



Malo o Samoa



KOMISI O LE TOEFUATAIGA O TULAFONO A SAMOA

TULAFONO O NAKOTI 1967 (Iloiloga o Fualaau Faasaina)

Ripoti Faai'u 21/17

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MĀLŌ O SĀMOA

'ŌFISA O LE PALEMIA MA LE MINISITĀ MO LE KOMISI O LE TOEFUATA'IGA O TULAFONO A SĀMOA

Le Afioga i le Fofoga Fetalai **LE FONO AOA O FAITULAFONO A SĀMOA**

E tusa ai ma le vaega 9 (2) o le *Tulafono o le Komisi o le Toefuata'iga o Tulafono 2008*, ou te tu'uina atu ma le fa'aaloalo kopi o le Līpoti o le toefuataiga o le *Tulafono o Nakoti 1967 a Samoa* e pei ona tu'uina mai i le Komisi o le Toefuata'iga o Tulafono mo se iloiloga.

Ua folasia atu i lenei līpoti fautuaga a le Komisi i le toefuataiga o le *Tulafono o Nakoti 1967 a Samoa* ina ua mǎe'a fetufaa'iga ma le atunu'u ma sǎ'ili'iliga uma e tusa ai ma le vaega 4 o le *Tulafono o le Komisi o le Toefuata'iga o Tulafono 2008*.

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PALEMIA MA LE MINISITĀ MO LE KOMISI O LE TOEFUATA'IGA O TULAFONO



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Ua folasia atu i lenei lipoti fautuaga a le Komisi i le toefuataiga o le *Tulafono o Nakoti 1967 a Samoa* ina ua mǎe'a fetufaa'iga ma le atunu'u ma sǎ'ili'iliga uma e tusa ai ma le vaega 4 o le *Tulafono o le Komisi o le Toefuata'iga o Tulafono 2008*.

(Telei'ai Dr. Lalotoa Mulitalo)

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1. FAATOMUAGA

I. Faasinomaga

- 1.1. Na maua e le Komisi o le Toefuataiga o Tulafono a Samoa se faasinomaga (Terms of Reference) mai le Ofisa o le Loia Sili ia Mati 2015 ina ia iloilo le *Tulafono o Nakoti 1967*. O lenei faasinomaga o loo atagia mai ai nisi o popolega ona o lenei tulafono ua fai si tuai, o le tele o puna'oa ma le taimi o le faamasinoga o loo alu i tualumaga o mataupu tau soligatulafono i fualaau faasaina, ma se vaega o Samoa ua ripotia mai o loo faaaogaina le aisa (methamphetamine).
- 1.2. O le manaoga o lenei faasinomaga o le silasila lea o le Komisi i faafitauli ua ta'ua i lalo:
- (a) Pe faamata o le Tulafono o Nakoti 1967 o iai i le taimi nei o loo gafatia le faatulafonoina ma le faatonutonuina o fualaau faasaina i Samoa;
 - (e) O le manaoga ina ia toe aiaia manaomiaga ma mataupu o loo tutupu mai i le taimi nei e pei o:
 - i. Tulafono faatonutonu mo le puipuiga;
 - ii. Faaitiitia o faafitauli e tutupu mai i fualaau faasaina;
 - iii. Fualaau faasaina fou ma fualaau faasaina ua faaopoopoina iai nisi vailaau oona;
 - iv. Auaunaga tau togafitiga ma nofoaga mo le toefuataiga;
 - v. O le faaaogaina o fualaauf aasaina mo el tau togafitiga o gasegase ua faamaonia i sona tulaga malupuipua; ma
 - vi. Faatuina o le Faamasinoga o Ava Malosi ma Fualaau Faasaina.
 - (i) O tulafono mo le faamalasia, e patino lava i tulaga nei:
 - i. Faasalaga, e Aofia ai faasalaga talafeagai mo soligatulafono mama, e aofia ai aoaoga, suesuega ma togafitiga mo i latou e faaaogaina fualaau faasaina;
 - ii. Mataituina o pagota ua faamatuu ina ua maea ona tuli o latou faasalaga poo le magalo i le parola mo se faataitaiga, ia faamalasia suesuega mo fualaau faasaina; ma
 - iii. Ia ave le ola toefuataina ma se tasi o mafuaaga mo le faasalaina.
 - (o) O le matafaioi ma tiute o matua, pulega a nuu ma afioaga ma ekalesia e faasino i le faaaogaina o fualaau faasaina.

II. Faagasologa o Galuega Toe Iloilo

- 1.3. Na ma'ea le *Pepa o Faamatalaga* a le Komisi mo le iloiloga o *Fualaau Faasaina (Iloiloga o le Tulafono o Nakoti 1967)* ia Me 2017, lea o loo faatulaga atu ai faafitauli na laga i le taimi o faatalatalanoaga amata ma i latou ua fitoitonu iai lenei iloiloga poo paaga masani. O le Pepa o Faamatalaga o loo faataatia atu ai se ata e faaosofia ai talanoaga ma finauga e faatatau i fualaau faasaina faapea se faatulagaga talafeagai aua le tau atina'eina o lenei tulafono. Sa faamaonia ma taliaina e le Kapeneta lenei Pepa o Faamatalaga ia Iuni 2017 aua faatalatalanoaga ma ana paaga masani ma le mamalu lautele o le atunuu.

- 1.4. Na faatautaia e le Komisi ana faatalatalanoaga ma ana paaga masani ma le mamalu o le atunuu ina ua maua le faamaoniga a le Kapeneta i lana Pepa o Faamatalaga. O faatalatalanoaga ma ana paaga masani sa faatautaia ia Aukuso agai atu ia Setema 2017 lea e aofia ai paaga e 20 ma oi latou sa iai e aofia ai Matalagaluega talafeagai a le Malo, o Faamasino o le Faamasinoga ma paaga a le Komisi mai Faalapotopotoga Tuma'oti.¹ Sa faatautaia foi e le Komisi ni faatalanoaga ma tagata taitoatasi, faamauina ma sa tufatuafaina atu foi ni pepa fesili. E 11 i latou mai le 20 na faatalanoa sa mafai ona tuuina mai a latou manatu tusitusia e tusa ai o nei fesili.²
- 1.5. E faaopoopo atu, na faatautaia e le Komisi ana faatalatalanoaga i Upolu ma Savaii mai le aso 25 – 29 Setemea 2017 ina ia mafai ona aoao mai manatu o le atunuu i ni auala e faaono faaititia ai faafitauli e alia'e mai i le faaogaina o fualaau faasaina aemaise lava i mataupu o loo laga i le Pepa o Faamatalaga. O nei faatalatalanoaga i Upolu ma Savaii sa vaevaeina i vaega nei: Alii ma Faipule (4 mo Upolu, 4 mo Savaii), Tina ma Tamaitai (4 mo Upolu, 4 mo Savaii) ma le Autalavou (2 mo Savaii). O le aofaiga atoa e 409 i latou na faatalanoa i nei faatalatalanoaga. E 49 le aofaiga o manatu tusitusia mai tagata taitoatasi na maua mai foi i le taimi o nei faatalatalanoaga faalautaitetele i Upolu ma Savaii.
- 1.6. O se tasi o luitau na feagai ma le Komisi o le taumafai lea e aoao mai faamatalaga ma faamaumauga talafeagai mo le tuufaatasiga o lenei ripoti. O le isi tulaga, o le utiuti o manatu ma finagalo na tuuina mai ona e itiiti lava i latou na fialia i lenei iloiloga, faapea ma le faatuai o le tuuina mai o manatu ona o faafitauli i le taimi e pei ona manaomia e nisi o paaga masani a le Komisi.
- 1.7. O lenei Ripoti na mafai ona tuufaatasia ma fausia ona o le fesoasoani mai o le mamalu lautele o le atunuu na faatalatalanoa i lenei iloiloga, faamasino o le Faamasinoga, o sui mai matagaluega eseese a le Malo, sui o Faalapotopotoga Tuma'oti, faapea ma faalapotopotoga eseese. O nei fesoasoani na tauala mai i fautuaga na tuuina mai, o manatu tusitusia ma manatu tuufofoga faapea le agavaa ma le malamalama na faasoa mai. E lagona ai le agaga faagaetia o le Komisi ona o nei sao ma finagalo o loo fesoasoani i le fausiaina o fautuaga o loo i totonu o lenei Ripoti.

¹The 20 stakeholders include: Ministry of Education, Sports and Culture; Ministry of Women, Community and Social Development; Samoa Prison and Corrections Services; Mental Health Unit; National Council of Churches; National University of Samoa; University of the South Pacific; Samoa Returnees Charitable Trust; Scientific Research Organization of Samoa; Samoa Victim Support Group; Samoa Pharmacy Association; Ministry for Revenue; Ministry of Justice and Courts Administration; Ministry of Health; Ministry of Police; Ministry of Prime Minister and Cabinet; Samoa Nursing Association; Office of the Attorney General; Samoa Cancer Society; Samoa Law Society and Transnational Crimes Unit.

² These included the Ministry of Education, Sports and Culture; Ministry for Revenue; Ministry of Justice and Courts Administration; Ministry of Health; Ministry of Police; Ministry of Prime Minister and Cabinet; Samoa Nursing Association; Office of the Attorney General; Samoa Cancer Society; Samoa Law Society and Transnational Crimes Unit.

III. Auivi o le Ripoti

1.8. E 8 ni vaega ua tuuina atu i lalo ua vaevaeina ai lenei Ripoti:

- **Vaega 1** o le a talanoaina ai le Tulafono o Nakoti 1967 i totonu o Samoa, o nisi o faafitauli tau fualaa faasaina na laga mai taimi o faatalatalanoaga ma fuainumera faamauina (statistics) o soligatulafono tau fualaa faasaina i totonu o Samoa
- **Vaega 2** O loo talanoaina ai aiaiga amata o le Tulafono fou o Nakoti a Samoa e aofia ai le igoa o le Tulafono o loo iai nei, igoa uumi, faamatalaina o uiga o upu, faalapopotoga e faamalumu iai lea tulafono, malosiaga ma matafaioi a le Minisita o le Soifua Maloloina ma le tofiga o tagata suesue i mataupu tau fualaa faasaina (inspectors).
- **Vaega 3** O loo talanoaina ai le faavasegaina o fualaa faasaina (drug classification) i lalo o le Tulafono o Nakoti a Samoa. O loo vaavaai foi i nisi o meafaitino poo laau e pei o logo ma pulou aitu (induced substances and plants) e tutusa aafiaga ma le mariuana ma isi fualaa faasaina malolosi e pei o le 'aia. O loo talanoaina ai foi nisi o fualaa faasaina fou poo fualaa faasaina nei ua faaopoopoina ai nisi vailaa oona (psychoactive substances & synthetic drugs), faatasi ai ma aiaiga talafeagai mai nisi o atunuu ma feagaiga faavaomalo talafeagai ua talanoaina ai nei fualaa faasaina.
- **Vaega 4** o loo talanoaina ai aiaiga o 'Soligatulafono ma Faasalaga' o loo i lalo o le Tulafono a Nakoti a Samoa ma pe a faatusatusa atu i tulafono a nisi o atunuu. O loo suesueina ai poo talafeagai soligatulafono ma faasalaga o loo tuuina atu e faaitiitia ai soligatulafono tau fualaa faasaina i totonu o Samoa.
- **Vaega 5** o loo talanoaina ma suesueina ai aiaiga poo gaioga e le mafai ona avea ma soligatulafono ('exemptions to the offences') i lalo o le Tulafono o Nakoti a Samoa e aofia ai le puipuiga mai se soligatulafono ua molia ai, faatapulaaina o le faatagana mo se faataitaiga o le faatapulaaina o vaega e pei o laisene mo le auina mai i totonu o fualaa faasaina mo togafitiga e pei ona faamaonia e se Ofisa Sili o Pulega talafeagai. O loo talanoaina ai foi nisi o gaioga e le mafai ona avea ma soligatulafono i totonu o isi atunuu.
- **Vaega 6** o loo talanoaina ai poo talafeagai le faatulagana mo le faamalosi (adequacy of enforcement) i totonu o Samoa. Ua tuuina atu i lalo o lea vaega aiaiga patino o loo i lalo o le Tulafono o Nakoti a Samoa e faasino i le faamalosi mo se faataitaiga, o le su'eina o fualaa faasaina (search warrants) ma le aveeseina mai o meatotino e pei o tupe ua mauuina mai i le faatauina o fualaa faasaina. Ua vaavaai foi lea vaega i isi mataupu e pei o suesuega, mataituina, aiaiga mo faamaoniga, ma isi mataupu mo le faamalosi e pei o su'eina o tino o tagata ua masalomia o loo tauaveina fualaa faasaina ma isi faafitauli o loo aafia ai le faamalosi o le tulafono i totonu o Samoa.
- **Vaega 7** o loo talanoaina ai puipuiga faaetutulafono o loo iai nei mo Samoa e aofia ai e aofia ai faiga faavae mo le ulufale faamalosi, polokalame ma faatinoga e taumafai e puipua pe faaitiitia le faaoga faasolitulafono o fualaa faasaina ma le ogaoga o ona aafiaga. O loo talanoaina ai foi le lagolagosua o loo iai nei ma auunaga mo togafitiga

faapea foi polokalame mo le toefuataiga i Samoa. O le a faatusatusa foi lea vaega i faatinoga a isi atunuu i fafo.

