



Office of the Attorney General

22 May 2014

Hon Speaker of the House
Legislative Assembly
Mulinuu

In accordance with the Attorney General's Act 2013, I am pleased to submit herein the Annual Report of the Office of the Attorney General for the year ending 30 June 2013. The Report records the Office's key performance results during the financial year 1 July 2012- 30 June 2013, in accordance with its mandate and output structure.

I request that the Report be tabled before the Legislative Assembly of Samoa in its next sitting, for Members' usual perusal.

Ma lou faaaloalo lava,

Hon Tuilaepa Fatialofa Lupesoliai Sailele Malielegaoi
Prime Minister/Minister Responsible for the Office of the Attorney General

Annual Report July 2012-June 2013

*To ensure a safe and just society through the provision of
quality and effective legal services*



Foreword

I am pleased to present the 2nd Annual Report for the Office of the Attorney General ('Office') for the financial year, July 2012 to June 2013.

Following on from the previous report, this report provides a summary of the many activities carried out by the Office as well as a background to the management and role of the Office (as Principal Legal Advisor to the Government), and various projects, landmark cases and legislation, involving the respective teams within the Office. The report also notes some of the challenges that were faced and provides practical constructive suggestions that should make for progress.

Though there have been many challenges relating to the management of resources, capacity of staff, and the numerous tasks undertaken, the Office continued to function through good will, tireless efforts and commitment by its staff. For this I wish to thank the Attorney General and his staff for the work and achievements this year.

Soifua ma ia manuia.

Tuilaepa Fatialofa Lupesoliai Aiono Neioti Sailele Malielegaoi
**PRIME MINISTER/ MINISTER RESPONSIBLE FOR THE
OFFICE OF THE ATTORNEY GENERAL**

Table of Contents

Attorney General's Note.....	5
Introduction.....	6
Organisational Structure.....	7
LEGISLATIVE DRAFTING DIVISION.....	11
I. Structure.....	11
II. Achievements.....	12
III. Significant Legal Reforms.....	16
IV. Initiatives and projects.....	20
V. Issues.....	21
CIVIL DIVISION.....	23
I. Structure.....	23
II. Achievements.....	23
III. Initiatives and projects.....	25
CRIMINAL PROSECUTIONS DIVISION.....	27
I. Structure.....	27
II. Achievements/Significant matters in criminal law.....	27
III. Significant Legal Reforms.....	29
IV. Initiatives and projects.....	29
V. Issues.....	30
CORPORATE SERVICES DIVISION.....	32
I. Structure.....	32
II. Achievements, highlights, duties and responsibilities.....	32
LAW AND JUSTICE SECTOR.....	41
I. Structure.....	41
II. Achievements.....	42
III. Significant Initiatives/Projects.....	42
IV. Significant Issues and Suggestions to address issues.....	43
ATTACHMENT A.....	44



Attorney General's Note

Our Office has been very busy this year due to increasing civil litigation undertaken by our Office on behalf of the Government, ongoing prosecution matters and court of appeal cases, significant legal reforms and new legal developments, the commencement of a new statistics database for the law and justice sector, as well as continuing efforts by the support staff to strengthen our Office.

As you will note in our report, we try to operate our Office as effectively and efficiently as possible (with the continued support in administration, human resource, finance, and information technology) as we strive to provide the highest quality legal services to the Government.

As Attorney General, I am pleased to present our Annual Report for the financial year, July 2012 to June 2013.

Ming C. Leung Wai
ATTORNEY GENERAL

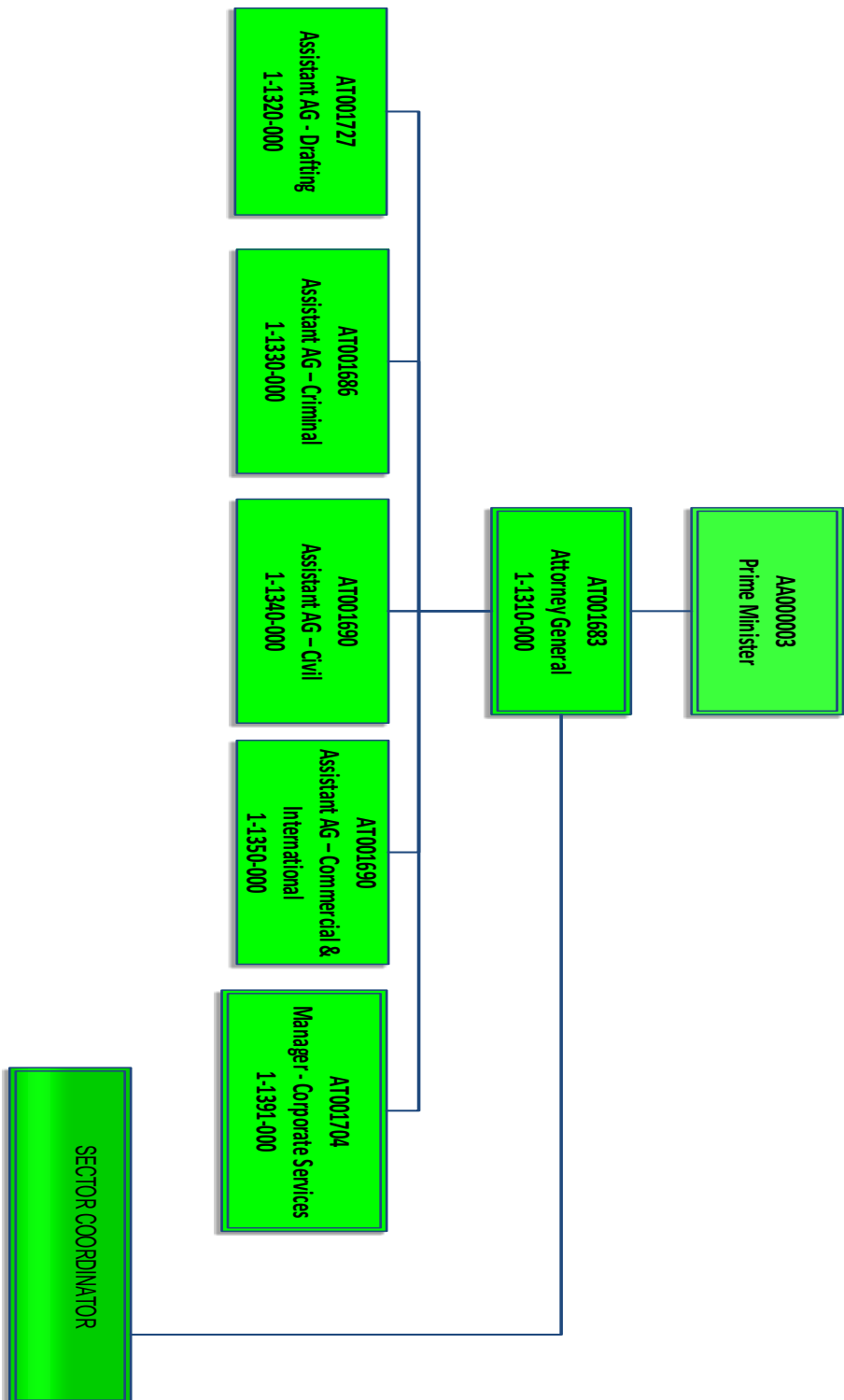


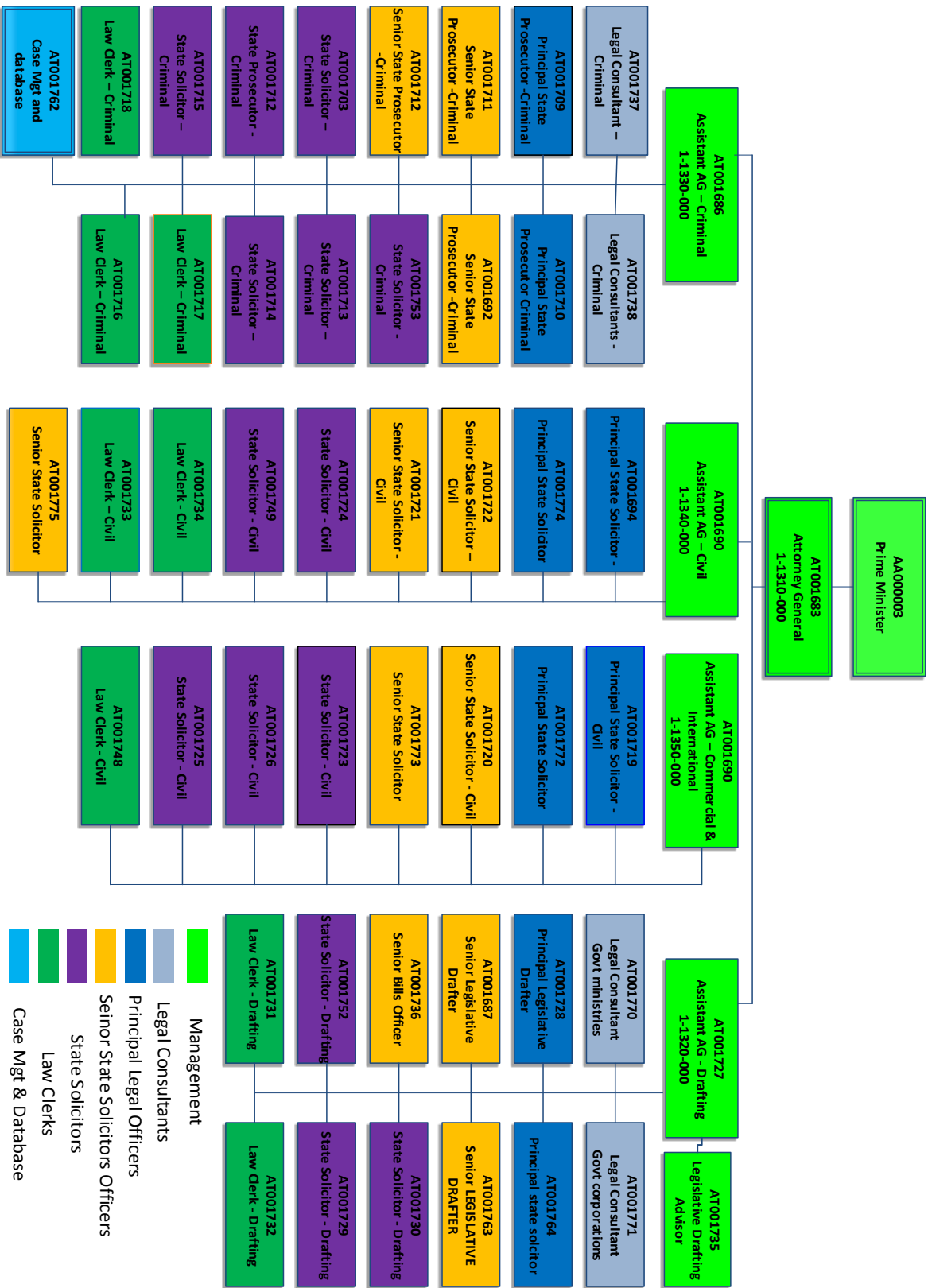
Introduction

The Office of the Attorney General of Samoa is made up of 5 Divisions: the Legislative Drafting Division, the Civil Division (-divided into the Civil Litigation and Opinions Division and the Commercial Law and International Division), the Criminal Prosecution Division and the Corporate Services Division. Also, as the Office of the Attorney General is at the forefront of the Law and Justice Sector Plan alluded to in our previous report; the Law and Justice Sector Secretariat is responsible for the implementation of the Law and Justice Sector Plan and is a quasi-division of the Office of the Attorney General.

