thank you for your assistance with this. I look forward to hearing from you, or to seeing the matter brought to court.

Yours sincerely

Marie-Noelle Ferrieux Patterson

Enclosed : 3 letters + complaint

HAGAN SUTEI
POLICE OFFICER.

Port Vila, 8th July 2003

7/11

H

Mr. Robert OBED DINIRO
Commissioner of Police
Police Headquarters
Port Vila

Dear Commissioner,

RE: CASE/102/12/01 (Accused - Mr. Jose Fitty)

I refer to the above case which appears to have had no action taken upon it to bring the matter to court since I made the complaint on the 24th of November 2001. The original complaint was "lost" and had to be re-lodged.

I sent a reminder on 15th May 2003 but have not received any comment. (enclosed)

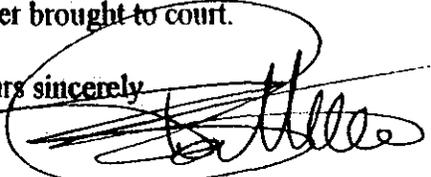
I would be grateful if:

1. You could insure that the matter is brought to Court by the State prosecutor as the evidence is clear and simple
2. You could investigate the reasons why this straightforward matter has been so delayed.

As the complainant, I would like to see this matter finalized.

Thank you for your assistance with this. I look forward to hearing from you, or to seeing the matter brought to court.

Yours sincerely



Marie-Noelle Ferrieux Patterson

Cc: Public Prosecutor
State Prosecutor, Graham Bihu

Enc: Letter of 15th May 2003

6/11

Port Vila, 2 October 2003

Mr. Nicholas Miro
Public Prosecutor
PO Box 221
Port Vila
Vanuatu

Dear Sir,

RE : COMPLAINT AGAINST STATE PROSECUTOR - CASE /102/12/01

I refer to my letter to the Police Commissioner, Mr. Robert Diniro dated 8th July 2003 concerning Case /102/12/01 against Mr. Jose Fitty and copied to you.

For months now I have been following this case till it was prosecuted. For one year, the matter was delayed at the level of the Police as Mr. John Taleo had been allegedly handling the case and could not retrieve the statement of the accused.

The Police through Mr. Morris Seule finished their work and the file was passed to the State Prosecution. I have been trying to find which State Prosecutor has been allocated this file but this has proven to be impossible.

Mr. Fitty is a French citizen working as a marketing agent at Vila Distribution.

I understand that the State Prosecution answers too to the Public Prosecutor and I would be grateful if you could investigate the delay in this investigation.

I was assaulted by Mr. Fitty in an evening at the Alliance Francaise with tenths of witnesses.

I would appreciate to hear from your Office the progress of the prosecution.

Thank you in advance for your cooperation.

Please find enclosed a copy of the original statement of complaint and the associated correspondence.

Yours Sincerely



Marie-Noëlle Ferrieux Patterson

Enc : File

Cc : Commissioner of Police, Mr. Robert Obed Diniro

CR 345/03

REPUBLIC OF VANUATU

Public Prosecutor V JOSSE FITY

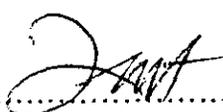
Charge agensem yu iolsem :-

COUNT 1 STATEMENT BLONG RONG
INTENTIONAL ASSAULT – agensem section 107 (a) Penal Code Act CAP 135

PARTICULARS BLONG RONG

JOSSE FITY yu blong Franis mo yu stap liv long Port Vila, samtaem long namba 19 December 2001 long bar blong Alliance Francaise yu bin minim blong assaultem woman ia MARIE NOELLE FERRIEUX PATTERSON olsem stonem face blong hem wetem wan sandwich. Long taem ia hemi no kasem kill long body blong hem.

PORT VILA, long dei ia 3 February2004


.....
PUBLIC PROSECUTOR



'K'

CR 345/03 & 343/03

REPABLIK BLONG VANUATU
SHEFA PROVINCE/PORT VILA

SAMONS LONG ACCUSED

Iko long: JOSSE FITY

Son of : PIERRE & EVLYNE

Blong : FRANCE C/- Vila Distribution, Vila (sales manager)

Yu mas kam long MAGISTRATES Court long Court House/PORT VILA

Long dei ia : WEDNESDAY 18th FEBRUARY 2004 Long : 8:30 AM/Morning

Bae Kot ijadgem yu long saed blong loa from trabol wei stap wetem pepa ia.

