



Komesina o Sulufaiga

DETENTION CENTRE INSPECTION REPORT 2017

**VAIA'ATA PRISON & POLICE CUSTODIES: TUASIVI,
FAGAMALO, ASAU & VAITO'OMULI SAVAII**

A. EXECUTIVE SUMMARY

The investigations team visited all 4 police custodies (Tuasivi, Vaito'omuli, Asau and Fagamalo) and Vaiaata prison in Savaii. The inspections showed developments in Tuasivi police custody and Vaiaata prison since the last inspections in 2015. Some of these improvements include:

1. Upgrading/Renovations of the facility at Tuasivi police custody;
2. Enforcement of new rehabilitation programmes at vaiaata prison;
3. Quality of food at Vaiaata prison; and
4. Access of prisoners to health care services in Vaiaata prison.

The Ministry of Police is commended for the quick response to the urgent recommendations in the Office of the Ombudsman's ("OMB Office") last inspections report to renovate or build a new custody facility for Tuasivi as the conditions of the facility were appalling and unfit for untried prisoners to be detained. Vaiaata prison is also to be commended for its efforts to start addressing some of the concerns that were raised in the last inspections. It was evident during the current inspections and the prisoner's themselves attested to the improvements in food, health care services and rehabilitation programs.

Despite these improvements, there were some issues from the last inspections that still existed in the Vaiaata prison such as:

- lack of access to sufficient and clean water;
- lack of sleeping accommodations for prisoners which causes overcrowding; and
- the need for separation of juveniles from adults.

These are concerning issues, with some that are long outstanding, that requires the attention of the Government and Samoa Prisons and Corrections Services (SPCS) but also relevant authorities such as the Samoa Water Authority that can assist in ensuring that there is access to sufficient and clean water by the prisoners when they need it. Further, there were some new issues identified by the investigation team that required the attention and consideration of the Ministry of Police (MoP) and SPCS to address. They include:

- Incomplete record keeping in police outposts; and
- Detention of Vaiaata prisoners with police custody

Reflecting on these issues some of the main recommendations include:

1. SPCS and Samoa Water Authority should work together on ways to ensure that there is access by prisoners to clean water.
2. SPCS to build open fale as a temporary measure to reduce overcrowding and to separate juveniles from adult prisoners.
3. SPCS to reconsider its policies of detaining prisoners at police outposts.
4. MoP to maintain complete record keeping.

B. AUTHORITY TO VISIT

The OMB Office as the National Human Rights Institution pursuant to section 33 (e) of the *Ombudsman (Komesina o Sulufaiga) Act 2013* ("OMB Act") has the mandate to visit and

monitor all places of voluntary confinement or detention in Samoa. Section 24 of the *Prisons and Corrections Act 2013* (“PC Act”) also gives the Ombudsman the power to visit prisons and prisoners for the purposes of the OMB Act.

C. VISIT OBJECTIVES

The objectives of the visits were to assess (i) changes to facilities, management and processes since the last inspections in January-February 2015 and (ii) current status of facilities, management and process.

D. TIMELINE AND METHODOLOGY

The inspections team¹ visited and inspected all 4 police custodies (Tuasivi, Fagamalo, Vaito’omuli, Asau) and Vaiaata prison in Savaii on the 22nd and 23rd of August 2016.

The Commissioners of Police and the SPCS were given prior notice of the visits and requested their usual support. The inspections team met first with Officers in Charge (OIC) of each detention facility to discuss the purpose of the visit before carrying out physical inspections of the facilities.

E. STANDARDS

The following are standards applicable for the purposes of these inspections:

- *Prisons and Corrections Services Act 2013*
- *Prisons and Corrections Regulation 2014*
- The Standard Minimum Rules for the Treatment of Prisoners (The Nelson Mandela Rules)

The Standard Minimum Rules for the Treatment of Prisoners has been used globally by correctional facilities since 1957 as guidance on the application of appropriate standards in the treatment of prisoners and untried prisoners. The Standard Minimum Rules has been revised and adopted as the “Nelson Mandela Rules” by the United Nations General Assembly in December 2015. The revision of the Rules was warranted to reflect recent advances in correctional administration and best practices. Some of the important areas in the revised Rules include: (i) prisoner file and record management –facilities are to ensure that there is a standardised prisoner management system and each file to include information on a whole range of issues affecting the prisoner; (ii) the need for continuous trainings are provided to professionally fulfil their duties as prison guards.