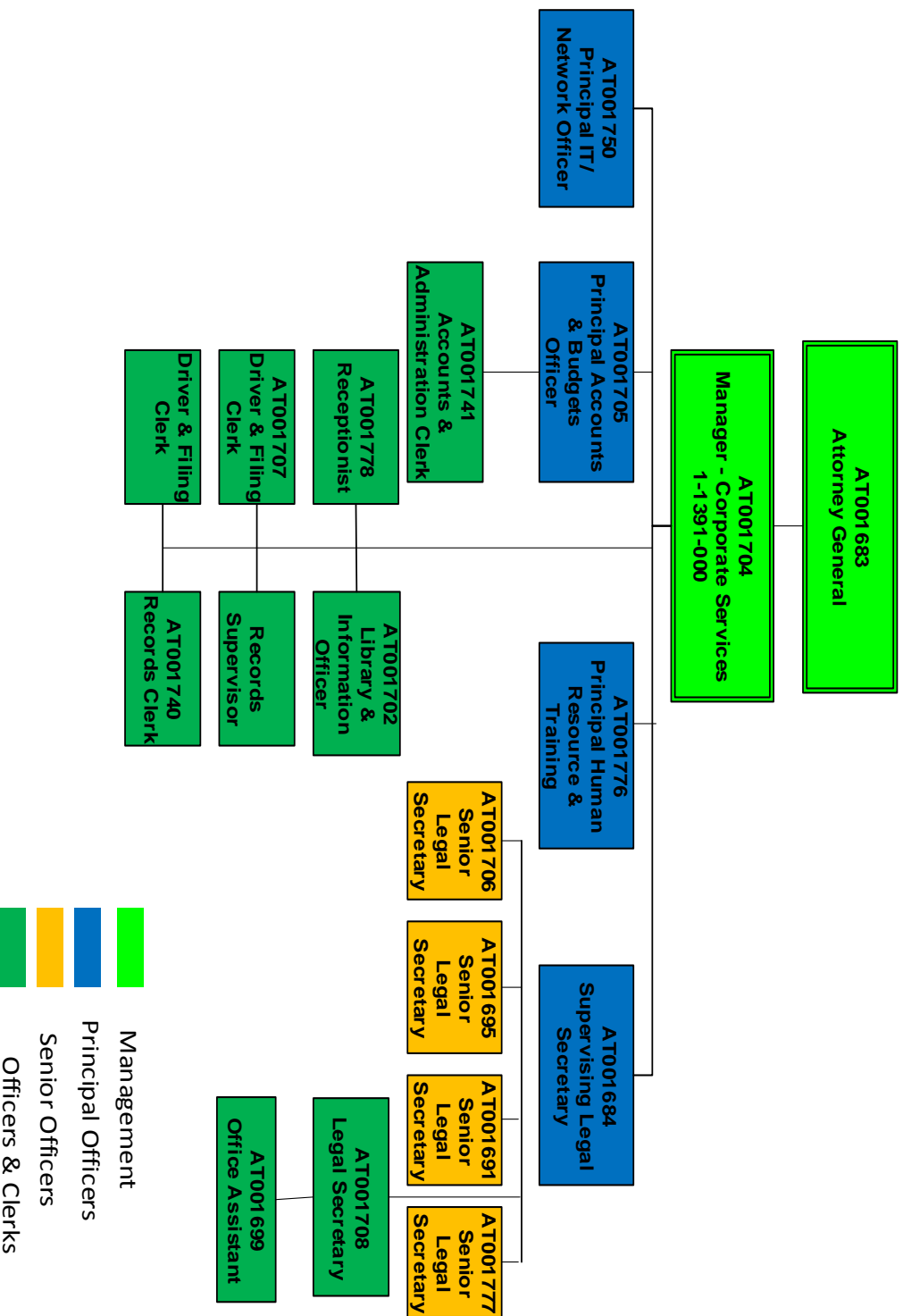
Our Office has been heavily involved in numerous legal activities, including landmark litigation (in the Court of Appeal and Supreme Court), significant legal reform (e.g. Crimes Act, Family Safety Act and the Attorney General's Office Act, to name a few) and the establishment of the Human Rights Commission within the Office of the Ombudsman, as well as improvement in records management, secretarial work, and efficiency of support staff. Other initiatives undertaken by the Office include development of the new Employment Guidelines and Conditions for our Office and launching of the Project AUAFA-MAU Database. Our Office has also been very fortunate to have received training (both legal and administrative staff) through various mentoring programmes funded by AusAid.

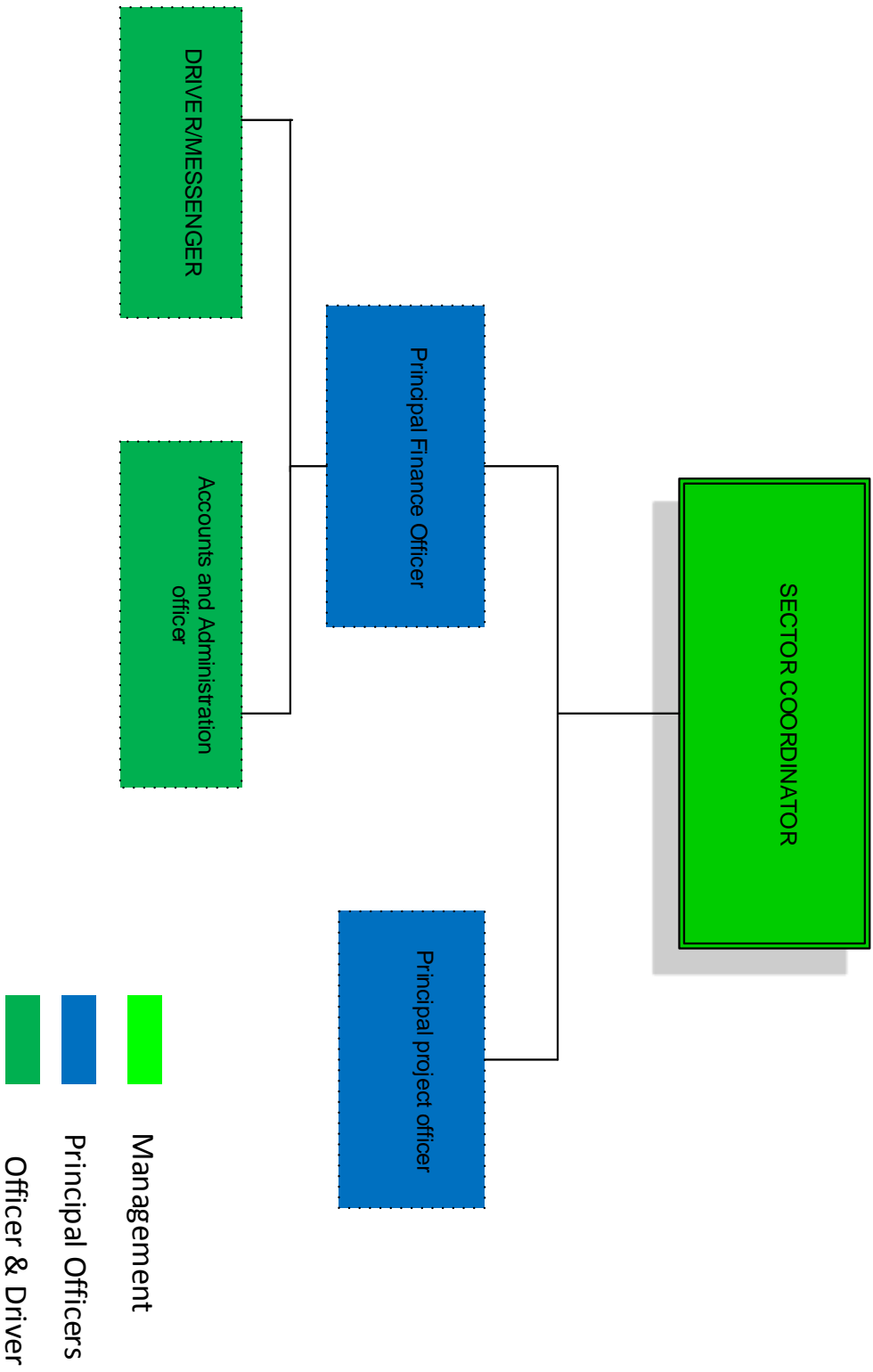
Organisational Structure





- Management
- Legal Consultants
- Principal Legal Officers
- Senior State Solicitors Officers
- State Solicitors
- Law Clerks
- Case Mgt & Database





Legislative Drafting Division

The Drafting Division ensures that legislation is drafted in line with the Legislative Drafting Handbook and is consistent with the Constitution and other laws, as well as capturing the policy instructions and purposes of the concerned government authorities. Without limiting its responsibilities to drafting and reviewing the laws of Samoa, the Drafting Division provides legal advice to Ministries and other government agencies in relation to draft Bills and other legislation, as well as assisting in drafting terms of references for legal consultants, sitting on evaluation panels, attending meetings of various statutory Boards, Councils, Advisory Committees, and Parliamentary Select Committees, facilitating training and projects in relation to legislative drafting, and any other tasks assigned to the Drafting Division by the Attorney General.

Every law which is to be approved by Cabinet and passed by Parliament is initially reviewed and cleared by the Attorney General through the Drafting Division, after which the Attorney General's Certificate is issued as verification that such proposed laws are proper as to form and content.

STRUCTURE:

Looking back to 1 July 2012 to 30 June 2013, there has been a lot of changes to, and movement in, the Drafting Division:

(A) Change of title – The title “Parliamentary Counsel” was changed to “Assistant Attorney General, Drafting”.