STATE PROSECUTOR ALFREDO BICE

PROSECUTIONS OFFICE

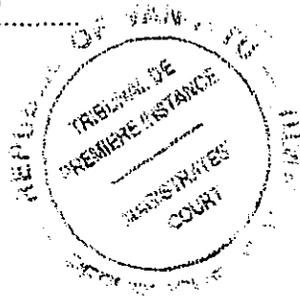
Received on: 10/02/04

PORT VILA, long dei ia

6 FEVR.

2004


JUDICIAL OFFICER



Deput H/P

VANUATU POLICE FORCE
REQUEST OF MEDICAL REPORT

A medical report is requested in respect of:

Name: JOSE FITY

Date of Birth: 25/06/68

Place of Birth: FRANCE

Sex: M

Maritus Status: Married (Single/Window)

Native of: FRANCE (Village & Island)

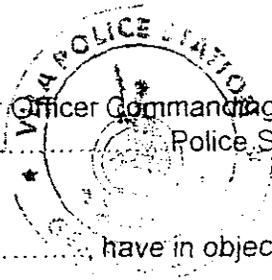
Hospital Unit No:

Who was admitted/received treatment, is to be medically examined on the 24/11/01 at the VC H
(Date) (Hospital/Dispensary)

Any injuries or symptoms on his/her body or person which in the opinion of a examining medical Officer, ma have been inflicted or ocured as a result of this alleged Offence must be stated in the Medical Report.

The report is required to assist Police Investigation.

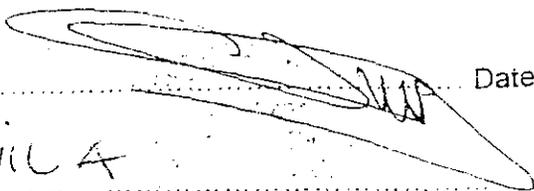
Date: 24/11/01

For Officer Commanding CID
Police Station


JOSE FITY
(Victim)

have in objection of this report

being sent to the Vanuatu Police to assist Police Investigation.

Signature:  Date: 24/11/01

Place: VILA

VILA CENTRAL HOSPITAL
ADMISSION SHEET / FEUILLE D'ADMISSION

Ward:	SURGICAL		Medical Record Number:	
Family name Nom de famille	FITZ		First name Prenom	JOSE
Date of birth/dob Date de naissance	26/06/68	Age: 33 yrs <small>only if no date of birth</small>	Sex: M	Race: mal.
Patient category: Categorie de malade:	Private <input type="checkbox"/>	Public <input checked="" type="checkbox"/>	Religion:	
<i>Tick the right box above Tick the right box above</i>				
Island of birth Ile de naissance:	FRANCE		Husband/wife name: Nom de l'epouse:	
Father's name: Nom du pere:			Mother's name: Nom de la mere:	
Present address: Adresse actuelle:				
Date of admission: Date d'hospitalisation:			Date of discharge/death: Date de sortie/deces:	
Discharge Status:	Discharged by hospital <input type="checkbox"/>	Died <input type="checkbox"/>	Absconded <input type="checkbox"/>	
<i>Tick the right box above Tick the right box above Tick the right box above</i>				
Follow up:				

Final Diagnosis Diagnostic de Sortie

Smoker <input type="checkbox"/>	Postoperative complication <input type="checkbox"/>	Hospital acquired infection <input type="checkbox"/>
---------------------------------	---	--