- **Vaega 8** o loo talanoaina ai le matafaioi a le atunuu lautele e aofia ai le Malo, Faalapotopotoga Tuma'oti, Ekalesia, matua, Fono a Nuu ma le afioaga atoa. O loo suesueina ai pe faapefea ona auai le atunuu lautele i le tau tuuitiitia o soligatulafono o fualaau faasaina i totonu o Samoa.

IV. O le Manaoga mo se Suiga

- 1.9. Na pau lava teuteuga na faia i le Tulafono o Nakoti a Samoa talu ona pasia i le tausaga 1967, o teuteuga ia sa faia i le 2006 ma le 2009. E le'i lava nei suiga i le tulafono e tau tuu itiitia ai faafitauli e faasino i fualaau faasaina i totonu o Samoa aemaise lava i suiga fou ma faafitauli ua faatupula'ia ona o fualaau faasaina. Mo se faataitaiga, o le siitia o mataupu tau aisa (methamphetamine), o le faaaogaina o fualaau faasaina e gaosia ai fualaau mo togafitiga i le falemai faapea le vaavaai lea i le aveai ai o le ola toefuataiga o se faasalaga. Ae peitai, ua fetui lelei lenei iloiloga ina ia faamautinoa ai o loo atagia mai ai suiga i le taimi nei e faasino i faafitauli tau fualaau faasaina, ma ia vaavaai i ni aiaiga faaletulafono mai isi atunuu pe afai e talafeagai, ina ia tau tuu itiitia ai faafitauli tau fualaau faasaina aua se Samoa saogalemu.
- 1.10. O lenei Ripoti o loo vaavaai i faafitauli patino e faatatau i le Tulafono o Nakoti a Samoa e pei ona laga mai totonu o le Pepa o Faamatalaga a le Komisi ma ia faama'ape atu ai vaega uma mo se suiga i le tulafono. O lea tulaga e aofia ai vaega patino na laga mai e nisi o Matagaluega ua fitoitonu iai lenei iloiloga e aofia ai le Matagaluega o Soifua Maloloina, Matagaluega o Tupe Maua, Matagaluega a Leoleo ma le Ofisa o le Loia Sili, o Faamasinoga o le Faamasinoga faatasi ai ma le mamalu o le atunuu ia sa auai i faatalatalanoaga faalauaitele.
- 1.11. O lenei Ripoti e leo tagofia ai aiaiga uma o loo i totonu o le Tulafono o Nakoti a Samoa. Ua manatu le Komisi o nei aiaiga e leo tagofia ma talanoaina i totonu o lenei Ripoti, e le o tele sona aafiaga i le taimi nei. Ma e fautua atu le Komisi, e tatau ona faatumauina pea nei aiaiga, ma e tatau ona toe tusia i se faatulagaga talafeagai ma se gagana faigofie. O le a faigofie ai foi ona malamalama tagata i le tulafono ma ia o gatasi ma isi tulafono o loo iai nei.

V. Aga'i i Luma

- 1.12. O fautuaga o loo i totonu o lenei Ripoti ua faia ina ia mafai ona toe siitia ai le tulaga o aiaiga o loo iai nei ua fai si tuai ma ua le talafeagai ma le manulauti o le Tulafono a Nakoti a Samoa. O fautuaga foi a le Komisi o loo i totonu o lenei Ripoti o loo talosagaina ai nisi o mataupu ina ia toe faapupula atili ma ia aofia i totonu o Tulafono Faatonutonu nai lo le aofia i lalo o le tulafono fou o fualaau faasaina. O lona uiga o soo se suiga lava i le tulafono e tatau foi ona atagia nei suiga i totonu o *Tulafono Faatonutonu o Nakoti 1967* (**Tulafono Faatonutonu o Nakoti**) ina ia faamautinoa ai o loo o gatasi nei suiga i totonu o tulafono. O loo limataitaia foi e Matagaluega (e aofia ai le Matagaluega a Leoleo, Matagaluega a le Soifua Maloloina, Ofisa o Tiute, Matagaluega a le Faamasinoga ma le Faafoega o Mataupu tau Faamasinoga, SROS, Ofisa o le Loia Sili faapea ma Faamasino o le Faamasinoga) o loo

fitoitonu iai tulafono faatonutonu o fualaau faasaina le Komisi, i le taua ma le aoga o suiga o loo tuuina atu mo le soalaupuleina.

- 1.13. Ua faamauina e le Komisi i totonu o lenei Ripoti le eseese o upu e faaaogaina e isi atunuu e faasino i 'fualaau faasaina', ma o le a faaaogaina le upu e talafeagai ma Samoa e pei ona faaaogaina e atunuu o le a talanoaina. Mo Samoa lava ia ina ia o gatasi le faaaogaina, o le a faaaoga e le Komisi le upu 'fualaau faasaina' poo 'fualaau' nai lo le upu 'nakoti', e pei ona i totonu o le tulafono o loo iai nei.
- 1.14. O le faamamafa a le Komisi i ana fautuaga e faasino lea i aiaiga i totonu o isi tulafono e pei o le *Tulafono o Galuega Tau Leoleo 2009*, *Tulafono o Fualaau 1967*, *Tulafono o Soligatulafono 2013*, *Tulafono o le Ofisa o Tiute 2014*, *Tulafono o Faamatalaga Molimau o Faamasinoga 2015*, *Tulafono o le Faafoega o Iuga-a-Faamasinoga i Nuu ma Afioaga 2008*, ma le *Tulafono o Mataupu Tau Lotoifale 1995* ina ia mafai ona atia'e ma talia i totonu o le tulafono fou o fualaau faasaina. O lea fuafuaga o se faamoemoe ina ia ausia le tulaga tutusa ma ia o gatasi ma tulafono uma e faasino i mataupu tau fualaau faasaina i totonu o Samoa. E iai le faamoemoe o le iai o se tulafono autasi o le a mafai ai ona faafaigofie, faamalieina, ma tali atu i manaoga mo le faatulafonoina o fualaau faasaina. O le isi tulaga, o le a mafai ai e i latou o le a faamalosia le tulafono ona silafia manaomiaga, o le a o gatasi, faigofie ona malamalama ma lona manulauti ina ia siitia le televave o le tali atu. O le a limataitaia foi le Komisi e matagaluega ua fitoitonu ai lea tulaga faapea ma le faamasinoga i le aoga o le faatinoina o lea tulaga i nisi o aiaiga.
- 1.15. I le faaiuga, ua maua ai e le Komisi se manaoga ina ia faatautaia ni aoaoga e faasino i le tulafono fou o fualaau faasaina mo matagaluega o le a faamalosia lea tulafono, lea e aofia ai le Matagaluega a Leoleo, Matagaluega a le Soifua Maloloina ma le Ofisa o le Tiute, ina ia faamautinoa ai o loo malamalama ma silafia suiga fou i le tulafono, ma ia faamasani i tulafono faafoe o loo limataitaia ai a latou matafaioi i le faatulafonoina o fualaau faasaina, ina ia mafai ona puipui mai i ni faafitauli e ono aliae mai. Mo se faataitaiga, o le felavasaiga o malosiaga. O le manaoga mo sea aoaoga na faaalua mai i finagalo tusitusia a nisi o matagaluega autu, faapea ma le mamalu o le atunuu lea na faaalua le itiiti o le malamalama o nisi o sui i le tele o vaega o le Tulafono o Nakoti a Samoa. I lea tulaga, o nisi o tagata faigaluega o loo iai a latou matafaioi i lalo o le tulafono e leo mafai ona latou faaaogaina i se tulaga vave ma lelei, poo le le silafia foi o aiaiga o loo faatonutonu ai le faatulafonoina o fualaau faasaina a Samoa, lea e afua ai ona le lelei le faatinoga o le faamalosiga.

FAUTUAGA 1: O soo se aiaiga e leo mafai ona talanoaina i totonu o lenei Ripoti, e tatau ona faatumauiina pea, ma e tatau ona toe tusia i se faatulagaga talafeagai ma se gagana faigofie. O le a faigofie ai foi ona malamalama tagata i le tulafono ma ia o gatasi ma isi tulafono o loo iai nei.

2. VAEGA 1: TULAGA O LOO IAI NEI

- 2.1. O lenei Vaega ua tuuina atu ai se aotelega o le Tulafono o Nakoti a Samoa ma nisi o faafitauli e faasino i fualaau faasaina na laga mai e nisi o matagaluega autu ma le mamalu o le atunuu i taimi o faatalatalanoaga faalauaitele. O loo tuuina atu ai foi se suesuega e faasino i faamatalaga ma fuainumera faamauiina sa tuuina mai e le Matagaluega a Leoleo

ma le Matagaluega a le Faamasinoga. I lea tulaga, o loo faalagolago le Komisi i ana suesuega aoatetele ma finagalo na tuuina mai i le mamalu o le atunuu e fausia ai ana fautuaga e patino tonu i le Vaega lenei o le a talanoaina.

I. Tulafono o loo iai nei

- 2.2. O fualaau faasaina poo nakoti o loo faatulafonoina i lalo o le Tulafono o Nakoti a Samoa. O lenei Tulafono ua 50 tausaga le matua ma sa faavae mai i le Tulafono tuai a Niu Sila o le *Tulafono mo le Faaaogaina Sese o Fualaau Faasaina 1965*. E 6 vaega ua tuuifaaasia ai faamatalaga autu o le Tulafono o Nakoti a Samoa:

Vaega 1 (mataupu amata) e faasino i le faamatalaina o uiga o upu talafeagai. O loo tuuina mai ai foi o loo pulea e le Matagaluega a le Soifua Maloloina le Tulafono o Nakoti a Samoa.

Vaega 2 o loo faatulaga atu ai nakoti i ni vasega se 3. Vasega A ua tuuina atu ai se lisi o nakoti e matuai ogaoga sona aafiaga, Vasega E ua lisiina atu ai nakoti e ogaoga sona aafiaga ma le Vasega I ua lisi atu ai nakoti e feololo sona aafiaga. O nei vasega e 3 ua folasia atu i se Faatulagaga e faasino i le Tulafono o Nakoti a Samoa.

Vaega 3 ua tuuina atu ai Soligatulafono ma Faasalaga. Mo se faataitaiga, o le galueaina faasolitulafono o laau toto faasaina, faaaogaina ma le umiaina o laau faasaina ma fatu laau ma faasalaga talafeagai, umiaina faasolitulafono, faaaogaina ma le tuuina atu o nakoti ma le faatauina atu faasolitulafono ma faasalaga, gaosiaina poo le umiaina o vailaau faatonuina ma faasalaga talafeagai.

Vaega 4 ua talanoaina ai tuusaunoaga mai le faasaina. Mo se faataitaiga, o tagata o loo umiaina ma faaaogaina se nakoti e tuusaunoa pe afai o loo iai se laisene mo le feuiaiga o se nakoti. I lea foi tulaga e iai laisene e faatagaina mo fualaau ma vailaau faatonuina. Mo se faataitaiga, e mafai e le Ofisa Sili o Pulega a le Matagaluega o le Soifua Maloloina ona tuuina atu se laisene mo le feuiaiga fualaau ma vailaau faasaina. O se laisene ua tuuina atu e le Ofisa Sili o Pulega e faatoa mafai ona ia tuuina atu pe afai ua faamaonia ma faatagaina mai e le Minisita.

Vaega 5 ua tuuina atu ai malosiaga mo le faamalosiaga. Mo se faataitaiga, o matafaioi a leoleo, ofisa o le Soifua Maloloina, Ofisa o le Tiute, Matagaluega o Faatoaga, ma tagata e faia asiasiga i le faatinoga o le Tulafono o Nakoti a Samoa.

