



**OMBUDSMAN**  
— NHRI SAMOA

# ANNUAL REPORT

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2015/2016

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## Ombudsman Foreword 2015/ 2016



It gives me great pleasure to submit the 2015/2016 annual report.

I applaud the Government for steps taken in all areas to ensure economic stability and growth in the past Financial Year. This focus continues and remains paramount in all Government areas of development.

The Ombudsman is not part of the Executive Government. My office strives to remain independent, impartial and fair in discharging the Ombudsman's functions as a Constitutional Office.

The Office continues to receive and deal with various types of cases under our Good Governance and Special Investigations Unit functions where timely and efficient resolution of complaints is critical. To enable the effective implementation of all three broad mandates, critical staff positions were filled in this financial year including the strengthening of our Corporate Management capacity in keeping with our expanding mandates and growing volume of work.

Redressing the Office's development map has refined our focus to discover areas that are progressing well, as well as areas with gaps and at the same time implementing solutions to resolve these. While there will always be more work to be done, we have set our priorities for the next four years which will continue to ensure that the Office of the Ombudsman effectively serves the people of Samoa across its three mandates.

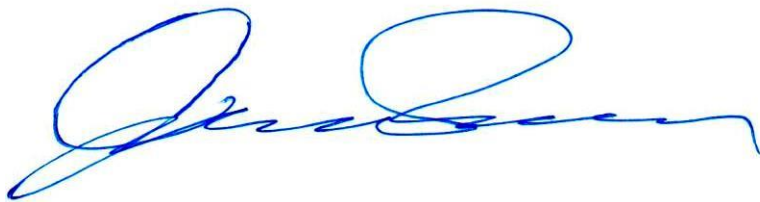
It has been a very busy year with many highlights such as being awarded an 'A' status NHRI by the Global Alliance of the NHRIs (GANHRI). I am pleased to receive such recognition as the decision confirms the strong legislative basis that underpins Samoa's NHRI and Samoa's commitment to promotion and protection of human rights for all.

This year's State of Human Rights Report focuses on the Rights of Persons with Disabilities. The Government of Samoa has made significant achievements in the past years in the protection and promotion of human rights including the rights of people with disabilities. I believe the Government remains committed

to human rights and our Office remains open to work with the Government in strengthening human rights for all Samoans.

My prayer is for Government to implement the recommendations put forward by my Office which not only would bring economic and social benefit to the community but would enhance the enforcement of human rights in Samoa.

The Office of the Ombudsman will continue to be proactive in utilizing its limited resources to be fully able in discharging its functions and mandated powers to ensure fairness, equality, respect and protection is afforded to all.

A handwritten signature in blue ink, appearing to be 'J. Iulai Toma', written in a cursive style.

Soifua ma ia Manuia  
Maiava Iulai Toma

## Section One: Our Role

### 1.1 Our Mandate

The Office operates with mandates for the promotion of good governance, the promotion and protection of human rights and to oversee the conduct of Police officers, Prison officers and other disciplined forces. The expanded mandate reinforces a sense of confidence of the Government of Samoa in our role and ongoing contribution we can make towards a fair and just society and ongoing development.

We are led by the following authorities:

- » *Constitution of Samoa 1960*
- » *Ombudsman (Komesina o Sulufaiga) Act 2013*
- » International Human Rights Norms, including the Paris Principles for National Human Rights Institutions
- » National and Sectoral Plans

### 1.2 Our Vision is:

“The promotion of integrity in governance, the protection and promotion of human rights in Samoa and equal and fair treatment of people”

### 1.3 Our Mission is:

- » To provide good leadership, management of systems, processes, efficient support and coordination for the successful implementation of the Office’s Work Programme.
- » To enhance the lawful delivery of State Agency mandates to the reasonable satisfaction of members of the public.
- » To promote and protect human rights and freedoms as the National Human Rights Institution (NHRI).
- » To provide effective oversight and address misconduct of agencies exercising the coercive powers of the State and to conduct special investigations as may be authorized.

### 1.4 Our Core Values

Our work will be constantly guided by a set of Core Values that we are committed to, that foster integrity in governance and encourage the promotion of human dignity and an underlying respect for *Fa’a Samoa*. These include:

- » Honesty, Integrity and Impartiality
  - ✓ We are ethical, honest and law-abiding in everything we do.
  - ✓ We respond to complaints without bias and we do not take sides.
  - ✓ We provide impartial advice without fear or favour and make decisions on their merits.
  - ✓ We are independent.
- » Ethics, Fairness and Dignity

- ✓ We have the highest ethical standards.
- ✓ We treat people equitably.
- ✓ We value respect and diversity.
- » Accessibility, Accountability and Transparency
  - ✓ We are accessible to all people.
  - ✓ We are transparent and accountable for our actions.
- » Efficiency and Effectiveness
  - ✓ We make efficient use of our resources.
  - ✓ We achieve good results in an economic way.
- » Consistency, Responsiveness and Diligence
  - ✓ We respond to complaints quickly. If we cannot help, we will explain why and, if possible, suggest another action.
  - ✓ We produce timely and high quality work.
  - ✓ We develop our skills to improve service and become a catalyst for change in promoting good governance and human rights.
- » Culture and Rule of Law
  - ✓ We respect and value *Fa'aSamoa*.
  - ✓ We operate within the laws of the Independent State of Samoa.

## 1.5 Our Functions

The Office is an independent office with responsibilities in three (3) areas:

- 1) Conventional Ombudsman Office;
- 2) National Human Rights Institution (NHRI) of Samoa; and
- 3) Special Investigation Unit.