<i>where you see this sign -> please write the details</i>	<i>You may number more than one box</i>
External cause of injury	Excision of ->
assault/fist fight	D&C for ->
domestic violence	Cystoscopy for ->
child abuse	Laparotomy for ->
<input type="checkbox"/> car <input type="checkbox"/> truck <input type="checkbox"/> motorbike <input type="checkbox"/> other MV accident	Repair of hernia ->
<input type="checkbox"/> pedestrian <input type="checkbox"/> driver <input type="checkbox"/> passenger	hysterectomy for ->
other cause ->	<input type="checkbox"/> Hemi <input type="checkbox"/> Thyroidectomy
Fracture of ->	For ->
* Reduction of <input type="checkbox"/> Fracture (MUA/POP) <input type="checkbox"/> Dislocation	Prostatectomy
* Internal fixation of bone	Benign prostatic hyperplasia
* External fixation of bone	Prostatic malignant neoplasm
* Traction	Abscess of ->
Cut	Incision and drainage
<input type="checkbox"/> tendon <input type="checkbox"/> extensor <input type="checkbox"/> flexor <input type="checkbox"/> nerve of ->	Other ->
repair tendon extensor flexor nerve	Appendicectomy - acute/rupture/perf appendicitis
<input type="checkbox"/> IDDM <input type="checkbox"/> NIDDM <input type="checkbox"/> sepsis/ulcer/peripheral comas	Appendicectomy for abdominal pain
<input type="checkbox"/> amputation <input type="checkbox"/> debridement	Appendicectomy for ->
Splenectomy for rupture of spleen	
Other diagnosis	Other Procedure

HISTORY sheet

FIRST NAME: JOSE FAMILY NAME: FITZ UIN:
PRÉNOM: NOM DE FAMILLE:

25/11/01

2:50 am. I present with the
I assault while being with friends
@ the party.

- P/c: -> conscious well alert / taken alcohol
- > small laceration on nose
 - > small bruises on face
 - > painful neck.
 - > bruises on fist (left hand)

WITNESSES Mr 120/sex 1170 Perry 20...

- Plan:
- 1) medical report.
 - 2) Accident -
 - 3) G.V print.
 - 4) for a file to file in medical report.

[Handwritten signature]

'M'



THE STATE PROSECUTIONS DEPARTMENT

TEL: 678 22222
FAX: 678 22800

PRIVATE MAIL BAG 014
PORT VILA, VANUATU
SOUTHWEST PACIFIC

TO: Chief Inspector JOHN M. TALEO
OC PRISON
PORT VILA

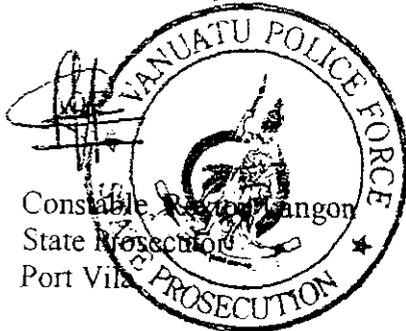
DATE: 6th NOVEMBER 2002

Dear Sir,

RE: FITY JOSE'S CASE.

We refer to the above and to your letter to Mr. Nicolas Poulard, dated, 30th October 2001.
We would like to let you know that we have not received the Complainant's case yet despite his several attempts to the office to check if the file has been to our office.
Should you have any idea as to where about the file is, do inform the complainant or our office, so that we can inform him about his file.

Yours Sincerely,



Cc: Fity Jose
: File



**SOUTHERN POLICE DISTRICT
COMMAND HEADQUARTERS**

Central Police Station – Paris Street

Private Mail Bag 014
PORT VILA

Tel (678) 22 222
Fax (678) 22 800

REPUBLIC OF VANUATU

October 30, 2001

Mr Nicolas POULEAU
General Manager
Vila Distribution Ltd
PO Box 197
Port Vila

Dear Mr Pouleau,

RE: Mr Jose FITY

I write to you following the incident, ^{which} ~~which was~~ occurred on Saturday 24th October 2001 on or about 0001hrs midnight that some people have been involved and assaulted Mr Fity. The formal complaints were lodged at the Central Police Station against some expatriates who were involved in the incident and they will appear before the court.

The matter is now with the Police to prosecute people concern. Furthermore, Mr Fity was injured and been treated at the Vila Central Hospital and Port Medical Centre.

The Police were the main witnesses whilst seen Mr Fity have been intentionally assaulted.