Vaega 6 ua tuuina atu ai o le Ao o le Malo, i lalo o le fautuaga a le Kapeneta e faaono mafai ona ia faia ni tulafono faatonutonu ua ia manatu, ua talafeagai ma le puleaina ma le faatinoga o le Tulafono o Nakoti a Samoa. I le taimi nei, na pau lava tulafono faatonutonu na fai e faasino i talosaga mo laisene e auina mai ai, auina atu i fafo ma le feuiaiga o nakoti, felauaiga ma le feaveaiga o nakoti i luga o vaa ma vaalele, faapea ma le resitalaina, o le umi, faafouina ma le faaleaogaina o laisene.

II. Teuteuga

- 2.3. E nao le lua (2) lava teuteuga na faia i le Tulafono o Nakoti a Samoa talu ona pasia ma faamamaluina:

Teuteuga i le 2006

- O le faamatalaina o le uiga o vailaau faatonuina ma isi aiaiga faaopoopo e faasino i le gaosiaina faasolitulafono o nakoti ma le faatauina atu faasolitulafono o vailaau faatonuina (vaega 18A ma le 18B)
- O se suiga laititi sa faia i le fuaiupu 14 o le Tulafono Autu i le faaofiina iai i le faafuaiupu (1) "poo faamatalaga molimau o soo se solitulafono" ina ua tuanai le upu "pepa aloaia" i le mea sa aliali mai ai talu ai

Teuteuga i le 2009

- Siitia ai faasalaga mo soligatulafono tau fualaau faasaina. Mo se faataitaiga o le umiaina o fatu o laau toto faasaina, o le faasalaga na iai e 7 tausaga lea ua siitia i le 14 tausaga
- O le teuteuga fou mo faasalaga mo le auina mai/auina atu faasolitulafono o nakoti ma le umiaina faasolitulafono poo le tuuina atu o nakoti.
- O le teuteuga fou mo le faatulagaga o fualaau faasaina i ona vasega se 3 (Vasega A, Vasega B ma le Vasega C)
- O le tuuina atu o se matafaioi tauave i se tagata ofisa o le soifua maloloina e ripotia ai i le ofisa o leoleo se tagata ma'i ua masalomia le faaogaina faasolitulafono o se nakoti.

III. Tulafono Faatonutonu o Nakoti 1967

2.4. Ua tuuina atu i lalo nisi o mataupu na faatulafonoina talu ona pasia:

- Laisene mo le faaulufaleina mai o nakoti (reg 3)
- Laisene mo le faaulufafoina atu o nakoti (reg 4)
- Vaa ma Vaalele ua felauai ai nakoti ma avea ma nofoaga mo le malupuipua o nakoti poo taavale foi (reg 5)
- Talosaga mo laisene mo le feuaiga o nakoti (reg 6)
- E faaono manaomia e le Faatonu nisi faamatalaga faaopoopo (reg 7)
- O le faatagaina o laisene mo le feuaiga o nakoti (reg 8)
- O le faatagana ua tuuina atu mo tagata faigaluega a le Malo mo nei laisene (reg 9)
- O le resitalaina o nei laisene (reg 10)
- O le umi ma le faafouina o nei laisene (reg 11)
- Faaleaogaina o nei laisene (reg 12)
- Licenses are personal (reg 13)
- Resitalaina o se tagata ua umia se laisene (reg 14)
- Taimi e faamauina ai i totonu o le resitala mo le au fai laisene (reg 15)
- O ituaiga o resitala mo le au fai laisene ma ituaiga faamaumauga e tuuina i totonu (reg 16)
- Su'egaoloa (reg 17)
- Nofoaga ma le umi e teuina atu faamaumauga (reg 18)
- Asiasiga mo faamaumauga (reg 19)
- Faamatalaina o nakoti (reg 20)
- Poloaiga mo nakoti (reg 21)
- Faamatalaga ma poloaiga e tusia poo se tusi faamaonia, talia ai le tuuina atu ma le faatumauina (reg 22)
- Faamatalaga poo poloaiga sese (reg 23)
- Tapulaa mo le tuuina atu, ma isi. o nakoti (reg 24)

- 2.5. O se suesuega faatusatusa na faia mo tulafono o fualaau faasaina a Toga, Niu Sa Uelese ma Niu Sila o loo atagia mai ai ua fai si tuai o le Tulafono o Nakoti a Samoa ma e le o mafai ona gafatia le tali atu i faafitauli o loo aliae mai mo le faatulafonoina o nakoti, e pei ona manaomia mai i totonu o le faasinomaga (TOR).
- 2.6. O nisi o manatu na maua mai nei suesuega faatusatusa o le utiuti o le faalauteleina o taiala mo le faavasegaina ma le teuteuga o faamatalaga e faasino i vasega e 3 o nakoti faapea ma auala mo le faatulafonoina o laisene mo le feuiaga o nakoti. E faaopoopo atu, o nisi o aiaiga o loo taape solo i totonu o le Tulafono o Nakoti a Samoa e aofia ai malosiaga o sui ofisa eseese ma aiaiga o soligatulafono. O loo iai foi ni faafitauli e faasino i le le gafatia e le Tulafono o Nakoti a Samoa ona tali atu mo se faataitaiga o soligatulafono tau fualaau faasaina fou ma le malosiaga o leoleo ma le ofisa o le tiute mo le faamalosiaga, ina ia mafai ona lelei le tauaveina o a latou matafaioi.³ O le a mafai ona talanoaina i sona tulaga atoa lea tulaga i se vaega mulimuli ane i totonu o lenei Ripoti.

IV. Faafitauli i le Taimi Nei

- 2.7. O faafitauli tau fualaau faasaina ua faatupulaia i le taimi nei ma ua avea ma aafiaga i le atunuu ma le tamaoiga o Samoa.⁴ O faatalatalanoaga ma suesuega amata a le Komisi lea na maua ai nisi o faafitauli ogaoga tau fualaau faasaina lea e aofia ai tulaga ua taua i lalo:

Faafitauli mo le Faamalosi

- Le lelei le mataituina o soligatulafono tau fualaau faasaina ma le toe solitulafono oi latou na solitulafono muamua i soligatulafono tau fualaau faasaina.⁵
- Le lelei fesootaiga i totonu o le atunuu ina ia mafai ai e matagaluega ma ofisa talafeagai ona fesootai ma iloa soligatulafono o fualaau faasaina.⁶
- O le le ripotia e le mamalu o le atunuu o soligatulafono tau fualaau faasaina o loo aliae mai i totonu o falefaigaluega, nuu ma le atunuu.
- Utiuti aoga mo le faafoeina lelei o mataupu tau fualaau faasaina.
- Utiuti punaoa e fesoasoani ai i matagaluega ma ofisa talafeagai mo le sueina ma le mataituina.⁷

³ For example, offences relating to theft of drugs and enforcement powers such as controlled delivery and covert monitoring.

⁴ These include among others health issues, the rise of criminal offending and the increasing cost of intervention methods e.g. law enforcement, courts and corrections.

⁵ United Nations Office on Drugs and Crime Southeast Asia and the Pacific, 'Transnational Organized Crime in the Pacific A threat Assessment', *United Nations Office on Drugs and Crime* (September 2016) <https://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/2016.09.16_TOCTA_Pacific_web.pdf>.

⁶ United Nations Office on Drugs and Crime Southeast Asia and the Pacific, 'Transnational Organized Crime in the Pacific A threat Assessment', *United Nations Office on Drugs and Crime* (September 2016) <https://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/2016.09.16_TOCTA_Pacific_web.pdf>.

⁷ Preliminary Consultation with Samoa's Prisons and Corrections Service (Prisons and Correction Service Office – Tafaigata, Samoa, 14 June 2016); Email from the Ministry of Police to the Samoa Law Reform Commission (preliminary consultations), 17 January 2017. See also United Nations Office on Drugs and Crime, *Transnational Organized Crime in the Pacific: A Threat Assessment* (September 2016) UNODC <https://www.unodc.org/documents/southeastasiaandpacific/Publications/2016/2016.09.16_TOCTA_Pacific_web.pdf>.

Soligatulafono ma Faasalaga

- Faatupulaia le numera o tupulaga talavou (lalo ifo o le 16 tausaga) ua umiaina mariuana/
- E le lava faasalaga o loo iai nei e mataitu ai soligatulafono ma faaitiitia ai le toe solitulafono oi latou na solitulafono muamua.
- Le lava itu mo le filifiliga o faasalaga o le toefuataiga ma isi auala aemaise lava i soligatulafono maualalo/mama.

Toefuataiga ma Puipuiga

- E le lava tagata e iai le potu ma le agavaa e nafa ma i latou ua faia lea amio, e aofia ai tagata suesue faapitoa e galulue faatasi ma Matagaluega talafeagai.⁸
- E leaga meatotino o loo faaaogaina mo le gafataulimaina oi latou ua solitulafono faapea ma nofoaga mo le taofia oi latou nei (falepuipui).⁹
- E le o lelei alafua mo le toefuataiga e fesoasoani ai i le au solitulafono.

Faaaogaina o fualaau faasaina mo togafitiga

- E le o lelei le faamalamalamaga o taiala mo le talosagaina o le faaaogaina o fualaau faasaina mo togafitiga ma se faataatiaga mo le faatulafonoina lelei o le faaaogaina o nei fualaau/vailaau.

O fualaau faasaina ma vailaau fou e leo lisiina

- Fualaau faasaina fou e pei o fualaau faasaina ua faaopoopoina ai nisi vailaau oona (party pills ma synthetic drugs) e le o iai i le tulafono o loo iai nei.
- O le faaaogaina o laau toto o loo iai nei ma vailaau e tutusa le aafiaga ma fualaau faasaina e pei o le logo, pulouaitu ma le ava.

Matafaioi a matagaluega ma ofisa talafeagai ma le atunuu

- E le o lava polokalame faalauiloa a matagaluega ma ofisa talafeagai e logoina ai le mamalu o le atunuu i le ogaoga o aafiaga o le faaaogaina o fualaau faasaina.
- E le o galulue soosoo tauau faatasi matagaluega talafeagai ma nuu i le soalaupuleina o faafitauli e aliae mai i fualaau faasaina.
- Leai se faatinoga o matafaioi a aiga ma ekalesia i le fautuaina ma le faalauiloaina o aafiaga o fualaau faasaina i tupulaga talavou.

Tulafono Faatonutonu

- O tulafono faatonutonu o loo i totonu o le Tulafono Faatonutonu o Nakoti a Samoa ua fai si tuai ma e manaomia le toe teuteu ina ia ta aofai atu ai suiga fou e pei o tulafono faatonutonu mo le faasaina, faatulafonoina poo le faatapulaaina o faasalalaga mo vailaau faatonuina.¹⁰

⁸ Preliminary Consultation with Mental Health Unit (Ministry of Health Complex, Moto'otua, Samoa, 27 May 2016); Preliminary Consultation with Moana Mata'utia Solomona, Clinician of the Alcohol and Drugs Court (Samoa) (Ministry of Justice and Courts Administration Building, Sogi, Samoa, 24 October 2016).

⁹ Preliminary Consultation with Samoa's Prisons and Corrections Service (Prisons and Correction Service Office – Tafaigata, Samoa, 14 June 2016).

¹⁰ *Misuse of Drugs Act 1975* (New Zealand) s 37(1) (o); See also *Misuse of Drugs Regulation 1977* (New Zealand) s 50.