### ***Conventional Ombudsman***

As the conventional Ombudsman, its functions are to investigate complaints against public bodies, usually to ascertain whether the action complained of:

- ✓ appears to have been contrary to law;
- ✓ was unreasonable, unjust, oppressive, or improperly discriminatory, or was in accordance with a rule of law or a provision of any enactment or a practice that is or may be unreasonable, unjust, oppressive, or improperly discriminatory; and
- ✓ was based wholly or partly on a mistake of law or fact; or was wrong.

The Ombudsman serves to protect the individual against improper and unreasonable administrative actions of government. The functions and powers of the Ombudsman are given to him to be exercised in the interests of good governance and the disgruntled citizen who otherwise would be relatively powerless against a governmental agency with which that citizen may take issue on matters of vital interest to him. The Ombudsman is not an advocate for a complainant but a neutral entity that endeavours to form opinions on complaints based

on reasonableness and fairness. Where the agency is considered to be right in any matter the Ombudsman must be equally forthright in declaring it as he would were the opposite to be the case.

The Ombudsman may refuse to investigate a complaint if there is an adequate alternative remedy or right of review available, or having regard to all circumstances of the case, he considers any further investigation unnecessary. The Ombudsman may also decide not to investigate a complaint on any matter of which there has been complainant knowledge of more than twelve months. The Ombudsman ordinarily may conclude and recommend:

- ✓ that a matter be referred to the appropriate authority for further consideration;
- ✓ that an omission be rectified;
- ✓ that a decision be cancelled or varied;
- ✓ that any practice on which a decision, recommendation, act, or omission was based be altered;
- ✓ that any law on which a decision, recommendation, act, or omission was based be reconsidered;
- ✓ that reasons be given for a decision; and
- ✓ that any other steps be taken.

The Ombudsman cannot direct remedial action. He may only recommend remedies he considers appropriate to the agencies concerned.

### ***National Human Rights Institution (NHRI)***

The NHRI's main functions are to promote and protect human rights, dignity and respect in Samoa. Included are:

- ✓ Inquiries & reporting on human rights violations;
- ✓ Monitoring & promotion of compliance with international and domestic human rights law;
- ✓ Participation with the court's permission in proceedings as a friend of the court or party to human rights issues;
- ✓ Consulting, engaging & co-operating with civil society organizations, business organizations and academic institutions;
- ✓ Advising on matters referred to the Ombudsman by government;
- ✓ Consulting, engaging & co-operating with other national, regional and international human rights bodies;
- ✓ Visiting places of voluntary and involuntary confinement or detention; and
- ✓ Reporting to Parliament each year on the status of human rights in Samoa.

In the event an NHRI inquiry finds evidence of human rights violations, the Ombudsman's report may include any or all of:

- ✓ A determination that a violation of human rights has occurred and should not be repeated or continued;
- ✓ A recommendation that a person should perform reasonable acts to redress the violation of human rights;

- ✓ A recommendation that victims of violations are entitled to compensation for any loss or damage suffered; and
- ✓ A recommendation for action to any person and require the person to report to the Ombudsman on the steps that the person has taken to give effect to the recommendations.

These report findings and recommendations are to be made public and Parliament is to be provided with a copy.

The Ombudsman does not have the mandate at the present time to investigate and resolve individual complaints of a human rights violation. It is intended for the Office to expand over time to incorporate this mandate.

### ***Special Investigations Unit (SIU)***

The SIU's functions are to investigate complaints against a police officer, prison and corrections officer or an officer of other prescribed disciplined force where there is reason to believe that:

- ✓ there has been an abuse of process by the Police; or
- ✓ there has been an unreasonable delay in the investigation; or
- ✓ the matter has not been appropriately investigated.

## **Section Two: Staff**

There was a small turnover of staff in November 2015. The Director of Human Rights contract came to an end and did not want to renew and the Director for Good Governance resigned to take up a volunteer position with the United Nations. The Office in the beginning of 2016 quickly secured personnel to fill these vacant positions and at the same time hired additional staff:

1. **Director of Human Rights.** The position is filled by an existing employee who was the Legal Officer for Good Governance and Human Rights
2. **Director of Good Governance.** The position is filled by an existing employee who was the Principal Good Governance Officer;
3. **Director of SIU.** A senior prosecutor from the National Prosecution Office;
4. **Good Governance and Human Rights Legal Officer.** A senior lawyer from the Office of the Attorney General; and
5. **SIU Officer.** A senior police officer from the Ministry of Police.

The Office is pleased to have on board proficient staff to help implement the Office's new mandates.

However, at present, the following roles are vacant:

- Assistant Ombudsman (Corporate Services)
- Principal Good Governance Officer



Available funds do not allow us as yet to have an Assistant Ombudsman who would be in charge of the Corporate Services team. We hope to recruit an individual to fill this role as an essential component of our expanded mandates. As the success of the Office depended entirely on having highly competent and motivated staff, the organization needed good human resources development, performance management and sound ongoing corporate financial planning.

## Section Three: Office Policies and Procedures

Since the last reporting period, the following foundational policies and structures are in place and yet to be implemented well. The policies and tools are integral to establishing and entrenching the new role of the Office. These will be developed and amended as the Office continues to carry out its functions, and will help instil the independence and unique position of the Office in Samoa.

1) **Strategic Plan 2016-2020:** The Office received technical assistance from the Pacific Ombudsman Alliance (POA) for its Strategic Plan 2016-2020. Ms Vanessa Barlow a local consultant was engaged to assist with the Plan. The Strategic Plan describes how the Office fulfils its mandate and addresses priorities for the next four years. An Output Estimates and Projections Report 2016-2020 was also produced which outlines the financial and operational plan to put policy and strategy into practice to deliver the Strategic plan. The advantage of this Output based approach is that it:

- Increases efficiency in spending to efficiently achieve strategic priorities.
- Provides an easy and clear method for review and approval.
- Ensures effective control of the flow of money and of ongoing work.
- Depoliticizes the budget itself and shifts focus to the Agency priorities.
- Presents more useful information on service delivery, improving transparency and accountability.
- Requires participation across the whole Organisation.
- Integrates the budget more closely with programs.
- Strengthens the focus on operational efficiency and budget management.