Please do not hesitated to contact me on the above phone contact for further information.

Yours Sincerely,


John TALEO
Captain
OCPS (Vila)





VANUATU POLICE COLLEGE

FORCE TRAINING WING

'Knowledge is Power'

Private Mail Bag 014
PORT VILA

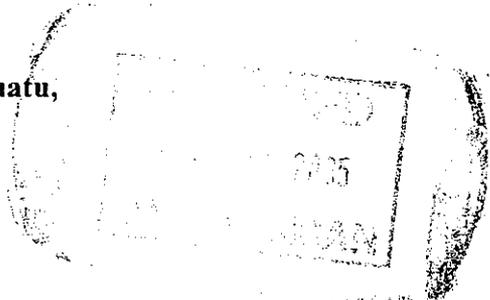
Tel: (678) 23 048
Fax: (678) 22 075
email: jm_taleo@Vanuatu.com.vu

REPUBLIC OF VANUATU

Ref: 01/05/dirftw/jt

Date: 28th February 2005

Mr. Iolu ABBIL
Acting Ombudsman of the Republic of Vanuatu,
Office of the Ombudsman
PMB 9081
PORT VILA.



Dear Sir,

**Subject: DELAYED INVESTIGATION AND LOSS OF CRIMINAL DOCKET BY
POLICE STATION IN VILA**

(Your ref: 2394/4021/L15/jmt)

I refer to the above subject matter.

I wish to acknowledge receipt of your letter dated 22 February 2005, and respond as follows, firstly with a brief description of the events on the night you have mentioned.

Immediately before the incident of assault on Jose Fity, which you have described, was an alleged assault by Jose Fity on the former Ombudsman, Marie Noelle Patterson. Two complaints were lodged in reference to that night and investigations of both reports were under way while I was Officer Commanding the Vila Police Station (OCPS).

Ms Patterson alleged that during a function at Alliance Francaise, Mr Fity was very drunk and had viciously attacked her following a verbal argument, punching her face and even picking up the large, untouched celebration cake and pushing it into her face. It was alleged that he then ran from the scene and was followed to the Tennis Club by John Patterson, Johnny Lam and Troy who took action in retaliation for Mr Fity's attack on Ms Patterson.

This was not a simple case, with the two reports being lodged at the same time. Investigation and police interviews by Uniform Investigation Branch had commenced while I was still Officer Commanding of the Police Station. However a short time later, on 01st January 2002, I was posted out from that position and transferred as Superintendent of Police Prison Service.

101

2/2

In that role, I had no authority to stay involved in that or any other investigation. This case along with all others, I handed over both case files to then Commander Southern District, Superintendent Seule Takal (now deceased).

I do not know how much further this investigation or any other investigation of the time progressed. When approached by Ms Patterson for a progress report during my term as Prison Superintendent, I referred her to the Officer In Charge of CID and Officer In-Charge of UIB.

Your letter was delivered to me today, three and a half years after the alleged incidents. The only way your comments could be answered would be by the Criminal Investigation Department with their access to the Occurrence Book records for 25th November 2001 and their records of investigations carried out at the time with late Superintendent Takal. This would be the only way to action either complaint, that of Ms Patterson and that of Mr Fity, both having accused each other of assault causing injury on the same evening, a very confusing issue to everyone concerned with the investigation.

I hope this helps to explain the unusual circumstances of the case and the reason my involvement was discontinued, and that it will eventually be resolved in an amicable and sensible manner for both parties.

Yours Faithfully,


John M TALEO
Superintendent
Director of Police College



19 Avril 2006

The Ombudsman
Office of the Ombudsman
Republic Of Vanuatu.
Port Vila

Dear Sir,

RE: WORKING PAPER ON ALLEGED INACTION BY POLICE TO INVESTIGATE A COMPLAINT OFFICIALLY LODGED

I hereby request to have my letter included in the final report.

The problem of delays in the Police's work is a real problem, as we all know, but your investigation is biased, based on the wrong or incomplete facts.

However I am quite surprised to see that the working paper of this investigation took more than 2 years for your office to write.

