



OFFICE OF THE OMBUDSMAN

PUBLIC REPORT

**ON THE
UNLAWFUL INVOLVEMENT
OF
POLICE OFFICER ROY KARIE
IN A CIVIL DISPUTE**

27 September 2010



REPUBLIC OF VANUATU

0063/2010/02

**PUBLIC REPORT ON THE
UNLAWFUL INVOLVEMENT OF POLICE OFFICER
ROY KARIE IN A CIVIL DISPUTE**

SUMMARY

This public report is being published in relation to a matter against the Vanuatu Police Force particularly police officer Roy Karie for unlawful involvement in a Civil Dispute.

Police Officer Roy Karie was serving as a police officer at Isangel Police Station when this incident happened which involved himself, Mr Joseph Berry, owner and driver of a public transport, and Mr Joseph Logoiala, an officer of the Vanuatu Family Health Association.

An arrangement was made between Joseph Berry and Joseph Logoiala for the use of Joseph Berry's public transport in Tanna. However, during the course of this enquiry, it was revealed that the arrangement was not carried out as planned because Joseph Berry then added extra costs on top of what has been arranged.

Police Officer Roy Karie not knowing the arrangements already made went on and forced Mr Joseph Logoiala to pay the costs of transportation and the extra amount to Mr Joseph Berry. The Police Officer's action resulted in Mr Logoiala paying extra money for transport costs. It was revealed also that the transport costs charged to Mr Joseph Logoiala were not consistent to the applicable Taxi rate established by the Tafea Province at that time.

The Ombudsman finds that the action taken by Police Officer Roy Karie is an unprofessional practice with no respect and has also abused his power as a Police Officer by involving himself in a civil dispute which is contrary to the Police General Orders.

The Ombudsman recommends that Police Officer Roy Karie be disciplined by Police Commissioner for his action. It was also recommended that the Police Commissioner issues a circular to inform all the Force members not to attend or involve directly or indirectly in any civil matter except as provided in the course of their official duties and in accordance with the relevant provisions of the Police Act and Rules.

**PUBLIC REPORT ON THE
UNLAWFUL INVOLVEMENT OF POLICE OFFICER
ROY KARIE IN A CIVIL DISPUTE**

TABLE OF CONTENTS

SUMMARY	2
1. JURISDICTION.....	4
2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED.....	4
3. RELEVANT LAWS	4
4. OUTLINE OF EVENTS	4
5. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM	6
6. FINDINGS.....	6
7. RECOMMENDATIONS.....	7
8. INDEX OF APPENDICES	9

1. JURISDICTION

- 1.1 The Constitution and the Ombudsman Act the Ombudsman to look into the conduct of government, related bodies, and Leaders. This includes the conduct of Police Officer, Sergeant Roy Karie at Isangel Police Station, on Tanna. The Ombudsman can also look into defects in laws or administrative practices, including the Police Act [Cap 105], the Police General Orders, the Police Rules and the Criminal Procedure Code [CAP 136].

2. PURPOSE, SCOPE OF INVESTIGATION AND METHODS USED

- 2.1 The purpose of this report is to present the Ombudsman's findings as required by the Constitution and the Ombudsman Act.
- 2.2 The scope of the report is to present the facts about the abuse of power by Police Officer Sergeant Roy Karie and to determine whether his conduct to assist civilians was proper and consistent to his duties prescribed under the Police Act [CAP 105].
- 2.3 In addition, the Ombudsman also reports on whether providing assistance in any given civil matter by members of the Police Force is proper according to their Rules.
- 2.4 The Office collects information and documents by informal request, summons, letters, interviews and research.

3. RELEVANT LAWS

- 3.1 Relevant parts of the following laws are reproduced in **Appendix A**.

