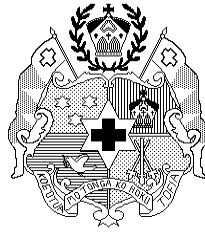


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ATTORNEY GENERAL'S OFFICE

MEDIA RELEASE

“ATTORNEY GENERAL'S OFFICE DENIES RECENT ARRESTS OF SOME POLITICAL FIGURES ARE MOTIVATED BY EFFORTS TO RENEW THE APPOINTMENT OF THE POLICE COMMISSIONER”

8 MARCH 2018

- 1 The Attorney General's Office wishes to respond to the recent claim made by the Hon Mateni Tapueluelu, Minister for Police and Fire Services, in a radio interview on FM87.5 on Saturday 3 March 2018, where he referred to the arrests of the political leaders were *“an attempt by the Commissioner to extend his contract in April. It ends in April. I do not believe that this is clear from him trying to be seen favourably by the Government and to justify that he should continue.”*, and he also stated that *“And we do not want work to be pushed when the contract is nearly completed and then we make moves to do something”*
- 2 This allegation asserts that these arrests and laying of criminal charges was conducted with improper motives and methods.
- 3 The Attorney General's Office wishes to state that this allegation is absolutely incorrect and untruthful. The allegation has been made without the full knowledge and appreciation of the process or the contents of the Tonga Police investigation, and the support provided to the Tonga Police investigation by the Attorney General's Office.
- 4 The Attorney General's Office regrets that it has been forced once again to make a media release regarding criminal matters before the Courts, especially to counter an allegation

made by a Cabinet Minister. However this media release has to be made because of the allegation made, and in the interests of protecting the course of justice, the integrity of the criminal investigation and criminal prosecution that has commenced arising from these investigations, and also to protect the reputations of the Police investigators and Crown prosecutors who have worked loyally, tirelessly and professionally behind the scenes to bring these matters before the Courts for final determination, so that justice may prevail.

- 5 The Attorney General's Office therefore wishes to inform the public of the following:
- (1) The AGO has always worked closely with Tonga Police regarding serious crime investigation, upon request of the Tonga Police. This included the passport fraud investigation since 2015, and the referral from the Auditor General to the Tonga Police and the Attorney General's Office in 2016 the audit report relating to the Government financial assistance received by the 'Unuaki-'o-Tonga Royal Institute.
 - (2) This included regular briefings on the progress of the investigations, providing legal advice regarding search warrants, engagement of experts, the strategy of the investigations, briefings to be made to Cabinet, the release of information to the the media, and most recently on assessing the evidence gathered, the laying of criminal charges and appearing for bail hearings in Court for the Accused arrested.
 - (3) It was always the understanding between Tonga Police and the AGO that once these investigations were completed, the Police investigation files would be submitted by the Police investigators to the Police Commissioner for review, before they were submitted to the AGO for further review and provision of a legal opinion on whether to prosecute, and who should be prosecuted.
 - (4) On 12 October 2017 the AGO received from the Police Commissioner 45 Police investigation files for the investigation of the UTRI. On 10 November 2017 the AGO received 38 Police investigation files in relation to the passport fraud investigation.

- (5) The AGO then established a team of Crown prosecutors to review these investigation files, consisting of one senior Crown prosecutor and four junior Crown prosecutors. The Crown prosecutors were tasked with reviewing the evidence gathered by the Police investigators, and providing a criminal brief on the evidence and to recommend to the Acting Attorney General and Director of Public Prosecutions whether a prosecution should be commenced or not.
- (6) This team of Crown prosecutors conducted this long pain-staking review and analysis from October 2017 until the end of January 2018, in addition to their normal legal work for the AGO.
- (7) On 19 January 2018, the Crown prosecutors submitted to the Acting Attorney General and Director of Public Prosecutions the criminal brief for the UTRI investigation, and on 26 January 2018 they submitted the criminal brief in relation to the passport fraud investigation.
- (8) In both cases, the Crown prosecutors recommended that criminal prosecution be commenced. The Acting Attorney General and Director of Public Prosecutions then reviewed those criminal briefs, and after discussing them with the Crown prosecutors, he approved the recommendations to prosecute.
- (9) The Acting Attorney General and Director of Public Prosecutions and the senior Crown prosecutor then met with the Police Commissioner and the lead Police investigator in these investigations, to discuss the recommendations to prosecute for each of these investigations. On 22 January 2018 the meeting relating to the investigation of the UTRI was held. On 29 January 2018 the meeting relating to the Tongan passport fraud investigation was held. In both meetings the Crown prosecutors' recommendations were analysed and discussed. The recommendations to prosecute were then accepted by the Police Commissioner.
- (10) On 29 January 2018 the Police Commissioner and the Acting Attorney General and Director of Public Prosecutions agreed that the Accused would be arrested and charged on consecutive dates, on 7 and 8 February 2018.