It looks like you could initiate your own internal investigation in the delays of the Ombudsman to investigate complaints. This is a simple case and a lot of the "facts" are missing or appear to be erroneous.

You involve my name, and hint that I might have had favourable treatment by the Police, as if I had done something wrong. In fact the only action I had done was to attempt, by speaking to him, to stop Mr. Jose Fitty harassing some women, which led him to assault me, an incident witnessed by numerous people. According to witnesses attending the function this was apparently not an unusual behavior for Mr. Fitty with women.

You did not need to involve my name to find wrongdoings on the part of the Police. As you yourself state, it was two different incidents.

You then referred to my family as linked to some kind of contributory wrongdoing, or perhaps being the reason why Mr. Fitty's complaint was not investigated, when you state that the "Police were treating a well known family, the Pattersons, more favourably than Mr. Fitty."

If you consider that the treatment I received from the Police and in particular the delaying actions and tactics of Captain John Taleo to protect Mr. Jose Fitty corresponds to a favourable treatment, I do not know whether I should laugh or cry.

The following is a summary of the treatment I received, which seems to correspond unfortunately to the normal treatment given to the public:

I never knew until I received your report that Mr Fitty had even been charged. The charge was rejected by the court (beyond the delay of limitation of criminal investigation) because of the time it took to reach the stage of charge, thanks primarily to the obstructive actions of Capt. John Taleo.

My complaint was lost too like Mr. Fitty's.

I followed up the investigation ad nauseum: I wrote at least 7 letters, I cannot count all the phone calls and the visits I made to both the Police and the State Prosecutor

- 24.11.01 My original complaint was lodged at the Police Station;
- 19.12.01: I lodged a new complaint with the Police because the first one I was told had been "lost" and there was no more evidence of its existence;
- 29.01.02: I wrote a letter to Constable Seule Morris (enclosed);
- 14.02.02: My letter to the Officer in Charge outlining that one of the witnesses had seen Captain Taleo and Jose Fitty socialising together and recording the fact that Taleo who had nothing to do with the investigation process was obstructing the enquiry (enclosed);
- 13.02.03 I wrote a letter of complaint to Captain John Taleo for his inappropriate interference in delaying and blocking the statement of Mr Fitty, preventing it from being given to the Investigator in charge (copy enclosed);
- 08.07.03: I wrote a letter to the Commissioner of Police (enclosed)
- 02.10.03 I wrote a letter to the Public Prosecutor complaining about delays and interference of Captain John Taleo blocking the inquiry against Mr Fitty (enclosed)
- 15.05.03 I wrote a letter to the Police Commissioner, Robert Obed Diniro (enclosed)
- Numerous visits to Constable Morris
- Numerous visits to the State Prosecutor

I believe that if your office was implementating the principle of equal treatment of all under the law, my complaint should be handled with the same diligence as Mr. Fitty's one, as an additional complaint against the Police, and additional findings should be included against Captain John Taleo and the senior officers who allowed Captain Taleo's interference for at least 13 months without stopping him.

This interference is mentioned in your enclosures: statement of Morris Seule dated 11/11/02 clearly stating that Jose Fitty refused to talk to him because he had already given his statement to Capt. Taleo.

You furthermore diminish my complaint by writing:

"CR/345/03 was minor charge dealing with intentional assault where no injuries was caused to the complainant "

A favourable treatment is when the Police act the same hour or the same day usually when it is a wantok or a friend which is the usual complaint of the public.

Your approach would have been more credible if you had used such an example instead of comparing of the "so-called" favourable treatment I received, more than 2 years of delays after endless reminders.

I also noted that you wrote the full name of another member of my family, John Patterson, but did not write the names of other people who were involved, according to your report, namely a "Troy" and also 2 members of the public who alledgedly assaulted Mr. Fitty in the Police station.

' P ' 2/11

Your main witness, Capt John Taleo has shown that he was totally biased in favour of Mr Fitty as he interfered in the investigation of my complaint, even though he was not in charge of the investigation. He blocked the investigation for at least 13 months, and I complained about his attitude to Taleo himself, first (he did not reply), then to the the Public Procecutor and finally informed the Police Commissioner of the whole case by forwarding copies of all my letters.