4. OUTLINE OF EVENTS

- 4.1 On 14 September 1999, Mr Joseph Logoiala ("**Mr Logoiala**") from the Vanuatu Family Health Association ("**VFHA**") went on a tour to Tanna, a tour arranged by Mrs Marie Jeanne Niticknam, a women rural representative in Tanna and wife of Mr Berry Joseph who is the transport Taxi driver (No. 527) in Tanna.
- 4.2 An amount of VT120,000 was made available to meet the expenses of the workshop in both Tanna and Erromango and was deposited in Mrs Marie Jeanne Niticknam National Bank (NBV) account by VFHA.
- 4.3 Mr Logoiala used Berry Joseph's vehicle for three (3) days in order to meet with the chiefs of the villages visited and to select candidates to attend the workshop at the Bahai Centre at Lenakel.

- 4.4 On 13 October 1999, Mr Logoiala was approached by Mr Berry Joseph and Marie Jeanne Niticknam, his wife, and asked him to pay for the transport costs. Mr Logoiala accepted the request, however, he made it clear to them that he was willing to do so if Mrs Marie Jeanne Niticknam gave him half of the VT120,000 which was deposited into her NBV bank account. She instead gave Mr Logoiala VT77,000 withholding VT43,000.
- 4.5 On the same date, being frustrated of the said arrangement, Mrs Marie Jeanne and her husband sought the assistance of Police Officer, Sergeant John Roy Karie ("**Mr Karie**"), in an attempt to recover any other amount of money that was meant to go towards their transportation cost. Together with Mr Karie, they went to the Bahai Centre on Tanna where Mr Logoiala was running the workshop.
- 4.6 Mr Karie then asked him to leave the workshop and go to the Police station at 9.30am to sort out the issue.
- 4.7 At the Police station, Mr Karie asked Mr Logoiala to pay another VT24,000 in addition to the VT43,000 that was withheld by the couple. The calculation was made by Mr Karie who insisted that Mr Logoiala must pay for the transport cost otherwise he would not leave Tanna for Erromango. The total amount for the transportation for three days was VT67,000 which was already paid by Mr Logoiala.
- 4.8 On receipt of the complaint forwarded by the Director of VFHA, Mme Blandine Boulekone, following a report submitted by Mr Logoiala, (**See Appendix B**) the Ombudsman then sought clarification from the Police as to whether it was within the duties of the police to resolve rows or complaints between citizens. Clarification was also sought as to whether it was proper to arrest a civilian to sort out private issues in the presence of a police officer at a police station.
- 4.9 In response to our queries Mr Karie confirmed in his letter dated 4th October 2000 (**copy enclosed in appendix C**) that having forced Mr Logoiala to pay the amount of VT22,000 was assumed to be an agreed amount which was supposed to be met by the VFHA representative Mr Logoiala. Mr Karie stated that he was acting in his official capacity in accordance with section 13(3) of the Taxi Act [CAP 49] and also following an agreement made between Mr Berry and Mr Logoiala. He also enclosed a letter of clarification over this matter by Mr Joseph Berry, the Taxi driver, to Mme Blandine Boulekone. (**See appendix D**).
- 4.10 On 3 September 2000, Mr Vake Rakau, on behalf of the Commissioner of Police confirmed to the Ombudsman that involvement of Police Officers in a civil dispute is not proper and that an investigation be conducted over the conduct of Mr Karie. (**See Appendix E**).
- 4.11 In July 2001, the Ombudsman followed up with the Police as to whether an investigation has been conducted, given the instruction by the Office of the Commissioner. (**See appendix F**). No response has been received following several reminder letters and phone calls.