(B) Resignations - Papalii Malietau Malietoa (former Parliamentary Counsel), Nola Petelo Faasau (former Senior Legislative Drafter); Makereta Vaaelua (former Senior Bills Officer); and Martha Papalii (former State Solicitor).

(C) Promotions and new appointments - Loretta Teueli was promoted to Legal Consultant (Government Ministries) and later appointed as Assistant Attorney General to lead the Drafting Division; Constance Tafua Rivers was promoted to Legal Consultant (Government Corporations); Salote Peteru and Fetogi Vaai were both promoted as Principal Legislative Drafters; Martha Papalii was promoted to State Solicitor following her admission; Theodora Matalavea and Leitu Moananu were appointed as Law Clerks, and following their admissions, were appointed to State Solicitor positions; and Nina Tala was appointed as Part-time Law Clerk.

(D) Vacancies – 2 Senior Legislative Drafters, 1 Legal Consultant (Government Ministries) and 1 State Solicitor.

(E) Team members –9

- i. Loretta Teueli – Assistant Attorney General, Drafting
- ii. Rupeni Nawaqakuta – Legislative Drafting Advisor
- iii. Constance Tafua-Rivers – Legal Consultant, Government Corporations
- iv. Salote Peteru – Principal Legislative Drafter
- v. Fetogi R. Vaai – Principal Legislative Drafter

- vi. Sioa T. Sioa – State Solicitor
- vii. Leitu Moananu – Law Clerk
- viii. Theodora F. Matalavea – Law Clerk
- ix. Nina Tala – Part-time Law Clerk

ACHIEVEMENTS:

(I) Legislative programme:

- Number of Bills (including Appropriation Bills) passed – 20
 - (i) *Proceeds of Crime Amendment Act 2012*
 - (ii) *Casino and Gambling Control Amendment Act 2012*
 - (iii) *Financial Institutions Amendment Act 2012*
 - (iv) *Unit Trust of Samoa Loans Act 2013*
 - (v) *Samoa International Finance Authority Amendment Act 2013*
 - (vi) *Samoa Institute of Accountants Amendment Act 2013*
 - (vii) *Personal Property Securities Act 2013*
 - (viii) *Labour and Employment Relations Act 2013*
 - (ix) *Family Safety Act 2013*
 - (x) *Customary Land Advisory Commission Act 2013*
 - (xi) *Canine Control Act 2013*
 - (xii) *Crimes Act 2013*
 - (xiii) *Prisons and Corrections Act 2013*
 - (xiv) *Ombudsman (Komesina o Sulufaiga) Act 2013*
 - (xv) *Income Tax Amendment Act 2013*
 - (xvi) *Constitution Amendment Act 2013*
 - (xvii) *Attorney General's Office Act 2013*
 - (xviii) *Supplementary Appropriation Act 2012/2013*
 - (xix) *Supplementary Appropriation Act (No.2) 2012/2013*
 - (xx) *Appropriation Act 2013/2014*
- Number of Bills finalised with the Attorney General's Certificate (and either pending Cabinet approval, at Parliament, or with the Office of the Legislative Assembly for translation) – 26
 - (i) *Medical Practitioners Amendment Bill*
 - (ii) *National Kidney Foundation of Samoa Amendment Bill*
 - (iii) *Plumbers Bill*
 - (iv) *Maritime Zones Amendment Bill*
 - (v) *Refugee Determination Bill*
 - (vi) *Central Bank of Samoa Amendment Bill*
 - (vii) *Constitution Amendment Bill (No.2)*
 - (viii) *Road Traffic Amendment Bill*
 - (ix) *Audit Bill*
 - (x) *National Health Service Bill*
 - (xi) *Counter Terrorism Bill*
 - (xii) *Electric Power Corporation Amendment Bill*
 - (xiii) *Samoan Language Commission Bill*
 - (xiv) *Telecommunications Amendment Bill*
 - (xv) *Trade, Commerce and Industry Amendment Bill*
 - (xvi) *Lawyers and Legal Practice Bill*

- (xvii) *Unit Titles Amendment Bill*
- (xviii) *Food Bill*
- (xix) *Apprenticeship Bill*
- (xx) *National Payment System Bill*
- (xxi) *Public Finance Management Amendment Bill*
- (xxii) *National Provident Fund Amendment Bill*
- (xxiii) *Fisheries Management Bill*
- (xxiv) *Broadcasting Amendment Bill*
- (xxv) *Allied Health Professions Bill*
- (xxvi) *Health Foundation Bill*
- Number of subsidiary legislation (regulations, notices, orders, etc.) signed and promulgated – 15
 - (i) *General Price Order (No.4) 2012*
 - (ii) *Dental Practitioners Regulations 2012*
 - (iii) *Pharmacy Regulations 2012*
 - (iv) *Public Bodies (Performance and Accountability) Amendment (public bodies and ex officios) Regulations 2012*
 - (v) *Public Bodies (Performance and Accountability) Amendment (CEO, MOF to sit on boards without voting rights) Regulations 2013*
 - (vi) *Public Bodies (Performance and Accountability) Amendment (selection of board of directors) Regulations 2012*
 - (vii) *General Price Order (No.1) 2013*
 - (viii) *Order of Fees 2013, Forestry Management Act 2011*
 - (ix) *Notice of Changes in Tariff per unit of Electricity, Order of the Regulator*
 - (x) *Notice of Commencement, Casino and Gambling Control Act 2010*
 - (xi) *General Price Order (No.2) 2013*
 - (xii) *Casino and Gambling Control (Fees) Regulations 2013*
 - (xiii) *Customs Prohibited Imports (Turkey Tail) Order 2013*
 - (xiv) *Water Resources Management Regulations 2013*
 - (xv) *Sale of Turkey Tails Prohibited Order 2013*
- Number of subsidiary legislation finalised with the Attorney General's Certificate (and are either pending Cabinet approval or in translation process (with the Office of the Legislative Assembly) – 30
 - (i) *Order for Maritime Zones*
 - (ii) *Fine Mats Regulations*
 - (iii) *Apprenticeship Guidelines*
 - (iv) *Apprenticeship Regulations*
 - (v) *Civil Aviation Amendment Regulations*
 - (vi) *Building (Fees and Charges) Regulations*
 - (vii) *Tobacco Regulations*
 - (viii) *Public Trust Office Regulations*
 - (ix) *Customs (Aviation Transport Development) Regulations*
 - (x) *Customs Amendment Regulations*
 - (xi) *Customs Tariff (Alteration to Nomenclature) Order*
 - (xii) *Airport Authority (Fees, Levies and Charges) Regulations*
 - (xiii) *Business Licence Regulations*
 - (xiv) *National Provident Fund Amendment Regulations*
 - (xv) *Afega Fisheries Bylaws*

- (xvi) *Malaemalu Fisheries Bylaws*
- (xvii) *Lefagoalii Fisheries Bylaws*
- (xviii) *Matautu-Uta Lefaga Fisheries Bylaws*
- (xix) *Malae Faga Fisheries Bylaws*
- (xx) *Fasitootai Fisheries Bylaws*
- (xxi) *Safaatoa Fisheries Bylaws*
- (xxii) *Salua Fisheries Bylaws*
- (xxiii) *Samatau Fisheries Bylaws*
- (xxiv) *Satafao Fisheries Bylaws*
- (xxv) *Safua Fisheries Bylaws*
- (xxvi) *Fair Trading (Toy Standards) Regulations*
- (xxvii) *Companies Amendment Regulations*
- (xxviii) *Plastic Bag Prohibition on Importation Amendment Regulations*
- (xxix) *Plastic Bag Prohibition on Importation Amendment Regulations (No.2)*
- (xxx) *Ozone Layer Protection Amendment Regulations*

(II) International and national meetings, workshops, placements and trainings facilitated or attended by members of the Drafting Division:

- Number of meetings (including forum discussion and consultation) – 5
 - (i) *Third Pacific Legislative Drafters' Technical Pacific Islands Forum in Fiji (attended by Rupeni Nawaqakuta and Loretta Teueli)*
 - (ii) *Third Meeting of State Parties to the Convention on Cluster Munitions in Norway (attended by Papalii Malietau Malietoa)*
 - (iii) *Invest Samoa Conference in New Zealand (attended by Papalii Malietau Malietoa)*
 - (iv) *Regional Meeting on the Unexploded Ordnance (UXO) Strategy in Palau (attended by Loretta Teueli)*
 - (v) *Violence Against Women Consultation in Fiji (attended by Loretta Teueli)*
- Number of workshops – 7
 - (i) *Pacific ACP States Regional Training Workshop on Deep Sea Minerals Law and Contract Negotiations in Tonga (attended by Constance Tafua-Rivers)*
 - (ii) *Cybercrime Workshop in Apia (attended by Nina Tala and Fetogi R. Vaai)*
 - (iii) *1st Polynesian Sub-regional Workshop on Community Based Rehabilitation for Persons with Disabilities in Apia (attended by Theodora F. Matalavea)*
 - (iv) *Attorney General's Office New Employment Conditions Workshop in Apia (attended by all AGO staff)*
 - (v) *10th Pacific Islands Advanced Maritime Boundaries Development Workshop in Australia (attended by Constance Tafua-Rivers)*
 - (vi) *International Refugee Protection Learning Programme for the Pacific (Phase 11) Workshop in Australia (attended by Loretta Teueli)*
 - (vii) *Comprehensive Crisis Management Course in Hawaii (attended by Constance Tafua-Rivers)*
- Number of placements/secondment – 3

- (i) *Professional placement-Political Governance and Security Programme of the Pacific Islands Forum Secretariat in Fiji (attended by Nola Petelo Faasau)*
- (ii) *Secondment to Parliamentary Counsel Office in New Zealand (attended by Fetogi R. Vaai)*
- (iii) *Secondment to Ministry of Finance on Non-Taxation Revenue Project in Apia (attended by Salote Peteru)*
- Number of training – 6
 - (i) *Regional Health Promotion Leadership Training Programme in Thailand (attended by Papalii Malietau Malietoa)*
 - (ii) *Criminal Litigation Training in Apia (attended by all AGO legal staff)*
 - (iii) *Electronic Filing System Training with Ministry of Justice and Courts Administration in Apia (attended by Fetogi R. Vaai and Leitu Moananu)*
 - (iv) *Plain Drafting Language Training at AGO by Gill James (attended by all members of Drafting Division and other AGO staff interested)*
 - (v) *Legislative Drafting Training at AGO by Rupeni Nawaqakuta (attended by new drafters and new recruits in other teams)*
 - (vi) *Legislative Drafting Training at AGO by Nick Horn of the Office of Parliamentary Counsel in Australia (attended by Drafting Division)*

(III) Projects:

- Number of projects completed – 2
 - (i) *Consolidation of Laws Project 2012*
 - (ii) *Mentoring Programme (Gill James of the New Zealand Parliamentary Counsel Office was attached to the Drafting Division)*
- Number of projects in progress – 2
 - (i) *Review of the Legislative Drafting Handbook 2008 and Preparation of the new Drafting Manual*
 - (ii) *Consolidation of Laws Project 2013*
- Number of projects pending – 6
 - (i) *Induction Manual for new recruits to Drafting Division*
 - (ii) *Workshop for Parliamentary Process*
 - (iii) *Workshop for Policy Makers*
 - (iv) *Instructors Training on Legislative Process*
 - (v) *Aganuu Faasamoa Training*
 - (vi) *Consolidation of regulations of Samoa to date*

SIGNIFICANT LEGAL REFORMS

(I) Significant laws that have been passed

(i) *Prisons and Corrections Act 2013*

This Act is significant as it provides for the reorganization and reform of prisons in Samoa (including the separation of the Prisons Service from the Police Service). The Act establishes the Samoa Prisons and Corrections Service ('new Prison Service') responsible for managing prisons and prisoners. The Act also indicates a shift of focus from the containment of prisoners to focusing more on the rehabilitation of prisoners to minimize re-offending when they return to the community. The Act further encourages the use of Samoan customs, traditions and community values in managing the prisons so that when prisoners return to the community they are able to integrate and adjust with ease. Another important feature of the Act is that it ensures that the treatment of prisoners takes into account accepted international standards.