The Plan and Output Estimates and Projects has been finalised and submitted to Parliament ending last year. However it is yet to be tabled and endorsed by Parliament. It is hoped that once this Plan is endorsed the Office will be able to effectively and efficiently implement its prioritised work for the next four years.

2) **NHRI Hub:** There is currently no central network that can save and share staff work. Consequently, information on specific files are kept on the computers of each person that has worked those particular files and should the computer crash there is no backup of the files (electronic). Therefore two years ago the Office discussed ways to improve its system. Due to lack of Office expertise in this area, a UN Volunteer was engaged by the Office to design and create an online network called the NHRI Hub. The Hub is a multipurpose system that will assist with Strategic Monitoring, NHRI indicator monitoring, complaint management system, media monitoring. The system will upload all files (new and old), accessed by everyone and able to update information. The system is now complete. The UN Volunteer will travel to Samoa in November 2016 to introduce the system and train the Office on how to use the

system. The Asia Pacific Forum of NHRIs is also lending assistance to the Office through financially supporting the travel arrangements of the UN Volunteer.

## **Section Four: Highlights of work undertaken during the year 2015 - 2016**

### **Conventional Ombudsman (Good Governance)**

The Office continues to receive and dealt with various types of cases under our good governance function. The following selection of cases is indicative of the kind of problems ranging from the very simple to complex that ordinary people face and for which they seek assistance. The following are some of the reviews that may be of interest:

#### ***Highlight of cases***

The following selection of cases is indicative of the kind of problems ranging from the very simple to complex that ordinary people face and for which they seek assistance. The following are some of the reviews that may be of interest:

#### ***Accident Compensation Corporation***

##### ***Unreasonable decision/action***

Ms A claimed that she had been unjustly evicted by ACC from the Fugalei Market as a vendor as she was a victim of an alleged assault by two men from the neighbouring blocks. The matter had been reported to and dealt with by Police.

ACC's decision to remove Ms A was because:

- she had been warned on several occasions for causing trouble and for swearing in the Market;
- her behaviour in the Market was considered disruptive that would project a bad image to the patrons of the Market who the vendors relied on daily; and
- it was considered the most appropriate resolution for safety reasons primarily.

The Office of the Ombudsman determined that ACC had acted appropriately. Ms A was advised of ACC's explanation that she would not have been removed from the Market if she was not so disruptive and that no further action would be taken.

##### ***Unreasonable decision***

Mr B, a prisoner, alleged denial of his entitlement to compensation arising out of an injury sustained while working on a project at Tafaigata Prison. The agency was contacted about the complaint particularly regarding compensation for injured prisoners if any while supposedly employed to work on any prison projects.

ACC responded that:

- there was no record of Mr B requesting for compensation in 2015 apart from 2 previous requests for injuries sustained in 2003 that had been addressed and were formally closed;

- the general definition of a ‘worker’ under the ACC Act was that of a person employed to work and remunerated by wage or salary;
- Mr B was injured while a prisoner and was not employed as a worker. Therefore, Mr B was not entitled to compensation merely because he was not viewed as a ‘worker’ under the definition of the Act.

The Office of the Ombudsman had considered ACC’s explanation and was satisfied with the decision. Mr B was advised accordingly of the outcome of the matter.

***Ministry for Women, Community Service and Development***  
***Unjust Decision***

Mr C complained to the Office of the Ombudsman alleging the unjust appointment of a fellow matai as their Village Representative (VR). According to Mr C, the Minister of MWCD had advised for further dialogue between the disputing parties until a consensus was reached and subsequently inform him (the Minister) of their endorsed representative. Mr C was surprised when he found out later that the matai in question had already been confirmed as the VR. The ministry was contacted for their account of the matter.

MWCD explained that Mr C was the previous VR who was accused by the other party of not following village protocol in the selection of a VR. The disputing parties met with the Minister and the MWCD Executive to further discuss the issue.

The outcome of the meeting was that:

- After tense deliberations, Mr C eventually accepted the endorsed representative as their VR;
- The appointment of their VR was to be selected from matais’ residing in the village and involved in its affairs. A matai residing in the village but is not involved in its affairs cannot be considered for appointment.

The Office of the Ombudsman was satisfied with the ministry’s action and decided that the matter had been properly resolved.

***National Health Services***  
***Failure to Act/Delayed Action***

Mr M was a former employee who had resigned from NHS. During his time of employment with NHS he had applied for his previous years of work in other government agencies to be counted as Continuous Years of Service.

Mr M complained to Office of the Ombudsman that NHS did not recognise his continuous years of service and withheld the payment of his remaining resignation benefits.

Office of the Ombudsman investigated the complaint and considered all the information provided by both Mr M and NHS. Office of the Ombudsman determined that Mr M was entitled to the remaining benefits under the NHS Working Conditions 2014 as he had satisfied the criteria. Office of the Ombudsman then recommended that NHS reconsider its decision not to pay the remaining benefits to Mr M.

Mr M informed Office of the Ombudsman that NHS had contacted him and advised that the appropriate papers were being processed for the payment of his remaining entitlements. Mr M acknowledged the assistance of Office of the Ombudsman. The matter was considered resolved.

### ***Office of the Legislative Assembly***

#### ***Unpaid Entitlements***

Mr O complained to Office of the Ombudsman that his former employer OLA had not paid his entitlements when his services were no longer required when the office had relocated to Tuanaimato. The issue was whether Mr O was entitled to any leave benefits. OLA was advised of the complaint and was asked for its account on the matter. OLA responded explaining Mr O's situation:

1. OLA was waiting on MOF approval for virement of funds for payment of untaken leave entitlements.
2. Mr O was entitled 5 days untaken annual leave and 5 days untaken sick leave, which would be paid to him together with other staff members' entitlements once the virements were approved.