- 4.12 On 22 July 2002, the Ombudsman then wrote to Mr Willy Lop, former Chairman of the Tanna Taxi Association whether the price applied by Mr Joseph Berry was consistent to the rate approved by the Taxi Association Council. **(See appendix G).**
- 4.13 On 10th December 2002, the Ombudsman received a Taxi Rate Circular signed by Mr Remi Cali, President of the TAFEA Province. **(See appendix H).**
- 4.14 On 26th April 2004, we received a letter from the Public Solicitor that they are no longer dealing with this matter. This matter was reported to them earlier by the VFHA. **(See appendix I).**

5. RESPONSES BY THOSE WITH FINDINGS AGAINST THEM

- 5.1 Before commencing 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 No response was received from the persons with complaint against them. Those that responded were the Police Commissioner, Deputy Commissioner of Police and Officer In Charge(OIC) of Internal Investigation Office(IIO), Mr Andrew Kalman.
- 5.3 The Deputy Commissioner of Police responded that since this office has commenced a formal investigation into the matter, there is no option for the Vanuatu Police Force to take other than to await a final outcome of investigations.
- 5.4 The Police Commissioner responded that the OIC Kalman Andrew, of the Internal Investigation Office, had approach this office and since the matter is with the IIO, he is waiting to receive a report.
- 5.5 The OIC of the Internal Investigation Office confirmed that he is not aware of this matter and that any complaints arising in the future against police officers should be referred to him at the Internal Investigation Office of the Police for further enquiries.

6. FINDINGS

6.1 Finding 1: UNLAWFUL ARREST OF MR JOSEPH LOGOIALA BY MR KARIE.

That the action taken by Police Officer Roy Karie to intervene during the workshop session and instructed Mr Logoiala to leave without considering the nature of the matter, which then led to his (Logoiala) arrest is an unprofessional practice showing no respect at all to Mr Logoiala.

6.2 Finding 2: ABUSE OF POWER BY MR ROY KARIE IN A CIVIL MATTER.

That Sergeant Roy Karie has abused his power as a police officer by involving himself in a civil dispute. This is totally contradicting Chapter C, Section 1, sub-section 103 of the Police General Orders. Forcing Mr Logoiala to pay Mr Berry's transportation with an amount that was not consistent to the applicable Taxi rate established by the Tafea Province is directly helping Mr Berry to act dishonestly.

6.3 Finding 3: CRIMINAL ACTION BY BOTH MR ROY KARIE AND MR BERRY AGAINST MR LOGOIALA.

That both Sergeant Roy Karie and Mr Joseph Berry be held responsible for their actions against an officer of the VFHA.

Mr Berry has dishonestly claimed an amount which was not consistent to the rate applied by the Taxi Association, in Tanna.

Mr Karie who then used his capacity as a police officer to unlawfully enforce section 13(3) of the Taxi Act [CAP 49] with intention to dishonestly obtain the money from Mr Logoiala is a dishonest act which is normally unexpected from a Police officer.

His action may be contrary to section 127 and 132 of the Penal Code [CAP 135].

7. RECOMMENDATIONS

7.1 The Ombudsman makes the following recommendations based on the above findings to prevent similar actions reoccurring. The Ombudsman recommends that:

7.1 **Recommendation 1: Mr Roy Karie be disciplined by the Police Commissioner for his action in arresting and forcing to obtain money from Mr Logoiala in a fraudulent manner.**

7.2 **Recommendation 2: Both Mr Karie and Mr Berry be investigated and dealt with under the relevant provisions of the law for fraudulently obtaining money from Mr Logoiala.**

7.3 **Recommendation 3: The Chairman of the Tanna Taxi Association to impose disciplinary action against Mr Joseph Berry for overcharging VFHA and not complying to the established taxi rate as set up by the Tanna Taxi Association.**

7.4 **Recommendation 4: The Commissioner of Police issues a circular amongst the Force members to inform them not to attend to or involve directly or indirectly in any civil matter, except as provided in the course of their official duties and in accordance with the relevant provisions of the Police Act and Rules.**

7.5 Recommendation 5: Both Mr Roy Karie and Mr Berry make a public apology to the Vanuatu Family Health Association (VFHA) and particularly to Mr Joseph Logoiala for obstructing him while carrying out his official duty.