(ii) *Ombudsman (Komesina o Sulufaiga) Act 2013*

This is an important law as it re-establishes the Office of the Ombudsman with additional functions to promote and protect human rights, and carrying out of independent investigations (as opposed to the 1988 Act which provided only for investigations into administrative decisions of Government Ministries and certain other organisations). The Act also gives the power to the Ombudsman to investigate Police officers alleged to have broken the law. The new Act also outlines clearly the independence of the Ombudsman.

(iii) *Attorney General's Office Act 2013*

Previously the staff of the Attorney General's Office (AGO) (except for the Attorney General) was under the administration of the Public Service Commission (PSC) in terms of the appointment and general control of the legal and administrative staff. This new Act significantly provides for the establishment of the AGO, its independence from the PSC, and outlines the functions and the administration of the AGO.

(iv) *Constitution Amendment Act 2013*

This Act enabled the staff of AGO to be independent from PSC and aim to increase the number of women in Parliament. The latter is consistent with Samoa's goal to meet its obligations under the United Nations Millennium Development Goals (MDGs) targeted for 2015 (i.e. to have more women in Parliament). In that regard, this Act was passed to provide for a minimum number of female Members of Parliament and the procedure to follow. The Act guarantees 5 seats in Parliament to be occupied by women to be effective from the next General Elections. Such change enables, encourages and empowers women to take up leadership roles in Parliament.

(v) *Proceeds of Crime Amendment Act 2012*

This Act basically removes the requirement of having to prove that a property used in the commission of a serious offence was in the possession of effective control of the person and that the property was derived, obtained or

realised as a result of the person committing the offence. With the amendment, prosecution will only have to prove one of the 2 circumstances in order for the Court to determine whether a property is tainted property.

(vi) *Casino and Gambling Control Amendment Act 2012*

Following passage of the Casino and Gambling Control Act to cater for the establishment of casinos in Samoa, this amendment significantly provides for the Totalisator Agency Board (TAB) to act as the Casino and Gambling Control Authority ('Authority') for a period of 2 years awaiting the completion of the setting up of the Authority. The responsibility provided to the TAB is temporary and ceases once the Authority is fully established and the necessary legislative reforms are complete. With the Authority in existence, only 1 body will be responsible for regulating gambling.

(vii) *Financial Institutions Amendment Act 2012*

This is a significant law as it provides for regulating the activities of securities dealers and brokers, the role of the Central Bank of Samoa in regulating such, and facilitates the establishment and operation of a stock exchange in Samoa for the purposes of developing capital markets in Samoa. This is aimed at attracting investors in stocks, bonds and other securities.

(viii) *Unit Trust of Samoa Loans Act 2013 (UTS Act)*

In the Public Finance Management Act 2001, the Government of Samoa is prohibited from borrowing money from a bank or person except as provided by that Act or any other Act. Significantly, the UTS Act enables the Government to borrow from the Unit Trust of Samoa and in accordance with terms conditions agreed to between the parties.

(ix) *Customary Land Advisory Commission Act 2013*

This Act establishes the Customary Land Advisory Commission ('Commission') to encourage, facilitate and promote the economic use of customary land and to enhance social, cultural, economic and commercial development. The Commission operates for 7 years and may be extended only by a resolution of Parliament.

(x) *Labour and Employment Relations Act 2013*

This law significantly provides for matters relating to Samoa's obligations under the International Labour Organisation (ILO) core Conventions and also provides for the employment of workers and establishing their rights, privileges and duties. The Act provides assurance that the rights of the employee are balanced with an employer's ability to provide the necessary measures to ensure that both enjoy a proper working relationship. The ILO core Conventions are addressed in the Act in order for Samoa to meet the minimum requirements as an ILO member. The Act further safeguards and protects workers' rights and most importantly advances and promotes women's rights. It also makes provision to cater for foreigners wishing to be employed in Samoa. Another important feature of the Act is the forming of the National Tripartite Forum responsible for providing advice on minimum wage and in relation to labour and employment issues, assisting the Government in making inquiries into proper and fair employment and employers, and carrying out investigations and inquiries (with the assistance

from the Attorney General, if the AG wishes to be involved in an inquiry). Lastly, the Act provides for a more comprehensive conciliation measure and a 3 tiered dispute settlement process starting with the Chief Executive Officer of the Ministry of Commerce, Industry and Labour, to a Conciliation Committee and as a last resort, the Courts.

(xi) *Personal Property Securities Act 2013*

Significantly, this Act aims to increase economic activity by making it easier and less expensive to obtain credit or take out a loan through the use of other personal and movable property as collateral to secure the loan.

(xii) *Family Safety Act 2013*

To implement Samoa's international obligations under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC), this Act basically addresses violence in homes (women, children and men) and provides proper protection for families. The Act also sets out the procedure to follow when handling violence in homes and more particular, providing for protection orders.

(xiii) *Canine Control Act 2013*

To reduce the risks to safety and health of tourists and the Samoan people, this Act is important as it properly provides for canine control officers and the management of dangerous and stray dogs under reformed arrangements. The Ministry of Police and Prisons Service is the authority responsible for implementing this Act.

(xiv) *Crimes Act 2013*

As a result of the review of the 52 year old Crimes Ordinance 1961, this Act was brought into place in light of the changes in criminal offences and criminal law. The Act comprehensively provides for new criminal offences (which 52 years ago were not considered as crimes), for example, people smuggling and trafficking, complex fraud offences (including stealing of land) and offences relating to invasion of sexual privacy. Penalties for offences have also been increased to minimise the increasing number of such offences and for the protection of victims (e.g. sexual offences, incest, rape, sodomy, adultery, etc.). In regards to rape, the definition now includes sexual violation of male and female (regardless of whether or not the female is married).

(II) **Significant law reforms in drafts**

(i) *Plumbers Bill*

The first of its kind, this proposed law seeks to regulate registration of plumbers, including issuing of their registration certificates, suspension, removal and restoration of registration by the Executive Committee of the Association. The Bill further provides for the continuation of the Plumbers Association of Samoa incorporated under the Incorporated Societies Ordinance 1952 and provides for its functions, the election of the members of the Executive Committee and the rules about membership of the Association.

(ii) *Refugee Determination Bill*

This is also another new and important issue, the Bill provides for the process by which refugee status may be determined in Samoa and gives effect to the Convention relating to the Status of Refugees 1951 and the 1967 Protocol relating to the same.

(iii) *Counter Terrorism Bill*

This Bill was developed as a matter of importance, in order for Samoa to meet its international obligations and implement the United Nations Security Council Resolutions and Conventions (as listed in the Schedule) dealing with terrorism. The Bill provides for new offences relating to terrorism and matters for purposes of combatting the same. It also reflects new developments in criminal law, police procedure, prosecution methods, forfeiture and restraint of terrorist property, and additional protocols to conventions.

(iv) *Samoa Language Commission Bill*

This Bill is the first to ensure that the Samoan Language is accorded due respect as an Official Language of Samoa. It will establish the Samoan Language Commission, providing its powers, duties and functions under law. The aim is for the Samoan language to remain a vibrant and developing language from one generation to another. Also significantly, the Bill is a fitting memorial and reminder of the late Reverend Oka Fauolo who was the first Chairperson of the Temporary Committee for the establishment of the Samoan Language Commission and protection of the Samoan Language.

(v) *Lawyers and Legal Practice Bill*

This Bill properly provides for the continuation of the Samoa Law Society and its Council and also provides for permanent and temporary rolls of barristers and solicitors, the rules and practice of law through annual practicing certificates, and significantly provides for the development of rules for dealing with solicitors' trust accounts and auditing, and disciplinary procedures.

(vi) *National Payment System Bill*

This Bill sets up a National Payment System, recognises electronic transfers and archives, provides for payment infrastructures, to require financial institutions to provide payment accounts, instruments and services, provide for arrangements for producing, pricing, delivering and acquiring various payment instruments and services, as well as regulating the mechanics of the payment transfer process and the conduct of payment service.

(vii) *Allied Health Professions Bill*

The Bill sets out an initiative by the Ministry of Health to establish the Allied Health Profession Council and to provide for the registration of allied health professionals.

(viii) *Health Foundation Bill*

The establishment of the Samoa Health Promotion Foundation is the last major initiative in the Government of Samoa's health sector reforms, separating the delivery of health services from the regulation and monitoring of these services. Upon establishment of the Foundation, the Ministry of Health's functions will then focus primarily on its regulatory and monitoring roles in the health sector while the Foundation focuses on the promotion of

health, and the delivery and implementing of activities which promote the health of the Samoan people. To this end, the Bill establishes the Samoa Health Promotion Foundation, and provides for the Foundation's objectives, functions and powers. The daily operations of the Foundation will be carried out by the Chief Executive Officer and the staff of the Foundation to be appointed in accordance with the legislation.

(ix) *Repeal of Turkey Tails Prohibition Order 2013*

This Order lifts the ban to import turkey tails into Samoa (since 2007) and permits the importation of turkey tails for private and personal consumption only, and prohibiting the importation for sale or commercial purposes.

(x) *Fine Mats Regulations*

The Regulations have been developed to regulate the standard of production, preservation, protection of ownership and use of the Samoa fine mat.

(xi) *Tobacco Regulations*

The Regulations provide for smoke-free environment, tobacco advertising, testing, reporting requirements, labeling and health messages, and other matters required by the Tobacco Control Act 2008 to be regulated.