According to OLA, Mr O had already been informed of these circumstances.

Mr O was informed of OLA's explanation, which he accepted. Mr O was also advised that unless there were any other issues other than the payment of his leave entitlements no further action would be taken. Mr O stated that he was satisfied with the outcome and acknowledged the assistance of Office of the Ombudsman.

### ***Samoa Airport Authority***

#### ***Unfair Termination***

Mr M complained to Office of the Ombudsman that his dismissal from SAA was unreasonable and unfair. Mr M was served his letter of termination for taking a confiscated item (cologne) for his personal use contrary to Aviation Security policy on LAGS (Liquids, Aerosols and Gels). Mr M claimed that there were other similar incidents previously but SAA did not act on them.

SAA was informed of the complaint and asked to provide an account. According to SAA, Mr M had a history of disciplinary issues yet the Authority had been very tolerant with him. The deciding factor to terminate his services was when he was caught on camera committing the offence.

Based on SAA response and supporting documents, it was evident that Mr M was a problem staff member over the years for SAA. He had been given opportunities to redeem himself but unfortunately had failed to do so. Mr M did not appreciate the extent of SAA's lenience with him. Mr M was also not forthright when he approached Office of the Ombudsman for assistance. Office of the Ombudsman determined that SAA had acted fairly and reasonably in their decision to terminate the services of Mr M. SAA's decision was therefore sustained based on the findings. Mr M was informed accordingly of the outcome.

### ***Samoa Ports Authority***

#### ***Unfair Dismissal***

Mr A complained to Office of the Ombudsman that his dismissal from SPA was unreasonable and unfair. Mr A was a security officer for SPA who was terminated for failing to perform his duties after a SPA investigation into an incident concerning SPA Marine staff at the wharf while Mr A was on duty.

Mr A was a first offender and denied any collusion in the incident that took place at the wharf. However, Office of the Ombudsman found that:

- Mr A failed to immediately report the incident to his supervisor, given that he was witness to the offence;
- Mr A was negligent in the execution of his duty;
- Mr A admitted to his lapse in judgment;
- The security of the wharf especially client assets was SPA's ultimate priority and any type of breach was a major concern;
- It was evident that Mr A did not collude with the offenders but it was highly unlikely that SPA would change its position on the decision to terminate his services because of the high standards set for the security of the wharf.
- SPA's decision was reasonable given the seriousness of the incident.

Mr A was informed of the final findings and the unfortunate situation he was in. Although he was unimpressed with the outcome, he acknowledged Office of the Ombudsman's consideration of his matter.

### ***Samoa Water Authority***

#### ***Unreasonable Decision/Action***

Ms V complained that SWA Salelologa had unreasonably disconnected her water supply because of a high-unpaid water bill that she claimed was due to a faulty water meter that SWA had installed. Ms V refused to pay the arrears and claimed that meetings were held with SWA to address the issue and readjust her water bill instead, SWA disconnected her water supply.

SWA was formally notified with an intention to investigate the matter. SWA responded clarifying the complaint that:

- Ms V had initially managed a bakery that incurred the high water bills which were not fully paid;
- The water meter was not faulty and was functioning well;
- Even after SWA inspected and surveyed the water lines, the usage remained high. This led SWA to determine that there may be internal leakages which was the responsibility of the customer to fix, hence the immediate disconnection after notifying Ms V;
- SWA advised Ms V to pay a determined sum for reconnection and make arrangements for repayments and fix her leaks in order for the high bills to be reconsidered.

Office of the Ombudsman acknowledged SWA's response and suggested that the most reasonable option was for both parties to continue dialogue and try to reach a compromise that may eventually resolve this avoidable standoff.

Ms V was advised of Office of the Ombudsman's suggestion and accepted the advice. Both parties were informed that Office of the Ombudsman would suspend action on the matter pending the outcome of any potential meeting between Ms V and SWA.

### **Human Rights**

The human rights team has been busy this year not only in fulfilling its mandatory work such as the production of the State of Human Rights Report to Parliament, but also cater for the numerous spontaneous invitations from Ministries and NGOs for the Office to either carry out a training on human rights or speak about human rights. The team despite its busy schedule never ceases to use these opportunities to promote human rights. The following are some of highlights of the work by the human rights team:

#### *» A Status Accreditation*

Upon application by the Office, the Office in May 2016 was graded as an 'A Status' National Human Rights Institution by the Global Alliance of the National Human Rights Institution (GANHRI).<sup>1</sup> The grading that GANHRI grants an institution shows how well that country's NHRI is compliant with what is known as the Paris Principles.<sup>2</sup> The grading of 'A' Status is the highest grading an NHRI can be rewarded. The A status means that the Office of the Ombudsman as the NHRI is now able to engage with various human rights bodies and participate independently at the UN Human Rights Council and its subsidiary bodies. The accreditation decision also means that the Office joins other 'A' status NHRIs in the Asia Pacific Region as full member of the Asia Pacific Forum (APF) of NHRIs.

The Office is pleased to receive such recognition as the decision reflects the strong legislation that underpins Samoa's NHRI and the tremendous work it has done since it was established in 2013. However, the Office is of the view that while the Office is delighted in the achieving 'A' status, it is determined not to be complacent as there is still much work to be done in promoting human rights in Samoa.

Samoa is currently the only NHRI in the Pacific region with A Status (aside from Australia and New Zealand).