SPCS and MoP are encouraged to take note of these revisions and consider developing and implementing recent practices and principles in the treatment of prisoners and untried persons. This is especially important for SPCS as they have adopted the Rules as part of their PC Act 2013 in the management of prisons and prisoners. Although generally non-binding, the United Nations General Assembly has encouraged all its member states, including Samoa, to adopt the application of the Rules in accordance with their domestic legal frameworks as appropriate, to improve conditions in detention. Therefore, it is equally significant for MoP to draw from these standards in the treatment of untried persons.

¹ The inspections team consisted of Ms Loukinikini Vili, Director of Human Rights and Mr Ieti Seiuli, Senior Accounts Officer.

A copy of the revised Rules can be found at this link- <https://cdn.penalreform.org/wp-content/uploads/1957/06/ENG.pdf>

F. VAIAATA PRISON

There were fifty eight (58) prisoners recorded in SPCS's record at the time of the visit. However, only 51 prisoners were detained at the Vaiaata prison, the other 6 prisoners were detained at Police outposts² and 1 detained at the Ministry of Justice, Courts and Administration. The numbers have increased since the last inspections of 33 prisoners.

Update from last inspections

i. Accommodation - overcrowding and hygiene

The *Nelson Mandela Rules* provides that accommodations, for prisoners should meet health requirements paying due regard to sufficient air, lighting, space, heating and ventilation (Rule 5).

The conditions of the Vaiaata facility remains the same since the last inspections. The dormitory (two medium sized rooms) was occupied by most of the prisoners. The increase in the number of prisoners is an issue because the capacity of the dormitory can only detain not more than 5 prisoners. Consequently, the dormitory was overcrowded, dirty and the air fairly stuff.

The toilet was out of order due to a problem with the septic tank. It appears that it has not been working for several months. The *Nelson Mandela Rules* provides that sanitary installations should be adequate to enable every prisoner to use when needed and in a clean and decent manner (Rule 15). While waiting for a septic tank to get fixed, the prisoners were using 2 primitive toilets/non flushable (faleuila eli) built just outside of the facility.

SPCS stated there is plans to build a new prison facility for Vaiaata that can house up to 100 prisoners, but for the meantime an open house will be built as a sleeping accommodation for some of the prisoners and use for other activities such as Church.

Recommendations:

1. SPCS to build a temporary open house to detain some of the prisoners.
2. SPCS to fix septic tank and ensure that the primitive toilets are in decent manner.

ii. Water and Food

The *Nelson Mandela Rules* provides that prisoners must be provided with nutritional value food (Rule 22(1))³ and drinking water (Rule 22(2)) made available whenever a prisoner needs it.

² 2 at Tuasivi Outpost, 1 at Fagamalo Outpost, 2 at Asau Outpost and 1 at Vaitoomuli Outpost.

³ See also *Prisons and Corrections Act 2013*, section 33.

Water at Vaiaata remains an issue as water is not available all the time. Water is turned on by the Samoa Water Authority at certain times e.g. 6am-6pm. According to the OIC, other times there is no water the whole day. Consequently access to water is not guaranteed all the time. Arrangements however are made by SPCS to ensure that water is stored in the tank and prisoners are showered before the water is turned off. Sometimes, prisoners use the village pool to shower. The prisoners that were interviewed stated that the water is usually dirty and not good for drinking, washing or cooking.