(xii) *Fair Trading (Toy Standards) Regulations*

The Regulations provide the standards to ensure product safety and the quality of toys intended for children under 14 years of age, and to protect a user of a toy and a third party against health hazards and risks of physical injury when toys are used as intended in a foreseeable way, bearing in mind the normal behaviour of children.

SIGNIFICANT INITIATIVES/PROJECTS

(I) Legislative Drafting Trainings

- (i) *Training by Rupeni Nawaqakuta* – A 6 weeks training from February to 20 March 2013 covered materials from the Professional Diploma in Legislative Drafting Course and designed to allow group exercise and discussions on how to analyse policies and drafting instructions, preparation of legislative plans, role of drafters and policy officers, and drafting processes and styles.
- (ii) *Training by Nick Horn* – From 31 July-03 August 2012 a further training on legislative drafting which focused on shaping policy into law, applying legislative plans or blueprints, and various uses of section headings.

(II) Review of Legislative Drafting Handbook and preparation of new Drafting Manual

The Drafting Division is currently reviewing its 5 year old Handbook and preparing a new Drafting Manual to reflect new legislative drafting techniques and requirements as well as addressing many of the issues confronted in the process.

(III) Team Building Exercise

The Drafting Division initiated its first ever team building exercise in December 2012 at Le Uaina Resort to encourage team work and development of the team.

Apart from getting ideas on how to improve team performance, the Drafting Division also discussed some of the outcomes that needed to be met before the end of the year 2013 and things that needed to be done for consistency of work, including: the Consolidation of Laws Project, changes to the legislative drafting directives and review of the Legislative Drafting Handbook, pending projects and training on the parliamentary and legislative process, completion of the Induction Manual, procedure for finalising bills and regulations, and proper networking and sustaining relationship with other Offices which the Drafting Division works closely with (e.g. Office of the Legislative Assembly and the Samoa Law Reform Commission). A senior member of the SLRC was also invited to present on the law reform process and ways to improve the working relationship with the Drafting Division so that there is no duplication or overlap of work.

ISSUES:

- (I) **Time and resources:** This year has seen an improvement in relation to the issue of large amounts of time and financial resources to the drafting of legislative reforms with the outputs justifying the resources committed to preparation. Secured funding has been available, and the accurate stipulation of Terms of References has acquired well-equipped and experienced drafters, with good knowledge and understanding of legislative drafting requirements for legislative reforms. The Division has yet to explore the use of an online network as it would be much easier and affordable in terms of gathering and researching information, the use of computer technology and development of more advanced and affordable software to save resources (e.g. paper, ink, etc) and time, and consistent involvement of a drafting forum.
- (II) **Legislative Drafting Consultants:** In our previous report, this was a highlighted issue in that some consultants do not meet basic requirements of legislative drafting set for Samoa. Although there has been some improvement of consultants engaged for outsourced drafting work this year, the Division has faced some difficult consultants. Some refused to comply with set requirements even after being reminded time and time again. This raises a dilemma for the Division because refusing the issuing of the Attorney General's Certificate will not affect the consultant but the instructing ministry. The solution now posed is engaging consultants required by aid donors to comply with Samoa's legislative drafting requirements. As evident in recent times, there has been no need for consultants in such cases to comply with our drafting requirements as long as the aid donor (with whom the contract is signed) is satisfied with the work produced. As a result, unnecessary work is added to the Division's workload in order to ensure such legislation meets the basic requirements fitting of the issuing of the Attorney General's Certificate.
- (III) **Personnel and capacity:** There has been an increasing number of turn-over of senior members of the Drafting Division and more intakes of new graduates. With a huge legislative programme and other commitments by individual team members,

the Drafting Division is at times short-staffed. This results in insufficient capacity to take on the drafting of some legislation (and recommending clients to engage consultants elsewhere) or there are times where deadlines cannot be met or work is re-prioritised. Training is needed for new intakes however there are not enough senior drafters to handle the drafting matters and also undertake mentoring.

STRUCTURE

The Attorney General's Office initially had one Civil Division. However as of July 2012, the Civil Division was expanded and divided into the Civil Litigation and Opinions Division and the Commercial Law and International Division. Not all positions in both Divisions have been filled but these are in the process of being filled. There are currently within the entire Civil Division, 13 legal staff and 2 support staff.

Overall the Civil Division is responsible for meeting the following objectives for the AGO:

- To provide professional legal opinions and advice in a timely and efficient manner to Government Ministries and Agencies;
- To negotiate, review and draft all Government contracts/deeds and other related legal documents both domestic and international to ensure that Government's interest is advanced and/or protected; and
- To supervise and conduct civil proceedings involving Government and provide legal support to or representation for Government in other formal enquiries.

ACHIEVEMENTS

(A) General

The past year has seen an increase in the Civil Division's workload. The Civil Division has undertaken around 20 claims in civil litigation on behalf of Government, provided and cleared approximately 650 legal opinions/advice and cleared approximately 250 contracts and other agreements to various Government Ministries and Agencies.

There was also a notable increase in the collection of revenue for the office for civil work done by the division for the Office, in terms of legal costs from cases, legal opinions and legal advice.

(B) Cases

These are some of the more significant cases handled by the Civil Division in the last year.

Court of Appeal

There were two (2) Court of Appeal cases heard during this period.

The first appeal was in relation to an appeal against the decision of the Supreme Court in favour of Government, confirming that Government was correct in terminating a land lease. The grounds for appeal focused primarily on, an implied term into the lease, unjust enrichment and the Government's purported breach in an agreement to extend the lease. The Court of Appeal dismissed the appeal on all grounds in favour of Government and ordered the Plaintiff to pay costs of \$10,000 to the Respondent.

The second appeal related to the application of the International Companies Act 1988. Our Office was a respondent. All proceedings were in camera and the decision for this matter was modified and redacted so that the parties remained anonymous. However the Court confirmed the privacy provisions of the International Companies Act and accordingly this appeal was dismissed.

Supreme Court Cases

The first matter concerned a preliminary issue raised by the Plaintiff as to the validity of Government's Proclamation in 1988 with regard to a piece of land called located at Mt Fogalepulu. On 4 March 2013 the Plaintiff filed an Application for Declaratory Orders ("the Application") declaring the Proclamation invalid. The Application was heard before his Honour Nelson J on 16 April 2013 and on 24 April 2013, his Honour indicated for this matter to be settled through negotiations between the parties. By 28 June 2013 the matter could not be settled and his Honour's decision was handed down at the end of July 2013 ("the Decision"). The Decision states that the land is Government land by virtue of the fact that the Proclamation was validly made in accordance with the provisions of the Act. It is now a matter of making compensation by Government.

The second matter concerned an Applicant's Motion for Leave to Proceed ("the Motion") pursuant to section 21(2) of the Limitation Act 1975 ("the Act") dated 6 September 2012. We filed a Notice in Opposition that the Applicant failed to provide the Respondent with the required notice in accordance with section 21 (1) of the Act. The matter was heard before his Honour Sapolu CJ. His Honour's decision is reserved.

The third matter related to an Applicant's Notice of Motion for Judicial Review ("the Motion") of the Registrar of the Lands and Titles Court's decision to issue interim injunctions dated 21 and 24 September 2012 in relation to the construction of a building by the Applicants, who are suli (heirs) of the matai title in issue. The Motion was heard on 28

March 2013 on 24 June 2013 the Supreme Court struck out the Applicant's Motion and Statement of Claim and ordered to pay costs of \$700.

The Applicant filed an appeal of the Supreme Court's decision. (Note - This appeal was dismissed by the Court of Appeal in its November 2013 sitting).

The fourth matter is one of the matters that was appealed, as per report above. This matter relates to an amended Statement of Claim by the Applicant dated 9 October 2012. The Plaintiff brought several claims against the Government as a result of a termination of a lease agreement between the Government as lessor and the Plaintiff as lessee. In a written decision dated 21 December 2012, the Supreme Court dismissed all of the Plaintiff's claims in favour of Government.

The fifth matter relates to an application by the Government to Strike Out the Plaintiff's Statement of Claim dated 30 July 2012. The claim was in relation to wrongful death of the spouse of the Plaintiff. Our Strike Out was heard on 11 December 2012 and accordingly we succeeded in striking out the Plaintiff as a party, as he had no standing to bring the proceedings, and also striking out the claim for \$2,620,800 for loss of income by the deceased for 20 years, as this is not maintainable in law. Leave is reserved to the Attorney-General to move again to strike out an amended statement of claim where necessary.

SIGNIFICANT INITIATIVES/PROJECTS

(A) Post World Trade Organization ("WTO") Accession Implementation Plan

The Civil Division has been actively involved in Samoa's National Working Committee on Trade Arrangement, a body comprising of Governmental and Non Governmental agencies tasked, inter alia, with progressing Samoa's recent accession to the WTO. The involvement of the Civil Division has been to provide the Committee with legal assistance in the form of legal advice, reviewing and drafting legal documents relating to the WTO accession, to name a few. Members of the Civil Division have also taken part in key negotiations and regional and international trainings for accession to the international body.

The Civil Division is currently working closely with the relevant Government Ministries and Agencies with regard to Samoa's obligations, in order to fully implement the provisions of the WTO and Article X of the General Agreement on Tariffs and Trade 1994 ("GATT").

(B) Mentoring Program

In 2010, the Attorney General's Office identified one of the challenges faced by the Civil Division was the lack of experienced legal staff. In an effort to address this issue, and as a result of a proposal by the Civil Division, the Samoa Law and Justice Sector Programme agreed to fund a mentoring program for the Civil Division. The program aimed at having high caliber senior lawyers from Australia and New Zealand, whom our Office has worked with in the past, work with the Civil Division for no more than five (5) weeks. During that time, they would assist with Court matters and provide mentoring to young solicitors of the Civil Division.

This is a continuing initiative this year, again funded by the Samoa Law and Justice Sector Programme with the aim that high caliber lawyers engaged from overseas (particularly Australia and New Zealand) will impart their knowledge, wisdom and experience to develop the capacity of our young, new and less experienced lawyers. This mentoring program does not only consist of in - house training but the mentors will work and assist our Solicitors with complex legal advice as well as Court matters.

The Mentoring Program provided an opportunity for the lawyers in our Division to observe and absorb techniques, practices and knowledge from the mentors.

The Civil Division was fortunate and privileged this year to have Peter Lithgow, from Australia, as a mentor for the second time and appreciates the mentoring program as a vital aspect of capacity building for the Civil Division, given that each year new lawyers are added to the Division.