#### *» Inspection of Places of Detention*

The office carried out its second inspections into Tafaigata Prison in November 2015. The focus of the inspection was to (i) follow up on issues from the last inspections but mainly (ii) to look into the issue of escaped prisoners. There have been numerous reports in the media about prisoners escaping from Tafaigata prison. The escapes generated greater than usual

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<sup>1</sup>The GANHRI is a network of NHRIs from all over the world which coordinates the relationship between NHRIs and the United Nations human rights system. It is the only non-UN organization whose internal review accreditation system grants access for an NHRI to various committees within the UN, including the UN Human Rights Council.

<sup>2</sup> Paris Principles a set of UN criteria which is set out how a NHRI is to perform its functions as an independent institution which protects and promotes human rights.

public concern perhaps because of serious crimes alleged to have been committed by the escapees including the alleged rape of an Australian tourist honeymooning in Samoa with her husband. Such instances obviously shocked and angered the community as did cases of prisoners released on weekend paroles and ending up offending. There have been calls by prominent members of the community to bring back corporal punishment.

Despite efforts by Prisons to try and resolve the issue it was clear from the inspections that the current staff capacity and resources is insufficient to secure and manage the large number of prisoners. The Office believes that a single escape from prison is one escape too many, especially when horrible acts are perpetrated on innocent victims in society. There is urgent need for a block of appropriate cells to house individuals who are seen, for security or other special reasons, to require greater surveillance and stricter confinement in cell accommodation different from those provided for the general prison population.

The full Detention Centre Inspections Report – Tafaigata Prison can be viewed and downloaded in full on the Office website: [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws)

» *State of Human Rights Report 2016*

Considering the prevalence rate of disability in Samoa, the Office supports the initiative by the Government and NGOs to push for the ratification of the Convention of the Rights of Persons with Disabilities (CRPD) to further protect the rights of people with disabilities. Therefore, the Office decided to focus its second State of Human Rights Report on the Rights of Persons with Disabilities. The first State of Human Rights Report 2015 identified people with disabilities as one of the most vulnerable populations requiring increased safeguards for equality, respect and protection. The second report explores the human rights issues of people with disabilities in more depth to assist Samoa as it looks through its Government to ratify the CRPD.

Therefore in early 2016, the team carried out its usual consultations with Ministries, NGOs, developing patterns and community. Surveys were produced and sent out to schools, villages and anyone and everyone to complete- both hard copy and online. The Office also visited 120 families with persons with disabilities in both Upolu and Savaii to have a firsthand understanding of the reality of the everyday life and understanding of not only the careers but also the people with disabilities.

The Office has completed its report and is ready to be submitted to Parliament. The report:

- a) summarizes some of the main obligations of government under the CRPD;
- b) provides a brief analysis of the current status of how the rights of people with disabilities are recognized and protected;
- c) Identifies gaps which need to be addressed in order for Samoa to be compliant with its obligations upon ratification of the CRPD;
- d) Portrays the understanding and awareness of people on the rights of people with disabilities; and
- e) Advocates for the voices of people with disabilities on the issues concerning them.

The full Report can be viewed or downloaded in full on the office website: [www.ombudsman.gov.ws](http://www.ombudsman.gov.ws).

## » *Awareness raising activities*

Educational and awareness activities are one of the important yet another demanding function of a NHRI. It requires a lot of good planning and preparations. Some of the highlights of awareness raising activities are as follows:

### ○ Human Rights Day

Human Rights Day is celebrated around the world annually on the 10<sup>th</sup> of December. This year's theme was dedicated to the 50<sup>th</sup> anniversary of the two International Covenants on Human Rights: the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (ICCPR), which were adopted by the United Nations General Assembly in 1966. Samoa however is only a party to the ICCPR.

The theme for the Office's celebration, in light of world themes, is "Embracing our freedoms and equal rights for all for a peaceful Samoa. It places emphasis on the celebration of our freedoms and rights that makes Samoa unique from any other country in the world.

The Human Rights Day was celebrated in the villages' of Falelatai and Samatau. The program involved a human rights march by the villages. They were divided in 5 colours in accordance with human rights colours. There was also entertainment and presentations by the Office and partners such as NOLA, POLICE and MCIL on human rights.

### ○ Human Rights Education & Awareness

The human rights team continue to provide training for Police new recruits on human rights and police work. Two trainings were carried out in July 2015 and May 2016. The main focus of the trainings is for the new recruits to have a clear understanding of what human rights are especially human rights relevant to their work as police officers. Such human rights include not only the rights of citizens but also their rights as police officers. Upholding and respecting human rights will guarantee public confidence and morale in them and their services which is something that appears to be dwindling at the moment.

### ○ Public Consultations

When preparing for the SHRR 2016, the Office undertook consultations and collected data from government, civil society, and communities to present as complete a picture as possible regarding human rights in the country. The office carried out community consultations and focus group discussions in Savaii (Samata to Salailua, Puapua to Sili and Sasina to Saleaula) and Upolu (Falelatai to Mulifanua, Satapuala to Salani and Siumu to Faleaseela). The consultations involved matai, men, women, youth, and persons with disabilities.

Aside from these community consultations, the Office with the assistance of Loto Taumafai and Special Olympics of Samoa also visited families with persons with disabilities. These visits not only collected information for the purposes of the state of human rights report but it was also an opportunity to have a one on one discussion with families and persons with disabilities on rights of persons with disabilities.



### **Special Investigations Unit (SIU)**

Since the passing of the Ombudsman Act 2013, the Office had invested much effort to exercise its function of the SIU with the few staff it had. This staff did not have the in depth experience or background in investigation and prosecution that the SIU work required under the Act. In carrying out the work of SIU, without special investigation officers to deal specifically with the SIU functions, the office resorted to using all its staff members from other mandates of Human Rights and Good Governance to try and implement the role of the Ombudsman under SIU.