There was development in the farming produce planted and developed by the prisoners such as the pigsty, chicken pen, vegetable garden, cocoa and plantation (banana, yam, and taro). These produce in addition with the food provided by SPCS (such as rice, chicken, tin fish) are used for prisoners' food. These produced are also sold or gifted to the pastors when visiting. The prisoners that were interviewed stated that they were happy with the food. Majority of the food they eat are from the produce of their hard work.

Recommendation:

3. SPCS to ensure that prisoners have access to clean water whenever they need it.

iii. Classification/Separation of prisoners

The *Nelson Mandela Rules* and *PC Act 2013* provides for the separation or classification of prisoners in different institutions.⁴ One of the rationales behind this principle is to separate those by reason of their criminal records or characters are likely to exercise a bad influence on other prisoners.

On the day of the visit, there was an 18 year old prisoner sentenced for 5 months for assault. According to SPCS, the arrangement for him to be detained at Vaiaata prison instead of Olomanu Juvenile Centre was due to a request by his family so that he can be closer to attend school. The 18 year old was serving sentence and attending school.

SPCS stated that there is still no development in the implementation of the classification system as required due to lack of resources and proper facilities.

Recommendation:

4. SPCS should consider ways to ensure that juveniles are separated in different facilities from adult prisoners.

iv. Health Care Services

The *Nelson Mandela Rules* (Rules 24-35) and *PC Act 2013*⁵ provides for medical care for prisoners. The Rules provides that the provision of medical care is the responsibility of the State.

When the inspections team inspected the SPCS's Hospital Record Book, it was observed that there were numerous referral/visits of prisoners to the hospital and prescriptions issued by doctors for prisoners. It appeared that the prisoners have more access to the hospital than the

⁴ *The Nelson Mandela Rules*, Rule 11; *Prisons and Corrections Act 2013*, section 39(b).

⁵ *Prisons and Corrections Act 2013*, Part 6.

last inspections and was confirmed by the prisoners. They stated that they are always driven to the hospital (unlike the last time they have to find their own way to the hospital due to lack of transportation) and receive medications.

v. *Rehabilitation and Educational programmes*

The *Nelson Mandela Rules* (Rules 104-105) and the *PC Act 2013*⁶ provides for education and rehabilitation programs aiming to provide relevant skills to prisoners to enhance their opportunities and so far as possible ensure their reintegration of such persons into society upon their release.

SPCS enforced a new Rehabilitation Program for prisoners since the beginning of this year. Some of these new programs were observed at Vaiaata prison to include a mechanic shop,⁷ farming (pig sty, chicken pen) vegetable garden and plantation (cocoa, banana, taro, yam). The prisoners that were interviewed stated that they were involved in these different activities.

SPCS advised they recently implemented a savings fund system for some of the prisoner's particular for those that operate the mechanic shop. Portion of the money is deposited into the prisoner's account and is given to him upon release and the rest is deposited into the SPCS account for anything the prisoners need such as equipment and materials for the mechanic shop etc. the inspection team requested evidence of these bank accounts, however the OIC advised the investigation team that they were kept with the Assistant Commissioner. It is unsure whether the prisoners were advised of such arrangements. It is important that prisoners are well informed of such savings fund systems.

vi. *Staff and Record Keeping*

There was a total of 7 staff including the Assistant Commissioner. The staff routine consist of 3 officers (not including the Assistant Commissioner) per shift – 7 days shift/week. These 3 officers then rests for a week and the other 3 takes shift.

The OIC stated that there is still an issue of short staff. Daily routine consists of 1 officer responsible for driving, 1 to take prisoners to the plantation and supervise their work and the other to man the office. If an officer is on sick leave, then there would be a short staff, however, the inspections team is concern for the safety of the officers. The *Nelson Mandela Rules* emphasises the importance of ensuring safety of the staff first (Rule 1). The Rule also applies to prisoners and visitors alike.

In relation to file management and record keeping, the *Nelson Mandela Rules* provides that there should be standardized system for keeping records and managing information on prisoners (Rule 6). The following record books were kept in an orderly manner:

- Hospital Book 2016 (new)
- Popo Book 2015 (new)
- Location Form 2016 (new)
- Vaiaata Working Areas (new)
- Prisons Vaiaata Register Book
- Vaiaata Master Book 2016

⁶ See sections 50 and 60, *PC Act 2013*.