Criminal Prosecutions Division

STRUCTURE

The Criminal Prosecutions Division (Prosecutions Division) continues to be one of the busiest Divisions of the Office as not all positions within the Prosecutions Division are filled, particularly at senior level. However, there have been five new recruitments in both law clerk and state solicitor positions. We have at present, 1 part time graduate and 2 support staff to assist with administrative matters. The Division has made many sacrifices to meet its targets, and continues to work intensely to satisfy the demands of the Courts and Office requirements.

The Prosecutions Division's key responsibility is:

- To supervise and conduct criminal prosecutions and appeals in a fair and just manner.

The Prosecutions Division handles all Supreme Court prosecutions as well as criminal appeals to the Court of Appeal and criminal appeals from the District Court. The Division also handles some District and Youth Court matters including prosecution against police officers and complex matters. All other government ministry matters relating to prosecution are also handled by the Prosecutions Division.

ACHIEVEMENTS/ SIGNIFICANT MATTERS IN CRIMINAL LAW

(A) Criminal matters prosecuted by the Division in 2012

The following table does not include cases undertaken by the Police Prosecution Unit of the Samoa Police Service. The Prosecution Division of the Attorney General's Office appears before the Appeal Court, deals with matters before the Supreme Court and occasionally, in the District Court.

Rape	40
Indecent Assault	36
Sex with related girl	2
Fraud	1
Defraud	2
Falsifying Accounts	4
Conspiracy to Defraud	2
Forgery	3
Carnal Knowledge	37
Robbery	26
Assault with intent to rob	1
Grievous Bodily Harm	22
Insulting words	2
Theft	3
Theft as a servant	91
Party to theft as a servant	4
False Pretence	1
False accounting by employee	9
Kidnapping	2
Abduction	1
Found by night	1
Attempted Rape	4
Unlawful set fire	1
Damage to property	1
Threat to kill	1
Threatening words	4
Breach of sentence of supervision	1

Incest	8
Possession of ammunition	1
Possession of utensil	2
Possession of seeds	1
Possession of narcotics	174
Possession of unlawful weapon	2
Escape	1
Wilful Trespass	1
Drunkenness	1
Giving narcotics	3
Cultivating of narcotics	8
Murder	18
Actual bodily harm	4
Presenting firearm	1
Attempted murder	7
Armed with a dangerous weapon	8
Assault	12
Burglary	3
Attempted rape	3
Resist arrest	1
Unlicensed vehicle	1
Indecency with a girl under 12 years	1
Manslaughter	4
Breach of peace	1
TOTAL	570

(B) Cases

(I) Court of Appeal

C.A. 07/13

The significance of this case in the development of the criminal law is that bands are set down for sentencing to ensure consistency in rape sentences. The bands are:

- ✓ Rape Band One – 8 – 10 years imprisonment: appropriate where the offending is at the lower end and where there is an absence of aggravating features or their presence is very limited;
- ✓ Rape Band Two – 9 – 15 years imprisonment: where violence and premeditation are moderate;

- ✓ Rape Band Three – 14 – 20 years imprisonment: where aggravating features of the offending is at a relatively serious level;
- ✓ Rape Band Four – 19 years to life: where as well as the aggravating feature in Band 3, it is likely to consist of multiple offending over a considerable time. Repeat family offending would fall into this band.

(II) Proceeds of Crime

The Office of the Attorney General has been more proactive in filing applications of proceeds of crime. In total, eight (8) applications have been filed, of which six (6) applications have been successful and two are awaiting hearing. There were three (3) applications made in relation to fraud matters, and five (5) were in relation to drug offences.

SIGNIFICANT LEGAL REFORMS

(I) Crimes Act 2013

The review of criminal law legislation was completed in the last reporting year. The Crimes Act 2013 commenced on 1 May 2013 and repeals the Crimes Ordinance 1961. This Act has seen significant changes made, particularly to provisions addressing gender based violence. The Crimes Act 2013 has extended the scope of application in relation to sexual violence within marriage, so that it now makes it an offence to sexually violate a person's spouse. In addition, "rape" has been included as a "sexual violation" under a general offence of sexual violation which allows recognition of both male and female as victims of a sexual offence. The change and advancement in communications technology means that the introduction of the charge of voyeurism will enable peeping-tom type offences to now be prosecuted.

The Criminal Procedure Bill and Evidence Bill which are in the process of having drafts finalised, will reform the current Criminal Procedure Act 1971 and the Evidence Ordinance 1971. A new addition to criminal legislation is the Sentencing Bill which is also currently being drafted.

SIGNIFICANT INITIATIVES

(I) Mentoring Programme

The Division has been very fortunate in working with some very distinguished lawyers from New Zealand in the course of the Mentoring Programme funded through the Law and Justice Sector Programme.

The Division has had Mr. David Boldt from the New Zealand Crown Law Office, in Wellington on a one week mentoring and training programme in relation to the

Proceeds of Crimes Act 2007. The Prosecutors involved in the training enhanced their skills in regards to drafting and submitting legal documents such as motions, applications, affidavits and submissions. The conclusion of the training was for prosecutors to present a moot on a practical exercise discussed in the training. Mr. Boldt provided valuable discussions and templates for the use of the Division to use in the event of proceeds of crimes prosecutions. Mr. Boldt planned the training in order to gage the prosecutors' strengths and weaknesses in understanding the legislation and the application of the law, and thus was able to advise each individual in how their mooting techniques could be improved.

Furthermore, two senior prosecutors were sponsored by the Victoria Institute of Forensic Science to be attached to Victorian Prosecution Offices as part of the mentoring programme.

(II) Narcotics Laboratory

The Division was responsible for working with the Scientific Research Organisation of Samoa (SROS) on the project of developing a narcotics laboratory in Samoa. Previously, the testing of narcotics for the purposes of Court proceedings under the Narcotics Act 1967 was either done by a sole analyst at the University of the South Pacific, or outsourced to Environmental Science and Research (ESR) New Zealand. The issues that faced the Division were getting timely results for the Court schedules, as well as the cost of outsourcing and the risk of transportation.

With assistance from the Law and Justice Sector Programme, and through the funding of AusAid, the Narcotics Laboratory located at SROS, Nafanua was established. The Division, in collaboration with SROS, is in the process of negotiations with other narcotics laboratories in New Zealand and Australia in regards to training more Samoan scientists for the purposes of testing narcotics in this new lab.

(III) National Risk Assessment

Samoa is a member of the inter-governmental body known as the Financial Action Task Force on Money Laundering (FATF) and the Asia Pacific Group Regional Body. The FATF sets out international standards which most countries measure their ability to combat money laundering and terrorist financing. The general compliance with FATF recommendations is increasingly viewed by many countries as indicative of the robustness of the country's anti-money laundering (AML) and combating financing of terrorism (CFT) measures. The first National Risk Assessment was compiled, with the Office of the Attorney General as the lead agency in Government in developing this report, and is before the Money Laundering Authority for finalization.

ISSUES

The Prosecution Division has enjoyed many successes in 2012 and 2013 however there are issues that continue to impede the work of the Prosecution.

(I) No Forensic Pathologist

Dr. Rhaman was the permanent forensic pathologist employed at the National Hospital of Samoa and passed away in 2010. With the invaluable assistance of the New Zealand Police through their Liaison Officer Superintendent Ross Arden, forensic pathologists are flown in almost every other month from New Zealand or Australia to either perform post mortem examinations for police cases or to give evidence in Court in relation to homicide matters. However this exercise has put a great strain on resources for both the Ministry of Police and the Office Attorney General as the position for a pathologist at the National Health Services has not been filled since 2010. Costs of bringing pathologists into the country for cases handled by the Division include airfares, accommodation and payment of services rendered while in Samoa. Due to the hard work by this Office in maintaining its networks with New Zealand Police, Samoa has been fortunate to be able to access New Zealand Pathology Services which does not charge Samoa any fees for its services. Costs for travel and accommodation including meals for the visiting pathologists however are paid for by the Ministry of Police, Ministry of Justice and Courts Administration and our Office.

(II) Capacity of Police

Police capacity and training is a major challenge for our prosecution. This is due to the fact that our work very much depends on the Police capacity and ability to investigate a case well and in preparing files for prosecution. This is a key challenge for the prosecutors.

(III) Senior or Experienced Prosecutors

There is a real shortage of experienced prosecutors to handle major prosecutions. Court experience is essential to the ability of a prosecutor to successfully conduct prosecutions and to work independently without supervision. Senior lawyers from other divisions of the Attorney General's Office would step in to handle prosecutions when required.

In our experience, it takes two to three years to train a junior prosecutor to become an acceptable quality prosecutor. Therefore, it is a real challenge to meet the targets and demands of the Court and Governments Ministries, particularly the Police.

(IV) Capacity of Ministries who enforce their own legislation

Like Police files, the prosecution is very much dependent on the capacity and ability of Ministries who enforce their own legislations to investigate and put together an evidence file on breaches of their legislation. This is also a key challenge.



Corporate Services Division

STRUCTURE

The Corporate Services Division is headed by the Corporate Services Manager and consists of five sections that include Finance, Human Resource Management, Information Technology (IT)/Networking, Legal Secretariat and General Support staff that provide Records Management, Transport, Reception and Library services. There is a high need to expand the Corporate Services Division to cater for the increasing number of legal staff every year, specifically in the areas of Finance, Human Resource Management, IT/Network and Transport service. The Corporate Services Division has the lowest staff turnover compared to the rest of the Office.

The key purpose of the division is to provide efficient and effective services in administration, human resource, finance, information technology, information management, reporting and planning and public relations in support of the Office's legal and strategic objectives.

ACHIEVEMENTS, HIGHLIGHTS, DUTIES AND RESPONSIBILITIES

(A) Records Management

Records put in place a system named Common Administrative Retention Schedules and Code of Best Practice- Records Management. The CAR schedules and Code of Best Practice provide a guideline and system for the efficient management of Public records in all Government Ministries of Samoa. A Filing Index according to this system was established for the Office's central records and filing indices for the Drafting Team and Civil Team were also established.

The acquisition of two Mobile Shelves has enabled commencement of the centralisation of Drafting and Civil Teams' files into the Records Room and with the Records team. The shelves have helped keep files neat and safely stored as well as easily retrievable.

Some challenges remain in advancing our new records keeping and filing system, however it is anticipated that a New Archives Room, expected to be constructed in 2014, will help to resolve these especially the lack of space for archives records.

(B) Secretariat and Administration

The pool of Legal Secretaries consists of the Supervising Legal Secretary, four Senior Legal Secretaries, one Legal Secretary and the Receptionist. The Supervising Legal Secretary is mainly engaged to the Attorney General (AG) and supervises all legal secretaries. Each of the four Senior Legal Secretaries is assigned to work with each division of the Office such as

the Drafting Team, Criminal Team and Civil Team. The Legal Secretary is responsible for registering the office's outgoing correspondence and maintaining our mail database and also assists the Receptionist at the front desk. The Receptionist is primarily responsible for the front desk and reception area.