This proved to be a very difficult and stressful task for the Ombudsman's small team of officers and in fact did advance the development of the SIU and PSU at all. Following the coming into force of the SIU Regulations on 11 May 2016 outlining the role and functions of the SIU, officers with expertise in Prosecutions and experience of police work were recruited to more purposefully carry out the functions of the Ombudsman under its SIU mandate. The two (2) SIU staff members have taken up the roles of one as the Director of SIU and one as a special investigating officer.

The 2 staff members started work with the Ombudsman in May and June 2016, and once these members came on board, consultations have taken place between the Ombudsman and the Police and the first biannual review of PSU has already taken place in July 2016. From this biannual review, five (5) files were pulled out from PSU in order for SIU to assess and take over their investigations given the delay it has taken for PSU to investigate them as well as many issues involved in these files. From these 5 files, 1 enquiry into one of the cases is near completion, leaving a remaining of 4 files which the SIU are working on. Both members of the SIU are actively involved in 1 enquiry at a time given the amount of work required for the enquiry compared to the shortage of staff.

It is the hope of the SIU that as its system develops and more resources are available, the SIU will be able to assess and pay close attention to pressing issues with more files from PSU which require special attention and have not been properly dealt with by the PSU. At the same time, to carry out trainings for PSU officers in their investigations.

At this stage, the SIU staffs are working towards developing the SIU according to the Ombudsman mandate, developing the PSU within Police Service, becoming more proactive in monitoring files with PSU so that once an abuse of process is identified, an investigation is unreasonably delayed or not investigated appropriately, and then immediate action is carried out.

At the same time, the SIU is looking towards implementing its functions towards other disciplined forces such as the Samoa Prisons and Corrections Services given that they are now separate from the Samoa Police. It is one of the visions of SIU to be able to develop an effective and practical internal complaint system with the Prisons so that the same monitoring system applied to PSU will apply to Prisons as well.

## Section Five: Financial Statement for the Year ending 30 June 2016

We received a budget of \$948,515 for FY2015-2016 compared to \$789,581 received in FY2014-15.

The Special Investigations Unit (SIU), the office's third mandate, was created within this financial year with a budget of \$140,829. This provided for an Investigation Officer, a Tribunal to look into serious Police cases and other disciplinary forces, operating expenses, and capital items.

The budget for FY 2015-16 was fully spent.

Attached as Appendix "A" is a copy of the Expenditure Report for the financial year ending June 2016 as well as Appendix "B" being the Audited Report for the same period.

## Section Six: External Relations

The Office has been involved in various activities with other ministries and non-governmental agencies consisting of consultations, training and working group. Specifically the Office has:

### **Government Ministries**

- Regularly participated in the Law & Justice Sector Steering Committee.
- MWCSO's CEDAW, CRC, CRPD taskforces.
- Consulted all government ministries on our SHRR 2016.

### **NGOs**

- Consulted all NGOs on the SHRR 2016
- National Forum to promote the Ratification of the CRPD
- Anti-Corruption Workshop for CSOs

The Office has also been involved in various workshops, and conferences/meetings throughout the community and with our international partners. This involved the following Forums:

### **Local**

- Final Validation of Child Labour Rapid Assessment
- Child Labour Forum to commemorate the World Day against Child Labour
- 4th Annual Girls Leading Our World (GLOW) Conference
- Samoa UPR Mock Session
- Members of Parliament Induction Programme
- Members of Parliament IXV Symposium
- Legislative Drafters Forum

## Regional

- Treaty Body Reporting Training For NHRIs, FIJI
- Workshop on Monitoring of Places of Detention, FIJI
- Observing inspections of places of detention in NZ, NZ
- Regional Workshop on enhancing Inclusive Development in the Pacific Framework of the UN Declaration on the Rights of Indigenous Peoples, SAMOA
- UN Free & Equal Campaign Launch, FIJI

## International

- Investigating of allegation against Torture, MALAYSIA
- Human Rights A 21st Century approach to the Work of Ombudsman, Belfast
- Senior Executive Officers Roundtable Meeting for NHRI, Kuala Lumpur, Malaysia 2015
- Asia Pacific Forum 20th Annual General meeting and Biennial Conference, 2015

## Section Seven: Achievements against performance measures for financial year 2015-2016

<b>OUTPUT 1: ADMINISTRATIVE JUSTICE</b> <b>(Investigation and Resolution of Complaints about Government Departments)</b>	
<b>Objective:</b> To investigate complaints arising from the acts, omissions, decisions and recommendations of government departments and agencies.	
<b>Performance Measures/Indicators</b>	<b>Achieved/Not Achieved</b>
Percentage of formal complaints efficiently and effectively investigated and resolved in a timely fashion  <i>50% of complaints resolved within 4 weeks; 75% of complaints resolved within 6 months</i>	<b>Achieved</b>
Percentage of informal complaints efficiently and effectively investigated and resolved in a timely fashion  <i>50% of complaints resolved within 4 weeks; 75% of complaints resolved within 6 months</i>	<b>Achieved</b>
Number of own-motion investigations initiated and completed effectively and efficiently with implementable recommendations produced  <i>3-5 investigations &amp; reports with recommendations done</i>	<b>70% Achieved</b>
Percentage of investigations referred by parliamentary committee or Prime Minister under s19 of the Ombudsman's Act 2013 efficiently and effectively investigated and resolved in a timely fashion.  <i>75% of investigations resolved within 3 months</i>	<b>Achieved</b>
Percentage of Office awareness raising programs which have a good governance component (further detail on awareness raising activities under Output 2).  <i>75%</i>	<b>Achieved</b>
Quarterly Review/audit of the Police Service Professional Standards Unit as well as ad- hoc reviews as the Ombudsman sees applicable.  <i>4 PSU reviews/audit plus ad-hoc &amp; reports undertaken</i>	<b>Achieved</b>