- (11) However, on 6 February 2018 the arrests were called off due to investigation reasons. It was then decided on 6 February 2018 that the arrests and laying of criminal charges would be carried out in the week of 19 February 2018, after the Acting Attorney General, the senior Crown prosecutor and lead Police investigator returned from official duties on 17 February 2018.
- (12) However, when Tropical Cyclone Gita hit Tongatapu and 'Eua on 12 February 2018, the Police Commissioner and Tonga Police had to concentrate on providing the national response after the cyclone, and supporting the state of emergency declared on 12 February 2018.
- (13) On 22 February 2018, the Police Commissioner and the Acting Attorney General and Director of Public Prosecutions reassessed the situation for arrest laying of criminal charges, and they agreed to conduct these in the week of 26 February 2018. This was based on the cyclone response phase transitioning to the recovery phase of the nation, and Tonga Police activities returning partly to normality.
- (14) The arrests were then carried out accordingly on Thursday 1 March 2018 for the Tongan passport fraud investigation, and on 3 March 2018 for the UTRI investigation.
- (15) With the announcement of the resignation of the Hon Minister for Police on 28 February 2018 and without confirmation that he was still in office, after the last arrests were made on 3 March 2018, on the same day, the Police Commissioner the Hon Minister for Justice, on the understand that he is the associate Minister for Police, who then briefed the Hon Prime Minister and Hon Minister of Police, respectively. Later that day the Hon Minister for Justice informed the Police Commissioner the reply from the Hon Prime Minister, was for Tonga Police to continue to perform their work in accordance with the law, and so Tonga Police acted accordingly, with the support of the Attorney General's Office.

- 6 The Attorney General's Office wishes to assure the public that these arrests and laying of criminal charges, were never motivated by any favouratism, ill-will or malice, nor were they motivated by any undue influence from any political authorities or other authorities, or in order to favour any person involved or interested in this work, particularly the Police Commissioner. These criminal proceedings were commenced independently in accordance with the Constitution and the Laws of Tonga, and to the highest of policing and prosecutorial professional standards.
- 7 In accordance with the principles of the Rule of Law and Judicial Independence that are enshrined in clause 83A of the Constitution, the course of justice should be allowed to run independently, free of any undue external influence.
- 8 The Attorney General's Office would also like to remind the public of one of the fundamental principles of our criminal justice system that is the presumption of innocence, which is contained in section 46 of the Evidence Act. This section requires that all Accused persons who are currently before the criminal justice system shall be deemed to innocent of the criminal charges that they are charged with, until it is proven beyond any reasonable doubt in a Court of law that they are guilty. The presumption of innocence is respected by all civilized and democratic nations around the world which abide by the principles of the rule of law, and Tonga should not be an exception. The public are urged to understand and respect this fundamental right, and ignore any prejudicial comments made in public against the Accused and these criminal charges until the prosecution is finalized in the Courts.
- 9 The Attorney General's Office therefore calls on the media, political commentators, especially those active in the social media, and the public as a whole, to exercise restraint and avoid commenting on the facts and the legal issues in these criminal cases. These facts and legal issues are for the Courts of Law to resolve, in accordance with the Constitution and the Laws of Tonga, but not in the Court of public opinion.

----- **MEDIA RELEASE ENDS** -----

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