Our job is to provide a high level of secretarial and legal executive support to the Attorney General and the lawyers in the Office of the Attorney General. We have provided all areas of secretarial work in an efficient and effective manner in order to meet the expectations of the AG and our lawyers and also to uphold the high standard of the Office as a whole. This included a high level of customer service, filings, typing and the formatting of court documents as well as telephone handling, making appointments, arranging logistics for meetings, in-country training, workshops and seminars for lawyers, mail delivery, photocopying, translation, taking minutes and other related work as directed from time to time. We are very happy to continue our service to support the AG and the technical staff of the Office of the Attorney General and also to work together as a team with other sub-teams of our Corporate Services Division for us to meet our objectives and goals. As we believe TEAM stands for Together Everyone Achieves More!

The Corporate Services Team conducted its Refresher Training on 5 July 2012. It was a productive training in terms of not only refreshing and recapping our key responsibilities but it also reminded everyone to play their parts so that the team may be strong and can improve our service and achieve our goals.

We participated in the Public Service Day march held on 14 September 2012. The march started from FESA and ended at the Government Building at Eleele Fou. We also participated in the Lawyers Advocacy Training held during 12 to 16 November 2012. We were invited to play parts in the mock court training in which the AG, the Assistant AG Criminal and the Assistant AG Civil formed the bench. We played different parts. The Supervising Legal Secretary played the role of the Court Registrar and the Senior Legal Secretaries, Legal Secretary and Receptionist played the roles of the Policeman, the Victim and the Forensic Specialist.



We had a Team Building Exercise on 11 January 2013 at Taumeasina Resort. The team had fun and created a very good bond that day. The Supervising Legal Secretary attended with Management, the Office's Budget Review at the Ministry of Finance on 12 February 2013, and it was a very good learning experience. On 21 June 2013 we farewelled Mr. Tusitala Sua, Former Manager Corporate Services.



(C) Information Technology

Information Technology (IT) plays a major role in the Office of the Attorney General's daily operations. It has become the utmost priority for the IT Officer to update and upgrade all the equipment within the Office just to be in the loop with the fast changing technology world.

More than 80% of the Office's Computers have been upgraded to Windows 7 and Microsoft 2010.

The Principal IT Officer was fortunate to attend some of the most sophisticated IT training hosted by other government agencies (e.g. Public Service Commission, Ministry of Communication and Information Technology and the Law and Justice Sector Secretariat).

Summary of relevant training attended by the Principal IT Officer

Date of training	Name of training	Host	Name
14th Nov 2012	Open Source OS(Linux, Red hat and Ubuntu)	PSC	Uitiriai Uili Kapeteni
13th June - 25th July 2013	Database and SQL Training	LJS	Uitiriai Uili Kapeteni

(D) Library Services

The principal role and function of the Attorney General's Law Library is the timely provision of information, and research support for online legal research instruction to operations management, and other materials in various areas of the Law. Our library was established to assist lawyers within our Office and we have since extended this service to the public, mainly to other law firms and students who are studying law.

Our library has benefited greatly under the Pacific Islands Law Library Twinning Program (PILLTP) which aims to assist in the development and provision of law library services, collection and staff in the Pacific region. In 2007, the Lionel Murphy Library, through the Australia Law Librarians' Association (ALLA), agreed to coordinate Pacific Twinning activities. The program now involves 14 Australian and New Zealand law libraries twinning with 22 counterparts in the Cook Islands, Fiji, Kiribati, Nauru, Papua New Guinea, Solomon Islands, Tonga, Vanuatu and Samoa.

We are grateful to the Australian Attorney General's Department for choosing our Office to twin with. It was and is an enormous opportunity and we appreciate everything and the ongoing support given to us from the beginning. Our Library has no or limited funding for our library materials but with the help from the AG's Department in Canberra, there has been an improvement in our Library services. We are now able to regularly update all our law reports, law texts and many others.



(photos of the books donated to our office by the AG-Department, Australia)

(E) Human Resources

(i) In House Training (Induction Program and Refresher Training)

The Corporate Services Division is responsible for carrying out an Induction Program for new staff recruits of the Office of the Attorney General. Induction and training courses are very important for new staff before they actually commence employment, as it helps them to know and understand Office policies, practices and principles and to ensure that they become aware of their obligations as public servants.

The Refresher training aims to refresh the mindset and focus of all staff so as to concentrate on their Key Performance indicators as allocated in the Performance Agreement and Appraisal exercise as well as recognizing gaps and weaknesses in order to identify professional development or training areas to improve on so as to ensure that we deliver and accomplish excellent and favourable outcomes.

(ii) New Employment Guidelines and Conditions 2013 Workshop

The recent passage by Parliament in June 2013 of the Office of the Attorney General's Act 2013, effectively separated the Office of the Attorney General staff from the authority of the Public Service Commission. As such, the Office of the Attorney General's employees became independent from PSC and would no longer have to be guided by or be subject to PSC guidelines and employment conditions. It is recognized though that sharing best practice and lessons learnt, provides the basis for a continuing relationship and cooperation with PSC so that the Office does not have to reinvent the wheel and develops and adopts good Human Resources practice.

These new changes led to the delivery of a one day Workshop for all Office of the Attorney General staff. The Workshop was held at the Millenia Hotel on the 28th of June 2013. The aims of the Workshop were:

- To build awareness of the AGO staff and employees of the Act and the new employment conditions;
- To consult the staff and employees regarding the new changes and how to improve and develop the proposed employment guidelines;
- To discuss and provide an overview of the Act;
- To discuss the Employment Guidelines 2013 for the AGO;
- To discuss if to put in place contracts for the staff and employees;
- To discuss the Social Committee's new policies and proposed activities for the AGO; and
- To build teamwork.

(iii) Completion of Work Force Plan ("WFP")

The Work Force Plan is a new Human Resource Management plan or tool approved by Cabinet that is led and coordinated by the Public Service Commission for implementation across all Government Ministries including the Office of the Attorney General. The WFP's main objective is having the right people, with the right skills, in the right place, at the right time. The development of the WFP is in four stages and the Office completed its final stage in June 2013. The WFP's long term strategies are now in place and in line with the Office Corporate Plan 2012 – 2015 goals and objectives.

The basis of this WFP is to:

- Scan and Understand;
- Analyze and Interpret;
- Develop and Implement;
- Monitor and Evaluate operations of the AGO to be specific, measurable, achievable, relevant and timely.

(F) Financial Expenditure July 1 2012 - June 30 2013

AT – Budget Category for FY:12/13

Budget Categories	Actual YTD	Commitments	Total Spending	Revised Budget	Total Funds	Funds Left to Spend
Capital	450,229.00	0.00	450,229.00	463,208.00	463,208.00	12,979.00
Cost	-23,016.00	0.00	- 23,016.00	-30,000.00	- 30,000.00	6984.00

Recovery						
Operating	567,188.00	0.00	567,188.00	593,522.00	593,522.00	26,334.00
Personnel	1,581,118.00	0.00	1,581,118.00	1,814,069.00	1,814,069.00	232,931.00
Total	2,575,519.00	0.00	2,575,519.00	2,840,799.00	2,840,799.00	265,260.00

Expenditure Spending for FY12/13

OUTPUT	Period 1 (July 12)	Period 2 (August 12)	Period 3 (September 12)
Legal Advice	16,292.00	19,419.00	32,206.00
Legislative Drafting	33,157.00	30,783.00	50,411.00
Criminal Prosecution	32,686.00	31,770.00	47,963.00
Civil Litigation	19,122.00	21,686.00	26,946.00
Drafting Govt. Contracts	18,459.00	17,003.00	28,172.00
Central Services Unit	53,414.00	47,165.00	63,380.00
Total	173,130.00	167,826.00	249,078.00

OUTPUT	Period 4 (October 12)	Period 5 (November 12)	Period 6 (December 12)
Legal Advice	46,733.00	16,246.00	11,219.00
Legislative Drafting	34,074.00	28,566.00	37,527.00
Criminal Prosecution	28,961.00	30,460.00	34,323.00
Civil Litigation	14,964.00	14,626.00	18,057.00
Drafting Govt. Contracts	19,315.00	16,932.00	19,208.00
Central Services Unit	49,107.00	48,031.00	74,904.00
Total	193,154.00	154,861.00	195,238.00

OUTPUT	Period 7 (January)	Period 8 (February)	Period 9 (March 13)
---------------	---------------------------	----------------------------	----------------------------

	13)	13)	
Legal Advice	11,770.00	12,923.00	101,588.00
Legislative Drafting	32,229.00	31,978.00	55,503.00
Criminal Prosecution	36,808.00	35,821.00	52,737.00
Civil Litigation	18,584.00	16,899.00	22,915.00
Drafting Govt. Contracts	21,666.00	23,184.00	43,489.00
Central Services Unit	42,352.00	47,701.00	61,479.00
Total	163,409.00	168,506.00	337,711.00

OUTPUT	Period 10 (April 13)	Period 11 (May 13)	Period 12 (June 13)
Legal Advice	15,835.00	17,634.00	14,288.00
Legislative Drafting	65,787.00	45,428.00	192,713.00
Criminal Prosecution	38,135.00	37,794.00	107,883.00
Civil Litigation	22,188.00	15,624.00	94,992.00
Drafting Govt. Contracts	25,303.00	24,223.00	113,482.00
Central Services Unit	46,113.00	40,045.00	99,068.00
Total	213,361.00	180,748.00	622,426.00

Capital Items Purchased for FY12/13

Capital categories	Actual YTD	Commitments	Total Spend	Revised Budget	Total Funds	Funds Left to Spend
787101 - Furniture & Fit	128,993.00	0.00	128,392.00	129,598.00	129,598.00	605.00
788101 - Computers	58,713.00	0.00	58,713.00	58,715.00	58,715.00	2.00
788102 -	27,350.00	0.00	27,350.00	27,350.00	27,350.00	0.00

Photocopiers						
788106 - Hardware	20,717.00	0.00	20,717.00	21,572.00	21,572.00	855.00
786101- Vehicle	128,260.00	0.00	128,260.00	128,260.00	128,260.00	0.00
788107- others	83,918.00	0.00	83,918.00	95,239.00	95,239.00	11,321.00
788103- printers	2,278.00	0.00	2,278.00	2,278.00	2,278.00	0.00
Total	450,229.00	0.00	450,229.00	463,012.00	463,012.00	12,783.00

Cost Recoveries Report for FY12/13

Revenue Outputs	Actual YTD	Commitments	Total Spend	Revised Budget	Total Funds	Budget Remaining
1320 - Legislative Drafting	- 14,808.00	0.00	- 14,808.00	- 5,000.00	- 5,000.00	7,389.98
1340 - Civil Litigation	- 8,208.00	0.00	- 8,208.00	- 25,000.00	- 25,000.00	- 16,792.00
Total	- 23,016.00	0.00	- 23,016.00	- 30,000.00	- 30,000.00	-9,402.02



Law and Justice Sector

STRUCTURE

The Samoa Law and Justice Sector (SLJS), comprises of the following Government Ministries and Offices and non-Government Representatives, namely, the Office of the Attorney General, the Ministry of Police and Prisons, Ministry of Justice and Courts Administration, the Office of the Ombudsman, the Ministry of Women, Community and Social Development, Samoa Law Reform Commission, the Public Service Commission, Ministry of Finance, Samoa Law Society, Samoa Umbrella for NGOs, Samoa Council of Churches, and Matai Representative. With the launch of the Sector's second Sector Plan 2012-2016 in December 2012, two further members were added: Representative of Sui o Nu'u and a Representative of Sui Tamaitai o Nu'u. The Sector is headed by a Steering Committee (chaired by the Attorney General) and is comprised of the Chief Executive Officers and representatives of all agencies mentioned above including representatives of central agencies: the Ministry of Finance and the Public Service Commission. The purpose of the Steering Committee is to direct and oversee the Sector's processes.