Telephone approaches/enquiries <i>200-300</i>	<b>Achieved</b>
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<b>OUTPUT 2: HUMAN RIGHTS</b>	
<b>Objective:</b> To promote public awareness of human rights and efforts to combat all forms of discrimination or corruption through the provision of information and education; to inquire into, and report on, alleged violations of human rights; to monitor and promote compliance with international and domestic human rights law.	
<b>Performance Measures</b>	<b>Achieved/Not Achieved</b>
HR investigations effectively and efficiently undertaken and reports with relevant and implementable recommendations produced to improve Government efforts to address key human rights issues in Samoa  <i>1 x systemic investigation into a HR issue (as necessary and relevant)</i>	<b>Achieved</b>
Number of pieces of draft legislation effectively reviewed to assess compliance with HR norms  <i>2 pieces of legislation reviewed to assess compliance with HR norms.</i>	<b>Achieved</b>
Number of Community Education and Awareness Programs delivered to effectively improve understanding of HR and GG in Samoan communities.  <i>5 x Community Educations and Awareness Programs (3 on Upolu and 2 on Savaii)</i>	<b>Achieved</b>
National Public Awareness Campaign delivered to effectively improve national understanding of HR and GG in Samoa.  <i>1 x National Public Awareness Campaign</i>	<b>Achieved</b>
Social Studies School Curriculum Review to integrate HR and GG in the school curriculum and improve children's knowledge and understanding of HR and GG.  <i>1 level (Year 5) of social studies school curriculum reviewed to include HR and GG Education</i>	<b>Achieved</b>
Number of HR Educational Materials published and printed to improve Samoan children's and communities' knowledge and understanding of HR.  <i>2 x HR educational materials published and printed</i>	<b>Not Achieved. Comprehensive task and requires time.</b>
Number of Awareness raising materials produced to increase awareness of HR and GG and the role of the Office.  <i>Awareness raising materials produced: 1000 x bookmarks 1000 x pamphlets</i>	<b>Achieved</b>
Number of activities planned for existing HR events ( e.g 16 Days of Activism to end GBV, International Women's Day, International Children's Day) to increase awareness of HR and GG and the role of the Office.  <i>3 x activities planned and held in conjunction with existing HR events</i>	<b>Achieved</b>
Annual HR Day Celebration Event to increase awareness of HR and GG and the role of the Office.  <i>1 x Annual HR Day Celebration Event</i>	<b>Achieved</b>
Number of HR and Good Governance Training with Government officials delivered to effectively improve understanding of HR by the Samoan Government.	<b>70% Achieved</b>

<b>3 x HR Training with Government officials (max. 150 officials trained in total)</b>	
Produced and publish a HR Training Guide Manual for Ministry of Police and SPCS to improve the understanding, implementation and protection of human rights norms by Police and Prison Officials.  <b>1 x HR Training Guide Manual for Ministry of Police and SPCS produced and published</b>	<b>Achieved.</b>
Coordinate and act as the secretariat for the HR Advisory Council to keep Office fully up to date on human rights developments in Samoa.  <b>4 x Advisory Council meetings are organized and held</b>	<b>Achieved</b>
Coordinate and act as the secretariat for a cross- agency HR Taskforce to assist Government with understanding HR norms and to ensure HR activities are efficiently and effectively coordinated across the Samoan Government.  <b>4 x HR Taskforce meetings are coordinated and held</b>	<b>Achieved.</b>
Develop and Implement a National HR Plan of Action to ensure HR issues are addressed in a strategic fashion and HR activities are efficiently and effectively coordinated across the Samoan Government.  <b>1 x National HR Plan of Action is developed and implemented</b>	<b>70% Achieved. Comprehensive task and requires time and additional Staff.</b>
Develop HR indicators for SBS census to monitor and evaluate human rights developments and enable prioritization of human rights issues.  <b>5 – 10 HR indicators are developed for National Census</b>	<b>Not Achieved. No Budget.</b>
Implement a Monitoring & Evaluation Tool to enable Office to evaluate its own performance, identify emerging trends in HR violations and report on its activities to stakeholders. <b>1 x M&amp;E tool is designed and implemented</b>	<b>Not Achieved</b>
Develop a survey to be undertaken by SBS to provide a baseline for the monitoring and evaluation of human rights developments and enable prioritization of human rights issues.  <b>1 x survey to be developed and delivered by SBS</b>	<b>Not Achieved.</b>
Number of Focus Group Consultations conducted to improve understanding of the current key human rights issues in Samoa and inform content of the state of human rights report.  <b>8 x focus group consultations are organized and undertaken (4 on Upolu and 4 on Savaii)</b>	<b>Achieved</b>
Number of Consultations with Ministries and NGOs conducted to improve understanding of the current key human rights issues in Samoa and inform content of the state of human rights report.  <b>4 x consultation meetings with Ministries and NGOs are organized and held</b>	<b>Achieved</b>
Report is published, printed and publicized to increase awareness and understanding of HR, provide a baseline for the monitoring and evaluation of human rights developments and enable prioritization of human rights issues.  <b>2nd report on the State of Human is submitted to Parliament on 30 June 2016</b>	<b>Achieved</b>
Number of Inspections successfully and effectively conducted to improve conditions within places of detention for detainees and staff.	<b>70% Achieved</b>

<i>3 inspections are conducted</i>	
Number of Inspection Reports effectively drafted to provide implementable recommendations for the improvement of conditions within places of detention for detainees and staff.	<b>70% Achieved</b>
<i>3 inspection reports are prepared and published</i>	