MANATU NA TUUINA MAI

- 2.8. Na sailia e le Komisi ni manatu mai le atunuu lautele e faasino i aafiaga o nakoti poo fualaau faasaina i totonu o Samoa. O le manulauti o lenei ripoti, o aafiaga na laga mai manatu na tuuina mai ua vaevaeina i aafiaga i le lotoifale ma aafiaga tau tamaoaiga.
- 2.9. O aafiaga i le lotoifale e faasino i faafitauli o loo aafia ai aiga, nuu ma le atunuu atoa. O faafitauli sa mafai ona laga e aofia ai sauaga i totonu o aiga lea e aafia ai tama poo tane oi latou o ulu o aiga, o loo faaaogaina fualaau faasaina ma ua ave ma tulaga ua oo ai sauaga i a latou ava ma fanau a'o loo aafia i le taumafaina o fualaau faasaina.¹¹ I lea mafuaaga o le a malepelepe ai aiga ma le vevesi ai nuu ma afioaga. O le ta'uleleia o aiga o le a faaleagaina ona o le faaaogaina e le tupulaga talavou ma matua o fualaau faasaina.¹² E iai foi mataupu ua faapea ona faaaogaina ai e matua a latou fanau e faatauina nei fualaau faasaina.¹³ Ua fai ma masani nei ituaiga soligatulafono e patino lava i totonu o nuu.¹⁴ E iai foi faafitauli tau le soifua maloloina e mafua mai i le soona faaoga o fualaau faasaina e pei o le gasegase o le mafaufau.¹⁵
- 2.10. O aafiaga tau le tamaoaiga na laga e aofia ai le faatauina atu o meatotino a aiga ona ua le mafai ona taofia le manao i fualaau faasaina.¹⁶ O le soona faaaogaina o fualaau faasaina ua afua ai manu'a ma maimau ai soifua ma ua faaopoopo atu i galuega a le ofisa o le soifua maloloina mo togafitiga oi latou ua manunu'a.¹⁷ O le soona faaaogaina faasolitulafono foi o fualaau faasaina ua matua'i aafia ai lava aiga e utiuti le tamaoaiga ona o loo faalagolago i le faatauina atu o nei fualaau faasaina e ola ai.¹⁸ E tigaina aiga oi latou ua solitulafono i fualaau faasaina e totogi faasalaga i le nuu poo le tigaina i le falelauasiga oi latou nei pe a fai e maliliu.¹⁹ Ua tuu atu foi se galuega faaopoopo i le Malo e tuuina atu auaunaga e pei o le toefuataiga mo nei tagata solitulafono.²⁰ O le tele foi o le taimi ma punaoa a le Faamasinoga ua alu i mataupu tau fualaau.²¹

¹¹ Public Consultations with Alii ma Faipule, Tina ma Tamaitai and Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹² Public Consultations with Alii ma Faipule and Tina ma Tamaitai (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹³ Public Consultations with Youths (Savaii, 28-29 September 2017).

¹⁴ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹⁵ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹⁶ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹⁷ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹⁸ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

¹⁹ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

²⁰ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

²¹ Public Consultations with Tina ma Tamaitai (Upolu and Savaii, 25-26 and 28-29 September 2017).

- 2.11. Ua tuuina atu i lalo nisi o mafuaaga o aafiaga i le lotoifale ma le tamaoaiga:²²
- Le faamaoni matagaluega ma ofisa o le Malo
 - Le lava faasalaga e taofia ai soligatulafono ma le toe solitulafono oi latou na solitulafono muamua
 - Le lava puna'oa (meatotino e faaoga e sailia ai fualaau faasaina)
 - Le lava le faasoa i tupe maua ma utiuti avanoa e maua (le lava avanoa faigaluega, maualuga le tau o le soifuaga)²³
 - Tele faaosooga mai isi tagata (ua mafai ai e tupulaga talavou ona auai i faatinoga ma aafia ai i fualaa faasaina)
 - Le lelei le ola tuputupua'e i totonu o aiga ma leai se taimi ma le aiga
 - O le mafai ona maua ma le ola faanofonofa faatasi ai ma se mafuaaga e tau tuu itiitia ai le tele o le popolevale
 - Faalumaina (oi latou ua faasaolotoina ua latou manatu ua le toe taliaina e o latou aiga ma ua afua ai ona toe solitulafono).
- 2.12. O manatu na tuuina mai i le mamalu lautele o le atunuu o loo atagia mai ai le ogaoga ma le maualuga o aafiaga o fualaau faasaina, lea e aafia ai le lotoifale ma le tamaoaiga o Samoa.
- 2.13. E faaopoopo atu, na sailia foi e le Komisi manatu ma finagalo mai Matagaluega a le Malo pe faamata o le Tulafono o Nakoti a Samoa o loo gafatia le tali atu i faaifitauli tau le lotoifale ma le tamaoaiga o Samoa. O le toatele lava na faaalua manatu ua faapea mai ua tuai le Tulafono o Nakoti a Samoa ma ua manaomia le toe teuteu, poo le toe teuteu atoa o le tulafono.²⁴ O faatalatalanoaga ma Faamasino o le Faamasinoga na atagia mai ai o loo mulimulitaia e le Tulafono o Nakoti a Samoa le tulafono tuai o le *Faaoga Sese o Fualaau Faasaina 1965* lea na toe teuteu ma sui tulaga i le *Tulafono o le Faaogaina Sese o Fualaau Faasaina 1975*. Ae peitai, e lei faia lava ni teuteuga i le tulafono a Samoa. I lea tulaga, na faaalua ai e se tasi o loia i le taimi o Aoaoga Faaauau a le Komiti Faa-loia (Conitnuing Legal

²² Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Consultations with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017); Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (Upolu and Savaii, 25-26 and 28-29 September 2017).

²³ Most people who have been referred to the Alcohol and Drugs Court are addicted to drugs because of family break downs and others say it is easy for them to earn money if they sell it.

²⁴ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Ministry of Health, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Consultations with the Samoa Victim Support Group (Samoa Victim Support Group Headquarters, Apia, 14 September 2017); Consultations with the Ministry of Women, Community and Social Development (Ministry of Women, Community and Social Development Main Office, Savalalo, 9 August 2017); Ministry of Education, Sports and Culture, Written submissions to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

Education Committee), e le o gafatia e le tulafono o loo iai nei ona tali atu i faafitauli tau mariuana i totonu o Samoa. E le gafatia foi le tali atu i le faatupulaia o faafitauli tau aisa.²⁵

- 2.14. Na faamauina e faapea, o le iloiloga o le tulafono o fualaau faasaina o loo faatautaia e le Komisi ua fetau lelei i le taimi lenei ina ia faamautinoa ai o loo faafouina le tulaga o tulafono mo fualaau faasaina a Samoa ina ia o gatasi ma faafitauli o loo iai nei.²⁶ O lenei ituaiga iloiloga o le a faamautinoa ai o loo mafai e le tulafono ona faatino ma ua talafeagai lelei ma manaoga o Samoa i le taimi nei.²⁷

MANATU O LE KOMISI

- 2.15. O le siosiomaga o fualaau faasaina a Samoa e fai si tele o le eseese ma le tulaga na iai i le tausaga 1967. Na pasia ina ia talafeagai lelei ma le tulaga na iai i lena vaitaimi. Ua 50 tausaga le matua o le Tulafono o Nakoti a Samoa. E na o le faa-lua lava ona faia iai teuteuga. O isi atunuu e pei o Niu Sila ma Niu Sa Uelese e tele a latou tulafono mo le faatulafonoina o fualaau faasaina ua pasia ina ia talafeagai ma suiga faaonaponei. O manatu o le atunuu lautele na atagia mai ai le ogaoga o mafuaaga o faafitauli tau le lotoifale ma le tamaoaiga ua aafia ai tagatanuu o Samoa. Na faamauina e le Komisi o mafuaaga o faafitauli tau le lotoifale ma le tamaoaiga e afua mai i le lava o le faamalosiga mai pulega talafeagai ona o le lava o puna'oa ma le malosiaga, o faatinoga le faamaoni a nei pulega, mativa, utiuti avanoa faigaluega ma le lava o faasalaga e faasala ai i latou ua solitulafono i fualaau faasaina.
- 2.16. Ua lagolagoina e le Komisi le tele o manatu na tuuina mai o le Tulafono o Nakoti a Samoa ua tuai ma e le o gafatia le tali atu i faafitauli o loo aliae mai i le taimi nei i totonu o Samoa. I lea la tulaga, ina ia faamalieina manaoga o le faasinomaga, ua manatu le Komisi e tatau ona toe teuteu atoa le Tulafono o Nakoti a Samoa ma sui tulaga i se tulafono fou ina ia talafeagai lelei ma manaoga o Samoa i le taimi nei (**Tulafono fou o Nakoti**).

FAUTUAGA 2: Ina ia faamalieina le faasinomaga na tuuina mai, e tatau ona toe teuteu atoa le Tulafono o Nakoti a Samoa ma ia sui tulaga i se tulafono fou ina ia talafeagai ma manaoga o Samoa i le taimi nei.

V. Fuainumera Faamauina

- 2.17. E tusa ai o faamaumauga na tuuina mai e le Matagaluega a Leoleo, o le mariuana o le laau faasaina lea ua soona faaoga sese i totonu o Samoa.²⁸

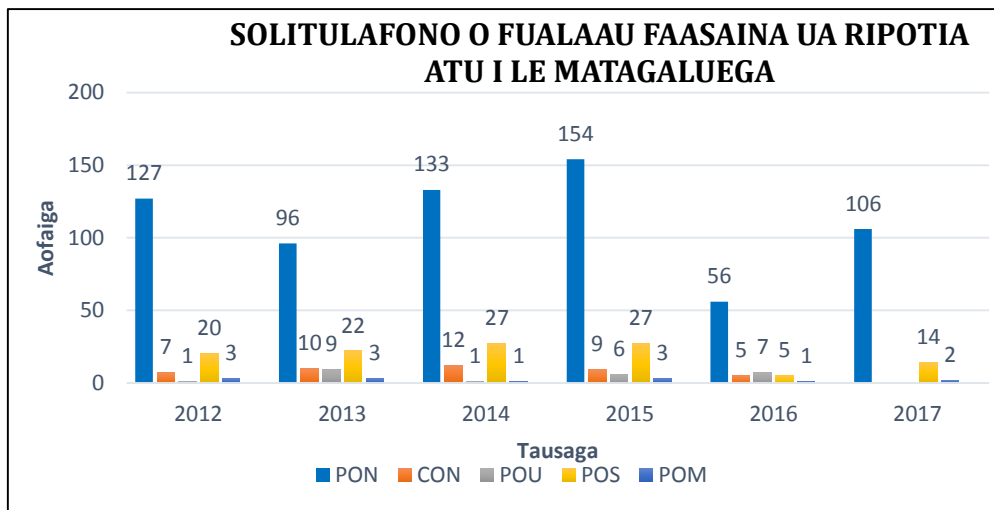
²⁵ Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot on Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

²⁶ Consultation with members of the Judiciary (Judges Chambers, Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Consultations with the Samoa Victim Support Group (Samoa Victim Support Group Headquarters, Apia, 14 September 2017).

²⁷ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁸ Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* Issues Paper No 23, 46-49.

Kalafi 1



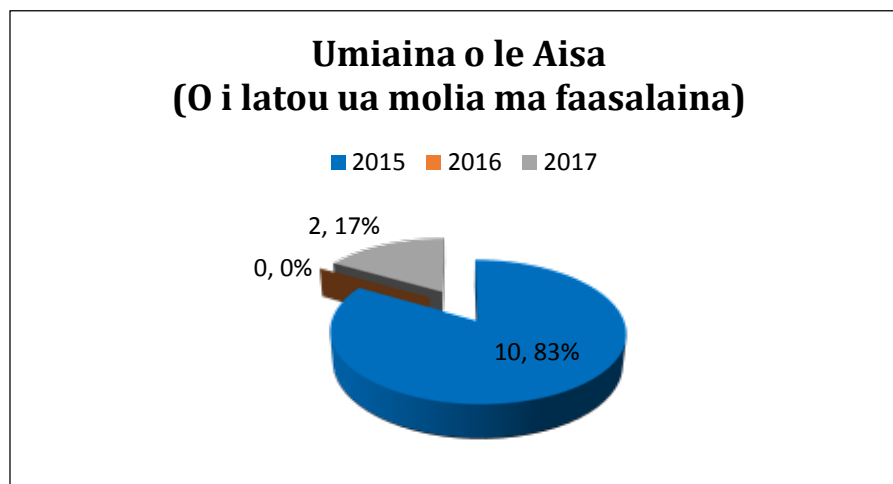
Faamaumaga na Auina mai: Matagaluega a Leoleo (Setema, 2017)

- 2.18. O le Kalafi 1 e pei ona tuuina atu i luga o loo faamauina atu ai le maualuga o mataupu na ripotia e aofia ai nakoti na faamauina i le 2012, 2014 ma le 2015. O le soligatulafono taatele o le umia o nakoti (marijuana) (**PON**). Na faamauina ai i le taimi o faatalatalanoaga amata ma le Matagaluega a Leoleo o le tele lava o nei mataupu o le umia o marijuana e faasino tonu lea i le umia o se vaega itiiti o marijuana (umia o se vaega itiiti).²⁹
- 2.19. O le lona lua o soligatulafono taatele o le umia lea o fatu (**POS**) mulimuli ane ai ma le galueaina o nakoti (marijuana) (**CON**). O le umia o meafaitino (**POU**) ma le umia o le aisa (**POM**) e le o se soligatulafono taatele.³⁰ E ui lava o fuainumera faamauina, na atagia mai i faatalatalanoaga a le Komisi ma le Matagaluega a Leoleo i le tausaga 2016, e iai mataupu e o loo aofia ai le aisa i totonu o Samoa e le o mafai ona ripotia. E afua mai lea tulaga ona o le le lava o puna'oa, meafaitino ma aoaoga mo matagaluega ma ofisa ua fitoitonu mo le faamalositia o le tulafono i totonu o Samoa e sailia ma faasalaina ai i latou ua aafia i mataupu tau aisa i totonu o Samoa.