The work of the Sector is supported by its Secretariat which is its coordination unit. The Secretariat consists of a Sector Coordinator, a Principal Projects Officer, a Principal Finance Officer, and an Office Assistant; also in late 2012, a new position – Accounts and Administration Officer was added to the Secretariat Staff. The major change in the past twelve months, with regard to the structure of the Secretariat, is the decision of the Steering Committee to locate it in the Office of the Attorney General formally, in March 2013. In doing so, its budget has also been absorbed into the Government of Samoa's budget through the Office of the Attorney General.

The SLJS aims generally to improve service delivery, to communicate on, and increase coordination amongst Sector Agencies, regarding law and justice issues and activities. Specifically, to (i) raise recognition of the importance of law and justice, (ii) improve the direction, planning, management, communication, coordination and monitoring of government services (from national to agency levels and integrate and link services between sectors), (iii) harmonize service delivery, and improve effectiveness and value for money, (iv) provide a government-owned priority-setting mechanism for development, and (v) facilitate international development assistance to support the Government's priorities. In addition, the SLJS also provides a powerful means to foster and facilitate: (vi) mutual interdependency between agencies and sectors, (vii) support each other to make life easier, (viii) and agencies to collectively advise the Ministry of Finance on how to allocate funding and possibly increase funding.

ACHIEVEMENTS

Projects

Launching, transitioning and implementing of activities in the first Sector Plan in eighteen months is nothing short of impressive and is one of the Sector's greatest achievements and testament to the cooperative work and commitment of its Steering Committee. Its second Sector Plan, launched in December 2012 has guided the implementation of projects in the financial year covered in this Report. Implementation of projects that have carried over from the first Sector Plan has also continued over the past twelve months. This cross-over in Sector Plans is due mainly to the mismatch in receipt of funds and the usual Government of Samoa budget cycle. For example, the work of the past twelve months has been funded under a Direct Funding Agreement that was signed in April 2012 and will end in September 2013.

Many of the project activities the Sector has implemented in these early days have concerned the creation of the necessary infrastructure that will enable the real work towards achieving its stated goals.

Some of the Sector's projects that have been launched include: the Digitisation of the Land and Titles Court Records; the Mentoring of Government Lawyers Programme; Capacity building for the fledgling Samoa Law Reform Commission; Institutional Strengthening Programme for the Office of the Ombudsman; the Separation of the Prisons Function from the Samoa Police; the launching of the internet research engine SamLII (Samoa Legal Information Institute); the building of the Tafaigata Chapel; the renovations of the Olomanu Youth Rehabilitation Centre; the extension of the Tafaigata Women's Prison; the Samoa Returnees Re-Integration Assistance Programme; the Neighbourhood Watch Pilot Project at Vaitele-Fou; the Judges Retreat and the Biennial Seminar for Judges and Lawyers; review of the Village Fono Act 1990 ; support for a Samoa Victim Support Officer at the Courts; the Leadership Samoa Alumni Olomanu Rehabilitation Programme; Crimes Act 2013 Training; drafting the new Samoa Prisons and Corrections Service Act 2013 to name a few.

SIGNIFICANT INITIATIVES/PROJECTS

Many of the new projects being considered by the Sector, will take the second step from the foundation laying projects under the first Sector Plan. The initiatives look to build on a good start, and to focus more on having the evidence to drive the projects so that they are focused and targeted, to ensure a better chance of achieving the proposed and desired outcomes. In this regard, there is a strong focus on data collection and analysis, and the management of such data in digital ways. Information is power, and if wielded well can make the difference between success and missing the mark altogether! The projects although evidence based, will still be aimed at the four goals mentioned earlier, plus one further new one for capacity building, acknowledging that change requires everyone to be on the same page in terms of resources as well as skills. This area has taken significant steps in a positive direction with the launch of Project AUAFA-MAU Database which is the Sector's milestone work towards building a centralized Statistics Database for the Sector.

The capacity building required to design and to maintain such a database is also being addressed sector wide as part of this project through the Sector's ICT Committee.

SIGNIFICANT ISSUES AND SUGGESTIONS TO ADDRESS ISSUES

The main issues the Sector faces and is endeavoring to address under its new Sector Plan for 2012-2016 concerns: monitoring and evaluation; fully working with confidence and running with the Sector Wide Approach; questions of sustainability; and forward planning in place of ad hoc and piece meal reactionary decisions. For this part of the Sector's work to progress, training and awareness on Monitoring and Evaluation issues and processes is being carried out by the Secretariat to complement planning and budgeting processes, first within the Sector and then for individual Sector Agencies themselves. The new Sector Plan unlike the first includes a Monitoring and Evaluation Framework and guidelines for reporting on project activities as well as an estimate of the cost to implement indicated projects under the Sector's five Goals: Community Safety; Access to Justice; Harmonizing Formal and Customary Systems of Justice; Integrity and Good Governance; and the fifth which was added with the 2012-2016 Sector Plan-Capacity Building.

ATTACHMENT A:

LIST OF OFFICIAL TRIPS ATTENDED FROM JULY 2012 – JUNE 2013

Name of Meeting	Date of Meeting	Who attended
20 th Annual ANZSIL Conference International Law in the Next Two Decades: Form or Substance	5-7 July 2012	Muriel Lui
Small Island Developing States Technical Cooperation Program Introduction to Air Law, Singapore	2-6 July 2012	Kalameli Seuseu
Pacific Prosecutors Conference, Solomon Islands	9-13 July 2012	Ming C. Leung Wai, Precious Chang, Rexona Titi and Leinafo Taimalelagi.
Pacific Drafters' Legislative Forum	9-13 July 2012	Rupeni Nawaqakuta and Loretta Teueli
Technical Working Group on legal, institutional and capacity building on EPA Negotiations, Nadi, ,Fiji	9-10 August 2012	Sine Lafaialii
Secondment to New Zealand Office of Parliamentary Counsel, Wellington, New Zealand	11 August – 16 October 2012	Fetogi R. Vaai
Comprehensive Crisis Management Course, Honolulu, Hawaii	15 August-18 September 2012	Constance Tafua- Rivers
Secondment Program for Trade Lawyers, Geneva	8 September 2012 – 14 June 2013	Loukinikini Vili

World Indigenous Lawyers Conference, Waikato University, Hamilton	6-9 August 2012	Ming C. Leung Wai
Australia Gaming Expo (Casino), Sydney, Australia	20-24 August 2013	Muriel Lui
Contemporary Maritime Issues in Western and Central Pacific, Sydney, Australia	16-21 September 2012	Sine Lafaialii
Treaty on Cluster Munitions, Oslo, Norway	11-14 September 2012	Papalii Malietau Malietoa
Invest Samoa Conference, New Zealand	20-21 September 2012	Papalii Malietau Malietoa
Purchasing of PFL, Auckland, New Zealand	21-22 September 2012	Muriel Lui
Regional Health Promotion Leadership Training Program (ProLEAD), Bangkok, Thailand	9-12 October 2012	Papalii Malietau Malietoa
International Refugee Protection Learning Program for the Pacific, Honiara, Solomon Islands	15-19 October 2012	Loretta Teueli
Annual Pacific Lawyers Consultation on Human Rights Law, Fiji	29 October 2012 – 2 November 2012	Avila Ah-Leong-Oldehaver
Regional Meeting on the Implementation of the Pacific Islands Regional Unexploded Ordnance Strategy, Australia	28-30 November 2012	Loretta Teueli
PILON Forum, Kokopo, PNG	29-31 October 2012	Ming C. Leung Wai and Muriel Lui
Regional Course in	12-30 November 2012	Sefo Ainuu

International Law, Bangkok, Thailand		
Pacific Preparedness “Strengthening Laws and Partnership”, Fiji	22-23 November 2012	Ane Iati
Maritime Boundaries Workshop, Sydney, Australia	26-30 November 2012	Constance Tafua-Rivers
PFL negotiations, Tonga	18-23 January 2013	Sefo Ainuu
SPC-EU EDF10 Deep Sea Minerals Project Pacific ACP States’ Regional Workshop on Deep Sea Minerals Law and Contract Negotiations, Nukualofa, Tonga	11-15 March 2013	Constance Tafua-Rivers
Asia Pacific Group Money Laundering, Australia	4-9 March 2013	Precious Chang
PFL Transitional Board of Directors Meeting, Auckland, New Zealand	4-9 March 2013	Ming C. Leung Wai
Aoaoga mo Tomai Faapitoa mo le tuuina atu o le Fesoasoani Faaletaga, Faalavelave Faanatura ma le Fesuaiga o le Tau, Cook Islands	21-24 May 2013	Kalameli Seuseu
PFL negotiations, Fiji and New Zealand	19-23 May 2013	Ming C. Leung Wai
26 th Annual International Military Operations and Law Conference	2-6 June 2013	Precious Chang
Sub-regional Consultation on	10-13 June 2013	Loretta Teueli

Review and Progress on Violence against Women Legislation		
Malaga mo Fonotaga I Mataupu tau PFL ma le MSC, New Zealand and Australia	16-23 August 2013	Sefo Ainuu
Medicine Training for Medico- Legal Investigations of Sexual Violence, Melbourne, Australia	23-27 September 2013	Rexona Titi and Edelma Niumata