⁷ Since it started prisoners have received cars and lawn mowers from the public to be fixed

- Staff Meeting Minutes Book
- Complaint Form

Recommendation:

5. SPCS should ensure safety protocols are in place for staff.

Current Issues

Detention of prisoners in Police Outposts

It was identified during discussions with the OICs of Police outposts and confirmed by the OIC of Vaiaata prison that 6 prisoners of Vaiaata prison were detained in Police outposts, 2 at Tuasivi Outpost, 1 at Fagamalo Outpost, 2 at Asau Outpost and 1 at Vaitoomuli Outpost.

When visiting the police outposts, the prisoners were detained either in single rooms⁸ in police dormitory or in an open Samoan fale.⁹ The rooms were fairly clean, reasonable lighting, air circulation and space. Some prisoners shared bathrooms with police staff, others had their own toilet and shower. Food and water was provided by MoP. Prisoners cook the food not only for themselves but also for the police officers. For labor, prisoners clean the premises and work the plantation on the premises. In relation to medical services, MoP refers prisoners to hospitals when they are sick and pay for their medication. According to the OICs of each police outpost, they are ok with the arrangement. The prisoners are manageable.

It appears that this is an old arrangement when Prisons was still under the mandate of the MoP where prisoners are detained in outposts to assist with cleaning of premises etc.

The concern by the investigation team of such arrangement is that these prisoners are not exposed to the same rehabilitation programs provided in the Vaiaata prison. Therefore, there may not be any opportunity for these prisoners to enhance their opportunities and so as far as possible ensure the reintegration of such persons into society upon their release as provided in the *Nelson Mandela Rules* (Rule 4) and the *PC Act*.¹⁰

Recommendation:

6. SPCS should consider reviewing its policy on the detainment of prisoners in police outposts and determine whether the rehabilitation needs of the prisoners are achieved with such arrangements.

G. POLICE CUSTODY

As stated earlier, the inspections team visited all four police outposts, Vaitoomuli, Asau, Fagamalo and the main office at Tuasivi. Out of the four police outposts, only two had custody

⁸ Tuasivi, Asau and Fagamalo outposts

⁹ Vaito'omuli outpost

¹⁰ See *PC Act 2013*, section 16(1)(b).

cells, Tuasivi and Fagamalo. There was only one custody detained in the Tuasivi custody on the day of the visit.

Update from last inspections

i. Facility – Hygiene

In the last inspections, Tuasivi custody was found not to be in a condition fit for human detainment let alone to detain untried persons.¹¹ It was strongly recommended to either renovate the current facility or build a new facility. In the current inspections, the facility had been renovated with the kind support of the Australian Federal Police.

The renovations consisted of:

- Painting inside of the cells
- Functional toilet inside the cells
- Installation of 2 sinks outside the cell with access to drinking and washing water
- Building a fence surrounding the cells so that the custodies can have access to fresh air and stretch.

Renovations to the Fagamalo custody cells was finally completed and in operation in June 2016. This makes it 2 operational police custody cells in Savaii. However, custodies detained at Fagamalo are still referred to Tuasivi to be formally charged and remand. The facility is just outside the police office. It has 2 cells, good air circulation and lighting. There is no toilet inside the cells. SPCS advised that the custodies use the staff toilets. There was also a tap outside of the cell that custody can use for washing and drinking. There were no beds, so it appears that a custody would have to sleep on bare cement.

ii. Water

The Tuasivi custody renovations has instilled 2 sinks outside of the cells which provides clean and constant running water for wash after using the toilet and drinking.

iii. Separation of custodies

Going through the Charge Book, the investigation team observed that no juveniles have been remanded in custody. They were all remanded on bail on the same day. The *Nelson Mandela Rules* reminds that young untried prisoners shall be kept separate from adults and shall be detained in separate institutions (Rule 11(b)).