²⁹ Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* Issues Paper No 23, 46-49.

³⁰ Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* Issues Paper No 23, 46-49.

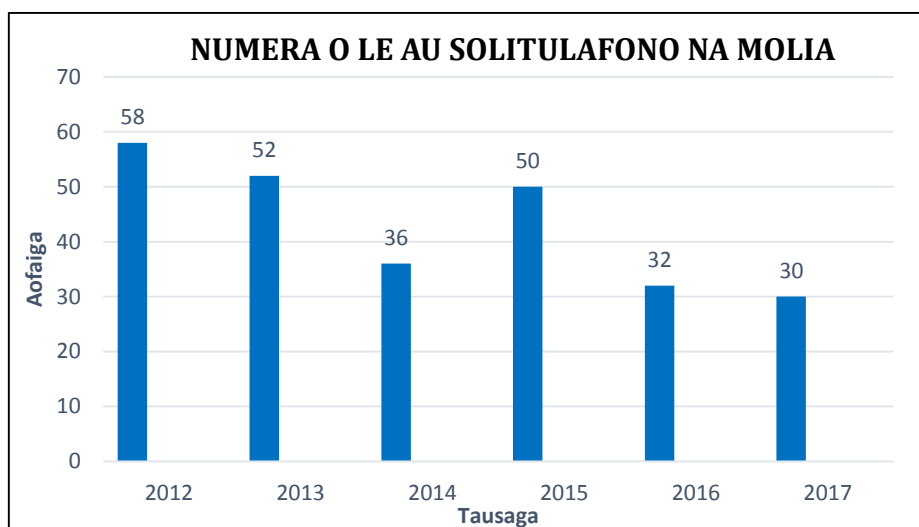
Kalafi 2



Faamaumauga na Auina mai: Matagaluega a le Faamasinoga ma le Faafoega o Mataupu tau Faamasinoga (Setema, 2017)

- 2.20. E tusa ai o le POM, na faaalai mai ai e le Matagaluega a le Faamasinoga o nei mataupu tau soligatulafono na molia ma faasalaina na maualuga i le tausaga 2015 pe a faatusa atu i le pa'u maualalo o pasene i le tausaga 2017 (tagai *Kalafi 3* ua tuuina atu i lalo). I nei mataupu na faamauina i le 2015, 2016 ma le 2017, o le toatele lava oi latou na molia ma faasalaina mo le POM o alii (97) ma le numera maualalo o tamaitai (3).

Kalafi 3

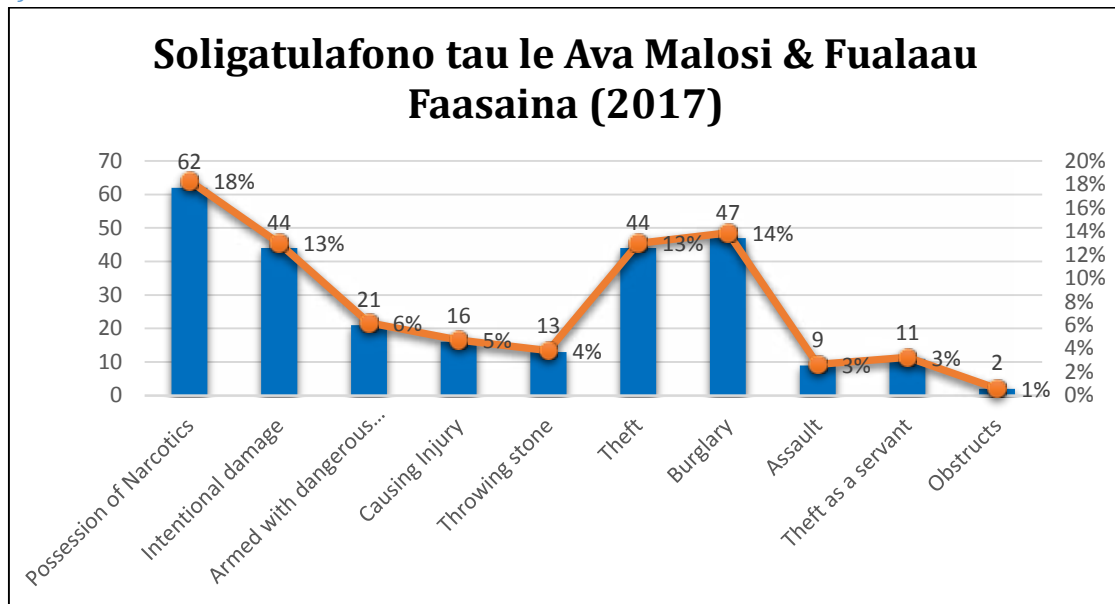


Faamaumauga na Auina mai: Matagaluega a Leoleo (Setema, 2017)

- 2.21. O le *Kalafi 3* ua tuuina atu i luga o loo atagia mai ai le numera o i latou na molia i soligatulafono tau fualaau faasaina. O loo atagia mai ai o le tausaga 2012 na maualuga ai le numera oi latou na molia (58). Sa pa'u lea numera i le tausaga 2014 (36) ma toe siitia maualuga ai foi i le 2015 (50). Na toe pa'u maualalo ai foi i tausaga na mulimuli ane, 2016 ma le 2017. E taua le faamau o loo atagia ai o le numera o i latou na molia i soligatulafono tau fualaau faasaina o loo maualalo pe a faatusa atu i le numera o mataupu na ripotia ona o se tagata solitulafono se toatasi e faaono mafai ona molia i ni soligatulafono se 2 poo le sili atu foi.

2.22. E faaopoopo atu, na faamauina i faatalatalanoaga amata ma le Matagaluega a Leoleo o le toatele lava o nei tagata solitulafono o alii ae toa itiiti lava tamaitai aemaise lava i le tausaga 2012 ma le 2013.

Kalafi 4



Faamaumauga: Matagaluega a le Faamasinoga ma le Faafoga o Mataupu tau Faamasinoga (Setema, 2017)

2.23. E iai mataupu e tuuina atu i luma o le faamasinoga e molia ma faasalaina ai tagata ona o loo aafia i soligatulafono o fualaaui faasaina ma/poo le ava malosi. O le ava malosi ma/poo fualaaui faasaina o nisi nei o mafuaaga o le maualuga o le numera o soligatulafono i le tausaga 2017 e pei ona atagia atu i le *Kalafi 4* ua tuuina atu i luga. O le ava malosi ma/poo fualaaui faasaina o nisi nei o mafuaaga o le tele o isi mataupu e ese mai ai e tuuina atu i le faamasinoga lea e aafia ai le faamoemoe e faaleagaina (13%), gaosi (13%) ma le ulufale faamalosi e aunoa ma se faatagana (14%). O le ava malosi ma/poo fualaaui faasaina o nisi nei o mafuaaga o isi soligatulafono e ese mai ai e pei o le faaauegaina i a'upega malosi, ua faao'oi ai le manu'a i isi poo le faao'olima. Ae peitai, e le o manino mai i le kalafi po o le a le pasene o soligatulafono uma ua tuuina atu e patino tonu e na o faafitauli na afua mai i fualaaui faasaina. O se tasi nei o lu'itau faaauau o le taumafai lea e ao ao mai faamaumauga, e pei ona faaalua e le Matagaluega a le Faamasinoga talu ai ona e le lava le taimi o tagata faigaluega mo le aoina o faamaumauga faapea le le lava o puna'oa i totonu o le Matagaluega.

- 2.24. Mo sona aotelega, e faai'u atu e tusa ai o fuainumuera faamauina ua tuuina atu i luga:
- E maualuga le numera o mataupu tau fualaaui faasaina na ripotia atu i le Matagaluega a Leoleo i le 2012, 2014 ma le 2015.
 - E maualuga le numera o le soligatulafono o le umia o mariuana na ripotia atu soso'o ai ma le galueaina faasolitulafono o laau toto faasaina.
 - O le umiaina o le aisa e sea sea alia'e mai ae peitai o loo faamauina pea lona faatupula'ia.
 - O le 93% oi latou na molia i le umia o le aisa o alii ma tamaitai e na o le 3%.

- I tausaga talu ai 2015-2016 o le toatele lava o le au solitulafono i fualaau faasaina o alii ma e toaititi lava le numera o tamaitai.
- I le 2017, o nisi o mataupu e aofia ai le gaoi ma le faao’o lima e afua mai ona o le tagofia o fualaau faasaina poo le ava malosi.

2.25. Ua tuuina atu i lalo nisi o faafitauli faaopoopo na laga e le Matagaluega a Leoleo ma le Matagaluega a le Faamasinoga i faatalatalanoaga e faatatau i fuainumera faamauina ua tuuina atu i luga:

a) Faamaumauga e lei tuufaatasia

2.26. E ui lava o loo vaevae atu fuainumera faamauina i le ituaiga tagata (gender) ma tausaga, e le o mafai ona atagia mai ai tulaga e pei:

- tuufaatasiga o le matua (age groups) (e ui lava na faaalua mai e le Matagaluega a Leoleo ma isi o le toatele lava o le au solitulafono o tupulaga ft. e i le va o le 16 – 35 tausaga le matutua).
- pe faamata o le numera ua tuuina mai e aofia ai ma i latou e le atoatoa le malosi o le tino poo i latou e le atoatoa le malosi o le mafaufau (e ui lava na faamauina e le Vaega a le Mental Health Unit o i latou ua tuuina atu i le latou ofisa ona o faafitauli tau i le mafaufau sa molia muamua i soligatulafono tau fualaau faasaina).
- o se vaega o le atunuu lea e atagia mai o le toatele o le au solitulafono o loo nonofo i nofoaga o loo taatele ai soligatulafono tau fualaau faasaina (e ui lava sa laga i faatalatalanoaga o le toatele o i latou e solitulafono i fualaau faasaina aemaise lava le umia ma le auina atu e alia’e mai i nofoaga tu i le taulaga, ao le galueaina faasolitulafono o laau toto faasaina e taatele i nuu i tua³¹).
- tulaga tau aooaaga ma le tamaoaiga o le au solitulafono (e ui lava ina faamauina o i latou e tele le tamaoaiga e molia i soligatulafono e aofia ai fualaau faasaina malolosi e pei o le aisa, ao latou e laitiiti le tamaoaiga e solitulafono i soligatulafono mauualuga aemaise lava le mariuana³²).
- o le numera o isi mataupu tau soligatulafono na afua mai i fualaau faasaina. E le o manino mai se pasene o mataupu tau soligatulafono na afua mai i le tagofia o fualaau faasaina.

e) Faamaumauga/faamatalaga le talitonuina

2.27. E le o gatasi fuainumera faamauina sa tuuina mai i le Matagaluega a Leoleo ma le Matagaluega a le Faamasinoga. E tataua ona faamauina e faapea o le mafuaaga o le le o gatasi o nei faamaumauga e aofia ai:

- o nisi o le au solitulafono i fualaau faasaina e eseese ituaiga soligatulafono o fualaau faasaina na molia ai: ft. e toatasi le tagata solitulafono ae sa molia ma faasalaina ona ua aafia faa-lua pe sili atu foi i se soligatulafono. I lea tulaga o lona uiga e mauualuga le numera o soligatulafono pe a faatusatusa atu i le numera oi latou na solitulafono sa faamauina.

³¹ Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot Seminar on the Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

³² Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot Seminar on the Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

- o nisi oi latou na solitulafono i fualaau faasaina sa molia ae peitai sa le i mafai ona faasalaina ona e le lava faamaoniga na tuuina atu poo latou te lei ioeina foi a latou moliaga i le taimi na tulai muamua ai. I lea tulaga o lona uiga e maualuga se numera oi latou na molia ae toaitiiti sa faasalaina.
- e le lelei le faasoaina o faamaumauga ma faamatalaga i le va o le Matagaluega a Leoleo ma le Faamasinoga i le taimi e tuuina atu ai ni mataupu i le faamasinoga mo taualumaga.

i) Utiuti puna'oa/taimi o tagata faigaluega

- 2.28. Na laga mai e le Matagaluega a le Faamasinoga ma le Matagaluega a Leoleo, o le utiuti o le taimi o tagata faigaluega ma puna'oa (e pei o le iai o se faavaa e faamaumau ma pulea lelei ai faamaumauga) ua avea ma mafuaaga o le le o gatasi o faamaumauga ma le lelei ai le tuufaatasiga o faamaumauga. Ae peitai, na ta'ua e le Matagaluega a Leoleo i le taimi o faatalatalanoaga amata, o lea ua iai la latou faavaa fou ua mafai ona faatino ma galueaina ina ia faamautinoa ai o loo sa'o faamaumauga ua faamauina, ma le faamoemoe o le a mafai ona tali atu ai i faafitauli e faasino i le aoina ma le puleaina o faamaumauga.