Dated this 27th day of September 2010

Pasa TOSUSU
OMBUDSMAN OF THE REPUBLIC OF VANUATU

8. INDEX OF APPENDICES

- A.** Relevant laws
- B.** Report submitted to the Director of VFHA by Mr Logoiala
- C.** Copy of response from Mr Roy Karie
- D.** Copy of letter from Mr Joseph Berry to Mme Blandine.
- E.** **Copy** of letter from Mr Vake Rakau on behalf of the Commissioner
- F.** Copy of letter from the Ombudsman Office to Internal Investigation Office (IIO) Mr Noel Amkorie.
- G.** Copy of letter from the Ombudsman to the President of the Tanna Taxi Association, Mr Willie LOP.
- H.** Copy of Tanna Taxi Association Rate
- I.** Copy of letter from the Office of the Public Solicitor.

APPENDIX A

RELEVANT LAWS AND REGULATION

POLICE ACT [CAP 105]

FUNCTIONS OF THE FORCE

4. (1) It shall be an essential duty of the Force to maintain an unceasing vigilance for the prevention and suppression of crime.
- (2) The Force shall be employed throughout Vanuatu and its territorial waters for:
 - (a) the preservation of peace and the maintenance of order;
 - (d) the prevention and detection of offences and the production of offenders before the Courts; and
 - (e) such other duties as may be expressly provided for by law.

GENERAL POWERS AND DUTIES OF MEMBERS OF THE FORCE

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 direction in respect of the execution of his office which he may from time to time received 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 he is legally authorised to apprehend and for whose apprehension sufficient ground exists.

USE OF REASONABLE FORCE

36. Any member of the Force may use all such force as may be reasonably necessary in order to prevent crime or to effect or assist in effecting a lawful arrest.

ACCEPTING GIFTS

54. It shall be an offence against discipline for any member to accept any gift of money or moneys-worth offered as payment for any service rendered or promised.

POWER OF ARREST AND CONFINEMENT

72. (1) In this section, the word "offence" shall mean any offence against discipline as well as any offence triable by a court.
- (2) Any member may arrest without warrant any other member not being of his own or higher rank who is accused of any offence under the provisions of this Act.
- (3) Any member affecting an arrest under this section shall immediately bring the accused person before a senior officer or, in the absence of such officer, before the most senior member readily accessible who shall cause the case to be heard without delay.
- (4) Every member arrested for any offence under this Act may be confined to his quarters or in any building set apart as a guard room or cell.

POLICE RULES

OFFENCES AGAINST DISCIPLINE

19. Any member of the Force who-

- (k) threatens, assaults, maltreats or neglects any person in his charge or in the custody of the Force;
- (n) is slovenly, inattentive, uncivil or quarrelsome;
- (u) makes any report which he knows to be false or inaccurate in some material particular or fails to disclose to his superior officer facts which it is his duty so to disclose;
- (v) uses improperly any police or other public property;
- (x) ill-treats, bullies, or insults or inflicts any unauthorised punishment on a subordinate in rank;
- (y) is guilty of any act, conduct, disorder or neglect which is declared by the Act or by rules made there under to be an offence against discipline;
- (z) does any act or makes any omission likely to bring discredit upon the Force or is guilty of any act, conduct, disorder or neglect to the prejudice of good order and discipline not elsewhere specified in these rules;

Shall have committed an offence against discipline.

POLICE GENERAL ORDERS

CHAPTER C, SECTION 1

ASSITANCE TO PRIVATE PERSONS OR FIRMS

103. No officer may render professional assistance of any sort of either during or outside normal working hours for any kind of personal and private remuneration whether in cash or kind. Assistance to private persons or commercial firms and other organizations may only be provided in the course of his official duties and in accordance with the relevant provisions of the Police Act and Rules.

PENAL CODE (CAP 135)

Section 127.

No person shall, in incurring any debt or liability, obtain credit by means of any false pretence or by means of any others fraud.

DEMANDING MONEY ETC. WITH MENACES

Section 132

No person shall by menaces or threats of violence, injury, accusation or other detriment whatever, whether by person uttering the menace or threat or another person, and whether to the person to whom the menace or treat is uttered or to another obtain or attempt to obtain payment of any money or delivery of any property or other benefit from any person.