If you want to be objective in your inquiry, you will need to add some other "facts" and findings in particular:

Alledged Improper conduct of Captain John Taleo in keeping the accused (Mr Fitty's) statement in the case of my complaint for at least 13 months instead of remitting it to the officer in charge of the investigation thus blocking the referral to the State Prosecution and in delaying the investigation, and generally interfering in the investigation and in fact ensuring that it would never go to Court by delaying it. You can get evidence that he was socialising with the Mr. Fitty through one of the two witnesses of my case.

Some form of sanction should be recommended against Capt. Taleo.

Another recommendation should be that the Police and the State prosecutors should be given classes about the Penal Code so that in the future they know Article 15 (Limitation in criminal cases).

Erroneous facts:

1. You state that Jose Fitty was assaulted at the Police Station, when in fact the medical report dated 5/11/01 states that he was assaulted while he was with friends at a party.

2. You state in your Finding 4 that "Fity sustained serious injuries", when the medical report of 25/11/01 at 2.50 a.m stated that:
*"Conscious well alert/Taken alcohol
7 small lacerations
7 small bruises on face"
7 bruises on fist (left hand) "*

Why did you choose to dramatise Mr Fity's injuries and minimise my case?

3. Did you ask yourself the reason why Mr Fity had bruises on his hands? Was this perhaps because he used his hands to hit and attacks people that night?

4. Your report refers to the first incident occurring on 24 November 2001 at 10.50, and the second incident on 18 November 2001 being the same night!

As you mentioned in your preliminary report, the principle of equal treatment is an important aspect of our Constitution and your office should respect it too.

SUMMARY:

- Why is my name even in this report? Why would I be named and involved , when I was a victim and an aggrieved party? I have nothing to do with it.
- Why is my case not included in the findings of wrongconduct of the Police and in particular of Captain John Taleo who wilfully obstructed the investigation into Mr. Fitty?
- Why did it take so long for that simple investigation to come out and why now?
- Of course it is appropriate for Office of the Ombudsman to investigate the Police, but not to implicate me or my "well known family" for no reason.
- The evidence shows that I was persistently following up my complaint without any result. This is not the reflection of some kind of "misplaced" influence.
- New findings and new recommendations should be added.
- What is the real reason of this report?

Yours faithfully


Marie-Noëlle Ferrieux Patterson

Enclosed: As mentioned above



Port Vila, 18 April 2006

Mr. Taurakoto
Ombudsman
Office of the Ombudsman
Port Vila

Dear Sir,

RE: WORKING PAPER ON ALLEGED INACTION BY POLICE TO INVESTIGATE A COMPLAINT OFFICIALLY LODGED.

I refer to the above report and wish to make some comments and factual correctiosn.

First, I regret to see this report out and unfortunately my own complaint against assault against Jeff Toka Two years and a half ago, charges of assault were laid by myself against Jeff Toka. I sustained serious injuries and had to be medivat to Australia for serious trauma.

I suffered such damages that I could not work for months.

The records of the complaint were lost by the Polce so that I laid charges again. After a few weeks I went to the Police to enquire about the status of the case. Again, I was informed that the papers had been lost . These facts and complaint were referred to your Office two years ago , but I was not treated as favourably as Mr. Fitty and have not had the remedy of seing a report of this inaction of the Police by your Office yet..

So you will understand my surprise when you write the Police treats more favourably a well knowm family: the Pattersons!

Facts:

I refer to the wedding party of the 24 Novembre 2001. The organisers of this wedding had invited about 200 people, and because they were afraid of uninvited people forcing their way, they had asked the Police to patrol the area. The Police was kind enough to assist for the sake of maintaining law and order.

However Mr. Fitty came, uninvited, and was asked to go away and was accompanied to the Police present at the door. I accompanied him , and at the gate was talking to the Policeman. Mr. Fitty was behing me and hit me with his fist from behind. I actually fell. There were at least 20 to 30 witnesses to that action. I did not even hit him back. The Police took him away and I stayed at the party.

John Patterson