MANATU NA TUUINA MAI

Na sailia e le Komisi manatu ma finagalo i le gaosiaina o le aisa i totonu o Samoa ma pe faapefea e Samoa (Matagaluega a Leoleo ma le Faamasinoga) ona atia'e le tulaga o loo iai nei le aoina o faamatalaga e faasino i fualaau faasaina.

O faamaoniga faaopoopo o le iai o le aisa i totonu o Samoa

- 2.29. E ui lava o le mariuana o se soligatulafono ua atagia lona taatele ona o le soona faaoga faaletatau e tagata i totonu o Samoa, ua vaaia foi ma matauina le siitia o le taatele o le aisa i se vaega patino o le atunuu.³³ I se tasi o finagalo na faaalua, o lenei vaega patino o loo latou umia ma faaogaina le aisa ona o fiafiaga.³⁴ O nisi o osofaiga a le Matagaluega a Leoleo talu ai nei na maua ai aisa. E tusa ai ma faatinoga a le Matagaluega a Leoleo na latou faaalua ai, a maua mariuana e iai foi ma le aisa faatasi ai ma isi fualaau faasaina ma laau malosi.³⁵
- 2.30. E faaopoopo atu, o nisi o finagalo na tuuina mai na latou logoina le Komisi e iai fale gaosi vailaau ma meafaitino ua i totonu o Samoa lea e faaoga e gaosi ai le aisa.³⁶ Ae ui lava i lea tulaga, o le aisa o loo auina mai i atunuu e aofia ai Amerika Samoa, Amerika ma Niu Sila.³⁷
- 2.31. E iai popolega na laga e le atunuu ona o le avea o Samoa ma se auala e malolo mai ai le feaveaiga o le aisa. Ae peitai, talu ai ona o le vaivai o le talā Samoa, e iai le faamoemoe e le

³³ Refer to the Terms of Reference.

³⁴ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalalua, 29 August 2017).

³⁵ Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

³⁶ Consultation with Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalalua, 29 August 2017); Consultation with the Ministry of Police (Ministry of Police Main Office, Apia, 28 August 2017).

³⁷ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalalua, 29 August 2017).

o se faafitauli le iai o se maketi mo le aisa i totonu o Samoa i le taimi nei, ma e le faapea o se alofaga lea mo Samoa e oo mai le faavavau.³⁸

Tulaga mo le atinaega o le aoina o faamatalaga/faamaumauga

2.32. Ina ia mafai ona atia'e le tulaga o loo iai nei le aoina o faamatalaga/faamaumauga e faasino i le faaaogaina ma aafiaga o fualaa faasaina i totonu o Samoa, na laga e nisi o matagaluega ma ofisa nisi o alafua e pei ona ta'ua i lalo:

a) Galulue soosoo tau'au matagaluega/ofisa talafeagai

2.33. O Matagaluega talafeagai ma i latou uma ua fitoitonu iai lea matafaioi e taua le iai o sa latou naunautaiga autasi i le faamalosi o faatinoga ua iai nei i le aoina o faamatalaga ma faamaumauga e faasino i soligatulafono o fualaa faasaina. E aofia ai le Matagaluega o le Soifua Maloloina, Matagaluega a Leoleo, Auaunaga tau le Falepuipui ma le Toefuataiga, Matagaluega a le Faamasinoga, ma Faalapotopotoga Tuma'oti, oi latou nei o loo tuuina atu auaunaga mo i latou o loo aafia i nei faiga (victims) faapea ma i latou o loo tagofia fualaa faasaina.³⁹ O le sao foi o le atunuu lautele e iai ekalesia, aiga ma le Fono a nuu i le ripotia na faamauina lona taua ona e fesoasoani i le atinaeina o le aoina o faamatalaga ma faamaumauga i totonu o Samoa.⁴⁰

2.34. O nisi o paaga masani a le Komisi na laga se manaoga o le faamalosi o le galulue faatasi ma Amerika Samoa ona talu ai nei sa faavae ma faatu ai la latou Transnational Crime Unit (TCU). I lea tulaga o le a fesoasoani i le aoina o faamatalaga ma faamaumauga o faatinoga faasolitulafono o le faaaogaina o fualaa faasaina e pei o le felauaiga ma le faaulufale faanana pe afai e aliae mai i le va o Samoa nei e lua faapea le Pasefika atoa.⁴¹ O faiga paaga faifaipea foi a le Matagaluega o Leoleo ma Ofisa o Leoleo a Ausetalia ma Niu Sila o le a fesoasoani i le tau atinaega o faatinoga o loo iai nei, ma o le a maua ai foi faamatalaga i taimi uma e manaomia ai.⁴²

e) Faavae Mautu o Faamaumauga

2.35. O nisi foi o matagaluega talafeagai e manaomia le iai o faatinoga mautu mo le aoina o faamatalaga i faafitauli ma le faaaogaina le tatau o fualaa faasaina.⁴³ O le a fesoasoani lea

³⁸ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalua, 29 August 2017).

³⁹ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalua, 29 August 2017).

⁴⁰ Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁴¹ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalua, 29 August 2017).

⁴² Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁴³ Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FMFM II Building, Matagalua, Samoa, 29 August 2017).

tulaga i ai latou o loo tusia tulafono ma faiga faavae ona ua iai faamatalaga ma fuainumera faamauina ua talitonuina lona atoatoa.⁴⁴

2.36. Ae peitai, e taua tele le faamauina o le taimi nei ua iai se faatinoga fou mo le pulea o Mataupu (Case management system) a le Matagaluega a Leoleo lea e mafai ai ona tulituli, mo se faataitaiga, pe faamata o le ava malosi ma/poo fualaau faasaina o loo masalomia o loo aofia i se soliga o se tulafono ma e mafai ai foi ona maua ai le igoa o se fualaau faasaina.⁴⁵ I le taimi nei o loo galulue foi le Matagaluega a le Faamasinoga mo se faatinoga mautu aua le aoina o faamatalaga ma faamaumauga o soligatulafono o loo tuuina atu i totonu ma faasee atu i fafo ma le faamasinoga. O le manatu o le Matagaluega, o le fausia lea o se faavaa e faafaigofie ai ona sailia soligatulafono o loo aofia ai ma le tagofia o le ava malosi ma/poo fualaau faasaina.⁴⁶ I lea tulaga, o le a mafai ai e nei Matagaluega e lua ona logoina le mamalu o le atunuu i aafiaga o fualaau faasaina i totonu o Samoa.

i) Aiaiga o faamaumauga patino i totonu o le tulafono

2.37. Ina ia matuai faamalosi ma fesoasoani i matagaluega mo le aoina ma le tuufatasiga o faamaumauga, o nisi na laga pe faamata e iai ni aiaiga i tulafono mo lea tulaga.⁴⁷ I lea tulaga, na laga ai e faapea e tatau i le tulafono fou ona iai ni aiaiga mo ituaiga faamatalaga e faamauina, ma le tagata tonu e patino iai lea matafaioi o le faamauina o faamatalaga.⁴⁸

o) Komiti mo Faamatalaga ma fuainumera faamauina

2.38. O le faamoemoe mo le faavaeina o se Komiti mo Faamatalaga ma fuainumera faamauina o se tasi lenei o auala e faamalosi ai le tulaga o loo iai nei mo le aoina o faamatalaga e faasino i mataupu tau fualaau faasaina.⁴⁹

u) Faalauiloa i faafitauli tau fualaau faasaina ma auala mo le ripotia

2.39. O nisi na tuuina mai manatu na faapea mai, mo le faamautinoaina o loo lava faamaumauga e aoina e faasino i faafitauli tau fualaau faasaina i Samoa, e taua le faatino o faalauiloa o nei faafitauli ma logoina le mamalu lautele o le atunuu i auala e tatau ona faia mo le ripotiga e pei o le logoina o le Matagaluega a Tina ma Tamaitai, Atinae o Nuu ma Afioaga ma Agafesootai ma le Matagaluega a Leoleo.⁵⁰

2.40. I lona aotelega, o le alualu i luma o le galulue soosoo-tauau faatasi oi latou ua fitoitonu iai lenei galuega ma le iai o se faavaa mautu mo faamaumauga ma/poo aiaiga patino i le

⁴⁴ Consultation with Samoa Victim Support Group (Samoa Victim Support Group Headquarters, Apia, 14 September 2017).

⁴⁵ Consultation with the Ministry of Police, (Ministry of Police Main Building, Apia, 28 August 2017).

⁴⁶ Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

⁴⁷ Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

⁴⁸ Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarter, Moto'otua, 5 September 2017).

⁴⁹ Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarter, Moto'otua, 5 September 2017).

⁵⁰ Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017); Consultation with the Ministry of Education, Sports and Culture (Ministry of Education, Sports and Culture Headquarters, Malifa, 8 August 2017);

tulafono, o le a fesoasoani lea i le ripotia, su'eina o mafuaaga ma faafitauli faapea le fesoasoani atu iai latou o loo aafia i fualaau faasaina.⁵¹ Ae peitai, o loo manino lava o se luitau faaaauu pea le aoina ma le faamauina o faamatalaga.⁵²

MANATU O LE KOMISI

- 2.41. I faamaumauga ma fuainumera faamauina na tuuina mai ua atagia ai o le mariuana o se fualaau faasaina e faatumauiina pea lona taatele i totonu o Samoa. O le aisa o loo faatuputupulaia pea le aliae mai i nisi o vaega o le atunuu, ma ua avea lea ma se popolega tele mo Samoa. E ui lava o le iai o fuainumera faamauina e pei ona talanoaina i luga, e faaaauu pea le aliae mai o faafitauli mo le tuufaatasiga ma le puleaina o faamaumauga poo fuainumera faamauina i totonu o matagaluega e pei o le Matagaluega a le Faamasinoga ma le Matagaluega a Leoleo. Ua faamauina e le Komisi o nei Matagaluega e tutusa lava luitau o loo latou faatinoina i le aoina o faamaumauga. O le le lava o taimi o tagata faigaluega ma le utiuti o punaoa ua afua ai ona le o gatasi, le talitonuina ma le lelei le aoina o faamatalaga. O se tasi lenei o popolega tele mo Samoa aemaise lava pe a toe iloilo tulafono ona e manaomia ai fuainumera faamauina ma faamatalaga talitonuina. O le iai o nei fuainumera faamauina o le a fesoasoni lea i le tusia o faiga faavae ma tulafono o loo faamoemoe le Malo e fausia ma faatinoina.
- 2.42. Ina ia mafai ona maua se malamalamaga loloto i faafitauli e aliae mai i fualaau faasaina ma le su'eina o ni auala mo le tali atu i nei faafitauli, ua manatu le Komisi e tatua ona iai se naunautauga autasi a Matagaluega ua fitoitonu iai lea matafaioi mo se faatinoga mautu mo le aoina o faamatalaga. E aofia ai le faatuina o se faavaa mautu mo faamaumauga ma le tuuina iai i totonu o faamatalaga mai lea taimi i lea taimi, ma le iai o tagata e fitoitonu mo lea galuega aemaise o puna'oa e faaaogaina. O galuega faaaauu pea a le Matagaluega a Leoleo ma le Faamasinoga i le faatuina o faatinoga mo le puleaina o faamaumauga e pei o le Auafamau lea na atagia mai i faatalatalanoaga, ua lagolagoina e le Komisi ina ia faamautinoa ai o loo aoina ma tuufaatasia nei faamaumauga e fesoasoani i le faamalosi ma le toe iloiloga o tulafono. Ua manatu le Komisi e tataua ona iai ni punaoa ma se vaega tupe e faagaga mo nei Matagaluega ina ia faamautinoa ai le faatinoga i sona tulaga atoa le aoina ma le sueina o soligatulafono.
- 2.43. Ua lagolagoina foi e le Komisi se tasi o manatu na tuuina mai e tataua i le tulafono fou o fualaau faasaina ona iai se aiaiga i le avea ai o le aoina o faamatalaga ma faamuamua a matagaluega ma ofisa talafeagai. E le o iai ni aiaiga patino i totonu o tulafono a Niu Sila, Niu Sa Uelese ma Malo Afaatasi e ave le faamuamua i le aoina, sefeina poo le faafou o faamaumauga e faasino i fualaau faasaina. Ae peitai, e iai aiaiga i totonu o tulafono a Malo Afaatasi ma Niu Sila e faaono avea ma taiala mo Samoa. I totonu o Malo Afaatasi, e faaono faia e le Failautusi o le Malo tulafono faatonutonu e iai aiaiga patino e manomia ai le sefeina o faamaumauga ma le tuuina atu o faamatalaga e faasino i vailaau faatonuina pe afai ua aliae mai i lea taimi ma poo se mafuaaga e pei ona iai.⁵³ I Niu Sila, o loo aiaia ai i

⁵¹ Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017).