Current Issues

Staff and Record Management

According to the OIC of Tuasivi Outpost, there has been an increase of 4 Police officers which makes it 48 officers in total for the whole of Savaii: 15 females and 33 males. However, all OICs in police outposts raised issues regarding short staff although there was a recent increase. OICs stated that the increase is still sufficient because the numbers does not justify the extent

¹¹ Office of the Ombudsman, *Detention Inspections Report*, June 2015 at pp. 26-27. E-copy can be retrieved from: <https://ombudsman.gov.ws/places-of-detention-inspection-reports/>.

of coverage by each outpost and the seriousness of some of the offences that would require capable bodies' e.g. a big fight.

In relation to record keeping, two issues were picked up by the investigations team in the following records:

i. Charge Book

The recording of information in the Charge Books at Tuasivi, Fagamalo¹² was incomplete in relation to custodies properties when they are released. It was observed that properties are recorded and signed by the custody when remanded in custody but some custodies when they are released or transfer (to Apia) there is no record of the custody signing again that he has received the properties back.

ii. Occurrence Book

At the Asau outpost, it was observed that recording of results of matters received by officers and actions/reviews taken by the Senior Sargent of such matters were not recorded or noted for some matters. Therefore, it was unsure what the outcome of some of the matters received by the outpost.

It is important that records are kept up to date and in a complete manner. Proper procedures should also be in place to ensure a secure audit trail and to prevent unauthorised access to or modification of any information contained in the system. Having proper paper trail also avoids any future claims against the Ministry for mishandling of properties.

Recommendations:

7. MoP to maintain complete record keeping.

H. Recommendations

The following table provides recommendations and actions for the appropriate facility's consideration to address within the specified timeframes. The next inspections by the Office will follow up on the progress of these recommendations:

Key:

Urgent Attention	Within 3 months from release of report
Immediate Attention	Within 6 months from release of report
Medium Attention	Within 9 months from release of report

¹² Investigation team was not able to inspect Asau Occurrence Book because it was locked away in the OIC's room

Recommendation	Desired Outcome	Actions Required	Timeframe	Responsible Agency
1. <i>SPCS to build a temporary open house to detain some of the prisoners</i>	Reduce overcrowding. Prisoners have access to reasonable lighting, space and air.	Build open house	Immediate	SPCS
2. <i>SPCS to fix septic tank and ensure that the primitive toilets are in decent manner.</i>	Prisoners have access to decent sanitary facilities	Fix septic tank	Urgent	SPCS
3. <i>SPCS to ensure that prisoners have access to clean water whenever they need it.</i>	Prisoners and staff have access to clean water for drinking, cooking and bathing	SPCS to consult with SWA to work out ways to ensure access to water	Urgent	SPCS & SWA
4. <i>SPCS should consider ways to ensure that juveniles are separated in different facilities from adult prisoners.</i>	Juveniles are separated from adult prisoners	SPCS plan	Immediate	SPCS
5. <i>SPCS should ensure safety protocols are in place for staff.</i>	Safety of staff is guaranteed.	SPCS to put in place protocols to ensure safety of staff (this also applies to visitors and prisoners). Staff should also be made aware of these procedures.	Immediate	SPCS
6. <i>SPCS should consider reviewing its policy on the detainment of prisoners in police outposts and determine whether the rehabilitation</i>	All prisoners have access to rehabilitation programs	SPCS to review policies and evaluate whether prisoners are properly rehabilitated under such arrangements	Immediate	SPCS

<i>needs of the prisoners are achieved with such arrangements.</i>				
7. MoP to maintain complete record keeping.	Complete record keeping. Secured audit trail of information	MoP staff to ensure required details are recorded	Immediate	MoP

I. FOLLOW UP ACTIONS

The following are follow up actions on the recommendations:

- a. The Office will share this report with each detention facility and work together to determine how to approach the different issues raised in the recommendations; and
- b. The Office will have to follow up inspections on specified timeframes to ensure that the recommendations are addressed.