<b>OUTPUT 3: SPECIAL INVESTIGATIONS UNIT (SIU)</b>	
<b>Objective:</b> To investigate and determine any complaints about a police, prison officer or officer of other prescribed disciplined forces.	
<b>Performance Measures/Indicators</b>	<b>Achieved/Not Achieved</b>
Percentage of Office awareness raising programs which include information on the role & functions of the SIU to ensure that the community comes to the Office with complaints regarding the police. <i>Outreach programmes include all 3 components - human rights, good governance and SIU.</i>	<b>Achieved</b>
Percentage of formal complaints efficiently and effectively investigated and resolved in a timely fashion, to improve standards of policing <i>Cases which have been unreasonably delayed or not investigated appropriately by PSU have been taken over by SIU and investigations have commenced, most completed and a few pending completion.</i>	<b>Achieved</b>
Confirm scope and functions of the SIU through effective and implementable recommendations to improve standards of policing <i>Scope and functions of SIU are confirmed through the effective implementation of its functions. This has been achieved through receiving complaints, monitoring the progress of such complaints, making advice and recommendations on how to efficiently dispose of such complaints, and continuous consultations with PSU on the way forward in handling complaints.</i>	<b>Achieved</b>
Percentage of troublesome PSU complaints monitored effectively and efficiently to improve governance of PS <i>Cases which have been unreasonably delayed or not investigated appropriately by PSU have been taken over by SIU and investigations have commenced, most completed and a few pending completion. These cases have been thoroughly assessed so that constructive recommendations are delivered to improve the work of PSU, in turn to ensure continuous effective governance of PSU</i>	<b>Achieved</b>
Submission of draft SIU Regulations 2015 to Parliament <i>(Investigations Unit) Regulations 2016. It was signed by the Head of State on 11 May 2016, and is now effective. This Regulation is now enforced and implemented by SIU through its work with PSU.</i>	<b>Achieved</b>

## **Section Eight: Way Forward**

The Office endeavours to fulfil its old and new functions under its new Act. Positively with the Office's new Strategic Plan 2016-2020, once endorsed by Parliament, will assist the Office staff in delivering its work in a timely, effective and efficient manner.



# GOVERNMENT OF SAMOA

## Appendix A

### STATEMENT OF MINISTRY RECEIPTS BY REPORTING CATEGORY AND EXPENDITURE BY OUTPUT APPROPRIATION ACCOUNT *for the financial year ended 30 June 2016*

	2016 \$	Original Estimate \$	Final Estimate \$	(Over)/Under \$	2015 \$
<b>OMBUDSMAN'S OFFICE</b>					
<b>PAYMENTS</b>					
<b>Outputs</b>					
1.0 Administrative Justice (Investigation and Resolution of Complaints about Government Ministries)	281,566	286,713	286,713	5,147	358,117
2.0 Human Rights	356,901	373,501	373,501	16,600	253,028
3.0 Special Investigation Unit	147,614	140,829	175,465	(6,785)	0
<b>Total Outputs</b>	<b>786,080</b>	<b>801,043</b>	<b>835,679</b>	<b>14,963</b>	<b>611,145</b>
<b>Transactions on Behalf of State</b>					
Membership Fees					
International Ombudsman Institute	2,366	2,500	2,500	134	2,313
Asia Pacific Forum of National Human Rights Institutions	3,600	3,600	3,600	0	0
Rents and Leases	89,408	97,095	97,095	7,687	97,095
VAGST Output Tax	42,210	44,277	44,087	2,067	33,204
<b>Total Transactions on Behalf of State</b>	<b>137,584</b>	<b>147,472</b>	<b>147,282</b>	<b>9,888</b>	<b>132,612</b>
<b>TOTAL PAYMENTS - OMBUDSMAN'S OFFICE</b>	<b>923,665</b>	<b>948,515</b>	<b>982,961</b>	<b>24,850</b>	<b>743,757</b>



# GOVERNMENT OF SAMOA

## Appendix B

### STATEMENT OF MINISTRY RECEIPTS BY REPORTING CATEGORY AND EXPENDITURE BY OUTPUT APPROPRIATION ACCOUNT *for the financial year ended 30 June 2016*

	2016 \$	Original Estimate \$	Final Estimate \$	(Over)/Under \$	2015 \$
<b>OMBUDSMAN'S OFFICE</b>					
<b>PAYMENTS</b>					
<b>Outputs</b>					
1.0 Administrative Justice (Investigation and Resolution of Complaints about Government Ministries)	281,566	286,713	286,713	5,147	358,117
2.0 Human Rights	356,901	373,501	373,501	16,600	253,028
3.0 Special Investigation Unit	147,614	140,829	175,465	27,851	0
<b>Total Outputs</b>	<b>786,080</b>	<b>801,043</b>	<b>835,679</b>	<b>49,599</b>	<b>611,145</b>
<b>Transactions on Behalf of State</b>					
<b>Membership Fees</b>					
International Ombudsman Institute	2,366	2,500	2,500	134	2,313
Asia Pacific Forum of National Human Rights Institutions	3,600	3,600	3,600	0	0
<b>Rents and Leases</b>	<b>89,408</b>	<b>97,095</b>	<b>97,095</b>	<b>7,687</b>	<b>97,095</b>
VAGST Output Tax	42,210	44,277	44,087	1,877	33,204
<b>Total Transactions on Behalf of State</b>	<b>137,584</b>	<b>147,472</b>	<b>147,282</b>	<b>9,698</b>	<b>132,612</b>
<b>TOTAL PAYMENTS - OMBUDSMAN'S OFFICE</b>	<b>923,665</b>	<b>948,515</b>	<b>982,961</b>	<b>59,296</b>	<b>743,757</b>
<b>GOVERNMENT DEVELOPMENT PROJECTS</b>					
<b>External Receipts</b>					
<b>Grants - GDP</b>					
Support for Human Rights Education & Outreach Activities Project (UNDP)	15,000	0	0	(15,000)	0
<b>TOTAL GOVERNMENT DEVELOPMENT PROJECTS RECEIPTS</b>	<b>15,000</b>	<b>0</b>	<b>0</b>	<b>(15,000)</b>	<b>0</b>