⁵² Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017).

⁵³ *Misuse of Drugs Act 1971* (United Kingdom) s 10 (2) (c).

lalo o le Tulafono, o le Minisita o le Soifua Maloloina e tatau ona tuuina atu ma faalauiloa ripoti, faamatalaga ma tuuina atu se fautuaga e faatatau i le soona faaoga sese o fualaau faasaina ma le tulaga e oo iai tagata o loo aafia mai le soona faaogaletatau o nei fualaau faasaina.⁵⁴

- 2.44. I lona aotelega, o le iai o se faatinoga mautu mo le faamauina o faamatalaga talitonuina o le a mafai ona fesoasoani tele i le fausia o faiga faavae ma tulafono mo fualaau faasaina. O le a mafai foi ona tali atu i le faatinoga lelei ma le faamalosia o le tulafono.

FAUTUAGA 3: E tatau ona iai se naunautaga autasi a Matagaluega ua fitoitonu iai lea matafaioi ina ia mafai ona iai se faatinoga mautu mo le aoina o faamaumauga. E faafetaia galuega faaaauu pea a le Matagaluega o Leoleo ma le Faamasinoga mo le faatuina o le Auafamau ma e tatau ona faagaga se vaega tupe ma punaoa e lagolagoina le faatinoga o lea galuega. O lea ituaiga faatinoga e pei o le Auafamau o le a mafai ona fesoasoani i le fausia o faiga faavae ma tulafono e faatatau i fualaau faasaina.

FAUTUAGA 4: O soligatulafono tau fualaau faasaina ma soligatulafono ogaoga e tatau ona aoina e sailia ai pe faamata o se tagata solitulafono o loo tagofia fualaau faasaina ma/poo le ava malosia i le taimi o le faatinoga o se soligatulafono. O lea tulaga o le a fesoasoani i le Faamasinoga o Ava Malosi ma Fualaau Faasaina i le naunautaga mo le toefuataiga o olaga o le au solitulafono.

FAUTUAGA 5: E tatau ona iai se aiaiga i totonu o le tulafono fou o fualaau faasaina, i le ave lea o le faamuamua a matagaluega ma ofisa talafeagai i le aoina o faamatalaga. O nei aiaiga e tatau ona maioio mai ai matafaioi a tagata o le a nafa ma le aoina ma le puleaina o faamatalaga. O aiaiga o loo i totonu o tulafono a Malo Afaatasi ma Niu Sila e faaono ave ma taiala mo Samoa.

3. VAEGA 2: MATAUPU AMATA

- 3.1. O lenei Vaega o le a talanoaina ai aiaiga amata o le Tulafono o Nakoti a Samoa, e aafia ai le igoa o loo iai nei (igoa pupuu i le vaega 1), igoa uumi, faamatalaina o uiga o upu, (vaega 2), puleaina o le Tulafono (vaega 3), ma le tofia oi latou e faatautaia asiasiaga (vaega 4). O le a faapea foi ona talanoaina ai tulafono a isi atunuu. O le a vaavaai foi i manatu na tuuina mai e faasino i faafitauli na laga i le taimi o faatalatalanoaga amata. E tusa ai o lea tulaga, o nei manatu o le a vaavaai ai i le fausia o fautuaga e faatatau i aiaiga amata i totonu o le tulafono fou o fualaau faasaina.

I. Igoa o le Tulafono, Faasinomaga i 'Nakoti' ma le Manulauti

a) Igoa

- 3.2. O le Vaega 1 o le Tulafono o Nakoti a Samoa o loo faamauina ai e ta'ua lea tulafono o le *Tulafono o Nakoti 1967*. E tutusa lava ma le tulafono a Niu Sila lea e ta'ua o le *Tulafono o le Faaoga Sese o Fualaau Faasaina 1975*. O NSW e ta'ua o le *Tulafono o le Faaoga Sese o Fualaau ma Felauaiga Faanana 1985* a'o Toga ua ta'ua o le *Tulafono o le Faatonutonuina o le Faaoga Faasolitulafono o Fualaau Faasaina 2003*. O loo atagia mai e eseese le faaigoaina o tulafono a atunuu.

⁵⁴ *Misuse of Drugs Act 1975 (New Zealand)* s 5B.

- 3.3. E eseese foi faasinomaga mo fualaa faasaina i tulafono a atunuu i fafo. O Niu Sila o loo faaaogaina ‘fualaa faatonuina’ (controlled drug), o NSW o loo faaaogaina le ‘fualaa faasaina’ (prohibited drug), o loo faaaogaina e Toga le ‘fualaa faasolitulafono’ (illicit drug) ma Samoa o loo faaaogaina le ‘nakoti’ (narcotics). E eseese lava le faaigoaina o upu ae peitai e faaautu uma lava nei upu i fualaa faasaina.

e) *Igoa uumi*

- 3.4. O le manulauti o le Tulafono o Nakoti a Samoa o le faatulafonoina lea o le auina mai, auina atu, totoina, gaosia, faatauina atu, tufatufaina atu, faaaogaina ma le umiaina o fualaa faasaina.⁵⁵ O le *Tulafono o le Faaaoga Sese o Fualaa Faasaina 1975 a Niu Sila* o loo tuufaatasia ma toe teuteu ai le *Tulafono o le Faaaoga Sese o Fualaa Faasaina 1965* ma o loo faia ai ni aiaiga faaopopo mo le puipuiga o le faaaoga sese o fualaa faasaina.⁵⁶ O le tulafono a NSW o loo faasaina ai le gaosia, tuuina atu, umiaina ma le faaaogaina o nisi o fualaa faasaina, ma nisi o mafuaaga e fesootai iai,⁵⁷ a’o le *Tulafono o le Faatonuina o le Faaaoga Faasolitulafono o Fualaa Faasaina 2003* a Toga o loo faatonuina ai fualaa faasolitulafono, vailaa faatonuina ma meafaitino.⁵⁸

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata o le igoa o le Tulafono (Tulafono o Nakoti 1967) e tatau oa suia.

- 3.5. O le tele o manatu na tuuina mai na atagia ai le manaoga e suia le igoa o le Tulafono o Nakoti a Samoa.⁵⁹ O le a faamautinoa ai i lea tulaga o loo manino le eseese o fualaa faasaina ma ia faatulafonoina lelei ma ia mataala lelei i fualaa faasaina ogaoga le matautia o loo faaaogaina ei latou ua solitulafono. O le toatele oi latou na tuuina mai manatu sa latou tuuina mai le igoa ‘Tulafono o Fualaa Faasaina’ (Illegal Drugs Act) ona o le upu o loo taatele lona faaaogaina i le taimi nei ma e faigofie ona malamalama iai.⁶⁰ O nisi na manatu e faa-igoa o le ‘Tulafono o Fualaa Faasaina Matautia/Ogaoga’ (Dangerous Drugs

⁵⁵ *Tulafono o Nakoti 1967* (Samoa) Long title.

⁵⁶ *Misuse of Drugs Act 1975* (New Zealand) Long title.

⁵⁷ *Drug Misuse and Trafficking Act 1985* (New South Wales) Long title.

⁵⁸ *Illicit Control Drugs Act* (Tonga) Long title.

⁵⁹ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *(Drugs Reform (Review of the Tulafono o Nakoti 1967))*, 31 October 2017; Ministry Education, Sports and Culture, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, June 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto’otua, 5 September 2017); Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa’s Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 22 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁶⁰ Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Ministry of Education, Sports and Culture, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 August 2017.

Act) poo le ‘Tulafono o Fualaa Faasolitulafono’ (Illicit Drugs Act).⁶¹ O toa itiiti lava i latou na manatu e faaigoa i igoa o loo faaaogaina e Niu Sila ma NSW (Tulafono o le Faaaoga Sese o Fualaa ma Felauaiga Faanana) ona o nei atunuu o loo auina mai ai fesoasoani i tulaga tau fualaa faasaina mo Samoa.⁶² O nisi na manatu e faatumauina pea le igoa o loo iai nei o le Tulafono ina ia faaeseese mai ai i isi atunuu, ona na o Samoa lava o loo faaaogaina le ‘Tulafono o Nakoti’.⁶³

MANATU O LE KOMISI

3.6. O manatu na tuuina mai na matauina ai e le Komisi o le toatele o matagaluega ma ofisa na talosagaina le suia o le igoa o le Tulafono o Nakoti a Samoa i se isi igoa faigofie e pei o le ‘Tulafono o Fualaa Faasaina’, e tai tutusa lava ma le Tulafono a Toga (Tulafono o le Faaaoga Faasolitulafono o Fualaa Faasaina). O suesuega faapoopo na faatautaia e le Komisi na atagia ai o le upu ‘nakoti’ ua fai si tuai pe a faatusatusa atu i lona lavelave. O le upu nakoti e faasino tonu lava i se fualaa e faate’a ai le tiga e pei ona faaaogaina e foma’i e faate’a ai se tiga matautia.⁶⁴ E faaono faaaoga foi e aveese ai se popolega ma faaitiitia ai le anaesthesia. O isi aoga taatele o nakoti e faate’a ai le tale ma faatonutonu ai le manava tata ogaoga.⁶⁵ E tusa ai o le faasinomaga na tuuina mai, ua manatu le Komisi o le upu ‘nakoti’ e pei ona iai i le tulafono o loo iai nei e le o mafai ona faamalieina ai le auga ma le faamoemoe o le faasinomaga na tuuina mai i le Komisi. I lea tulaga, ua manatu le Komisi o le tulafono fou e tataua ona faaigoaina o le ‘Tulafono o Fualaa Faasaina’ poo le ‘Tulafono o le Faaaoga Faasolitulafono o Fualaa Faasaina’.

3.7. E le o iai ni manatu patino sa tuuina mai ai igoa uumi i le tulafono fou. Ae peitai ua manatu le Komisi o soo se igoa uumi lava i totonu o le tulafono fou o fualaa faasaina e tataua ona matuai tali atu i faafitauli o loo laga i le faasinomaga aemaise o le tali atu i le faatupulaia o suiga o le siosiomaga o le tagofia faasolitulafono o fualaa faasaina o loo iai nei. O igoa uumi o loo iai nei i le tulafono e tataua ona faatumauina pea, ae peitai o faafitauli e pei o le lagolagoina ma auaunaga mo togafitiga aemaise o le matafaioi a le atunuu e pei ona tuuina mai i le faasinomaga, e tataua ona amanaia ma tuuina i totonu o le tulafono fou.

FAUTUAGA 6: O le upu ‘nakoti’ ua tuai ma e tataua ona sui tulaga i se igoa fou e fetai ma le tulaga o loo iai nei. Mo le manulauti o le tulafono fou o fualaa faasaina, e tataua ona vaavaai i igoa pupuu faigofie e pei o le ‘Tulafono o Fualaa Faasaina’ poo le ‘Tulafono o le Faaaoga Faasolitulafono o Fualaa Faasaina’

⁶¹ Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

⁶² Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁶³ Consultation with the University of the South Pacific (Samoa) (University of the South Pacific, Alafua Campus, 15 September 2017).

⁶⁴ The Free Dictionary by Farlex, ‘Narcotic’ <<https://medical-dictionary.thefreedictionary.com/narcotic>>.

⁶⁵ The Free Dictionary by Farlex, ‘Narcotic’ <<https://medical-dictionary.thefreedictionary.com/narcotic>>.

FAUTUAGA 7: O igoa uumi o loo i totonu o le *Tulafono o Nakoti 1967* a Samoa o loo iai nei e tatau ona faatumauiina pea. Ae peitai, o faafitauli e pei o le lagolago ma auunaga mo togafitiga aemaise o le matafaioi a le atunuu e tatau ona vaavaai iai mo le fausia ma le toe iloiloga o igoa uumi i totonu o le tulafono fou o fualaau faasaina.

II. Faamatalaina o uiga o upu

- 3.8. E 22 uiga o upu o loo i totonu o le Tulafono o Nakoti a Samoa. O nei uiga e aofia ai upu e pei o le 'Ofisa Sili o Pulega', 'Matagaluega', 'Minisita', 'medicinal opium', 'fualaau faasaina', 'nakoti' ma le 'feuiaiga'. E iai isi upu e le o iai i le vaega o le faamatalaina o uiga o upu ae peitai o loo faamatalaina mai uiga i isi aiaiga o loo i totonu lava o le tulafono e pei o le 'nofoaga' i le vaega 14(1)(a) ma le 'gaosia' i le vaega 18A(2).
- 3.9. Na laga mai i faatalatalanoaga amata se faafitauli o le lisi o upu o loo i lalo o le Tulafono o Nakoti a Samoa e le o atoatoa ma e le o mafai ona ta aofai ai nisi o upu taua e pei ona iai i totonu o tulafono a Niu Sila, Toga ma Niu Sa Uelese, e pei o le 'vailaau faatonuina', 'fualaau faasaina', 'faatauina atu', 'psychoactive substances', 'meafaitino', ma le 'tuuina atu'.
- 3.10. Ua tuuina atu i le faavaa oi lalo nisi o upu taatele i totonu o atunuu nei e fa e aofia ai ma Samoa, faatasi ai ma upu o loo faamatalaina mai uiga i totonu o tulafono a Niu Sa Uelese, Toga ma Niu Sila e le o mafai ona faamatalaina mai i le Tulafono o Nakoti a Samoa. E taua foi le faamauiina o upu e pei o le 'faatau atu' o loo i lalo o le tulafono a Samoa, e pei o le *Tulafono o le Faauigaina o Tulafono 2015* (vaega 3), 'leoleo'⁶⁶ i lalo o le *Tulafono o Malosiaga o Leoleo 2007* (vaega 2), ma le 'vaalele' ma le 'nofoaga e pulea e le tiute' i lalo o le *Tulafono o le Ofisa o Tiute 2014* (vaega 2).

UPU O LOO TELE LONA FAAAOGAINA E ATUNUU E IAI SAMOA, TOGA, NIU SILA MA NIU SA UELESE	ISI UPU E LEO MAFAI ONA FAAMATALAINA I TOTONU O LE TULAFONO O NAKOTI A SAMOA (AE O LOO I TOTONU O TULAFONO A ISI ATUNUU) NIU SA UELESE, TOGA MA NIU SILA E TATAU ONA VAAVAAI IAI
Vasega A o fualaau faasaina Vasega B o fualaau faasaina Vasega C o fualaau faasaina Vailaau/Fualaau Faatonuina	Tuuina atu ⁶⁹ Faatauina atu ⁷⁰ Meafaitino faatonuina ⁷¹

⁶⁶ Note that the term 'constable' is used under the *Tulafono o Nakoti 1967*. To be consistent with other laws relating to police, the term 'constable' should be replaced with the term 'police officer'.

⁶⁹ *Drug Misuse and Trafficking Act 1985* (New South Wales) p 1 s 3; *Misuse of Drugs Act 1975* (New Zealand) s 2; *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁷⁰ *Drug Misuse and Trafficking Act 1985* (New South Wales) pt 1 s 3. Note that the term 'sell' is also referred to as 'supply' in New South Wales. Additionally, the term 'sell' is currently defined in Samoa under its *Acts Interpretation Act 2015* in section 3 as meaning: "to barter, exchange, offer or attempt to sell, or receive for sale, or have in possession for sale, or expose for sale, or send or deliver for sale, or cause or permit to be sold, offered, or exposed for sale."

⁷¹ *Illicit Drugs Control Act 2003* (Tonga) s 2. Note that there is reference to equipment, utensils, and needles under Samoa's Act but they are not covered under a particular holistic term like in Tonga. NZ and New South Wales are similar to Samoa.

Galue poo le Galueaina Fomai (medical practitioner) Minisita Fualaa faasaina Tagata faapitoa mo vailaa/fualaa (Pharmacists) Nakoti (Samoa)/ vailaa faatonuina (Niu Sila)/ fualaa faasaina (Niu Sa Ueese)/ fualaa faasolitulafono (Toga) Prepared opium Trafficable quantity Gaosia ⁶⁷ Nofoaga ⁶⁸	Oloa ⁷² Fale gaosi ua faamaonia ⁷³ Sui ofisa/tagata ua tuu iai le pule ⁷⁴ Carrier (person) ⁷⁵ Sone Faapitoa ⁷⁶ Faaoo atu o oloa i sona tulaga faatonuina ⁷⁷ Mataituina ⁷⁸ Vaalele ⁷⁹ Nofoaga ua pulea e le Ofisa o le Tiute ⁸⁰ Meatotino ⁸¹ Utensils ⁸²
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MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau i le tulafono fou o fualaa faasaina ona aofia ai upu o loo faaogaina e isi atunuu e pei (mo se faataitaiga; meafaitino, sui ofisa ua iai le pule) ma toe faamatala atili ai upu o loo iai nei e pei o le 'faamutaina'.

Upu fou e faatulafonoina

3.11. O manatu na tuuina mai o loo atagia mai ai le manaoga ina ia aofia i totonu o le tulafono fou o fualaa faasaina upu fou e le o mafai ona faamatalaina o latou uiga i le taimi nei e pei o le 'tuuina atu' ma le 'faatauina atu' e pei ona iai i totonu o Tulafono a Niu Sila ma Niu Sa Ueese.⁸³ O se tasi na manatu e tatau ona faamatala le uiga o le upu 'auina mai i totonu'.⁸⁴ Na matuai faamatala mai e le Matagaluega a le Soifua Maloloina le manaoga ina ia faamanino le faamatalaina o le uiga o le upu 'fualaa faasaina', mo le manulauti o le tulafono fou o fualaa faasaina, pe faamata o loo faatatau i 'fualaa faasaina' (illegal drugs)

⁶⁷ Note that the term 'manufacture' is listed under section 18A (2) of the *Tulafono o Nakoti 1967* (Samoa).

⁶⁸ Note that the term 'premise' is defined under section 14(1) (a) of the *Tulafono o Nakoti 1967* (Samoa).

⁷² *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁷³ *Misuse of Drugs Act 1975* (New Zealand) s 2.

⁷⁴ Note that Tonga uses the term 'authorised officer' who are suitably qualified and trained who are authorised to carry out specific duties under its *Illicit Drugs Control Act 2003* (Tonga) s 31.

⁷⁵ *Misuse of Drugs Act 1975* (New Zealand) s 2.

⁷⁶ *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁷⁷ *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁷⁸ *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁷⁹ *Misuse of Drugs Act 1975* (New Zealand) pt 2 s 10 provides that for the purposes its section 12 for the term 'craft' is to be interpreted from its meaning under *Customs and Excise Act 1996*. Note that the term 'craft' is defined under section 2 of Samoa's *Customs Act 2014* bearing a similar definition to NZ.

⁸⁰ *Illicit Control Drugs Act 2003* (Tonga) s 2. Note that section 2 of Samoa's *Customs Act 2014* contains a definition of 'customs controlled area' which has a similar meaning to Tonga.

⁸¹ *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁸² *Illicit Drugs Control Act 2003* (Tonga) s 2.

⁸³ Ministry of Education, Sports and Culture, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 August 2017.

⁸⁴ Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017.

poo 'fualaaui'. Na talosagaina e le Matagaluega a Tina ma Tamaitai se auiliiliga manio ma le faamatalaina o le upu 'tupulaga talavou' ona e le o ogatasi ma le faamatalaina o uiga o le 'tupulaga talavou' e pei ona iai totonu o isi Tulafono a le Palemene⁸⁵, ina ia mafai ona manino ai le sueina o i latou ua aafia i fualaaui faasaina e fesoasoani ai foi ina ia manino lea tulaga i totonu o le tulafono faapea ma soligatulafono i le lumanai.

- 3.12. I le isi tulaga na faaalai ai e le Sosaiete a Loia e tataui ona faatino ma le faaeteete le faia o faaiuga i upu fou o le a tuu i totonu o le tulafono fou. E faamautinoa mai ai i lea tulaga e na o upu talafeagai lava ma upu o le a faaogaina e le Tulafono o le a faaopoopo. Na fautua mai foi le Matagaluega a le Faamasinoga e tataui ona faaeteete pe afai o le a faamatala se uiga o se upu fou (faataitaiga; faatau atu, ma le tuuina atu ma isi) ina ia mafai ona faatulaga manino atu le uiga o sea upu mo mataupu i lalo o le uiga o lea upu e faatapulaa i le mafaufau lea e mafai e lea faamatalaga ona faatagaina faaletulafono se matapupu lea na faamoemoe e maua e lea faauigaga fou.

Toe atia'e nisi upu o loo iai nei

- 3.13. Na talosagaina e le Matagaluega a Leoleo le toe atia'e o le faauigaina o le upu 'constable' o loo i lalo o le Tulafono, i le 'o se sui ua ma'ea faatauto a le Matagaluega a Leoleo' ina ia mafai ona o gatasi ma le faauigaga o loo i totonu o le *Tulafono o Galuega tau Leoleo 2009*.
- 3.14. Na lisiina mai e le Sosaiete a Loia le aofaiga o upu e manaomia le toe atia'e o loo i totonu o le Tulafono o loo iai nei. Mo se faataitaiga, o le upu 'faatonuina' i le vaega 7(2)(c) o le Tulafono faapea ma le upu 'sauniuniga' ma le 'taumafaina' i totonu o le faauigaina o le upu 'nakoti'. Na latou talosagaina foi le toe vaavaai i le faauigaga o le upu 'galueaina' ma le 'galueaina' ona e le o atoatoa ona lelei faauigaga o loo iai nei ina ia aofia ai faatinoga o le 'faatoaina ma le totoina' lea e le o aofia ai le faataapeina o fatu, gaosia o laau ma le faaotaina ma isi. Na laga foi i manatu na tuuina mai e manaomia le faamatala o uiga o upu e pei o le upu 'assistants' lea e ta'ua i totonu o nisi o aiaiga o le Tulafono o 'tagata ofisa'.

Toe faapupula atili nisi o upu o loo i le Tulafono o loo iai nei

- 3.15. Na talosaga mai Faamasino o le Faamasinoga e manaomia le toe faapupula atili o le upu 'faoa' (forfeiture) i totonu o le tulafono fou i le vaavaai lea i tulaga ua ta'ua i lalo:
- Faamatala poo le a le 'meafaitino' (article)
 - Faamatala poo a ituaiga mea e faoa (forfeited).
 - Poo a tulaga ma mafuaaga e tataui ai le faoa o meafaitino.
 - Vaavaai pe faamata e iai se faafaigata ua afua ai ona faoa.
- 3.16. Na faaalai mai e le Matagaluega a Leoleo e eseese lava mataupu e alia'e mai ai le fesootaiga o meafaitino/items ma fualaaui faasaina, lea e manaomia ai le faamatalaina o uiga o nei upu i totonu o le tulafono fou mo se faapupulaga atili. Na manatu le Sosaiete a Loia e faamatala le uiga o le upu 'meafaitino' nai lo le upu 'item' ona e manatu i latou e latalata ma talafeagai le fesootaiga o le upu meafaitino i le upu faoa.

⁸⁵ The two Acts of Parliament referred hereto include the *Young Offenders Act 2007* (Samoa) s 2 and the *Infants Ordinance 1961* (Samoa) s 2; Consultation with the Ministry of Women, Community and Social Development (Ministry of Women, Community and Social Development Main Office, Savalalo, 9 August).

MANATU O LE KOMISI

- 3.17. Na faamauina e le Komisi e tatau i le tulafono fou ona aofia ma faamatala lelei ai uiga o upu e tali atu i lona faamoemoega ma o le a faaoga faalauaitele e pei ona laga e le toatele o nisi ma tuuina mai manatu. E le gata i lea, soo se upu fou lava ua fautuaina e pei o le 'tuuina atu', 'faatau atu', 'item', 'meafaitino', 'auina mai', 'fualaau faasaina', ma le 'tupulaga talavou', e tatau ona iloilo ma le faaeteete ao lei faaopoopoina ma faamatalaina uiga i totonu o le tulafono fou o fualaau faasaina, ona e faaono faatapulaa lona faaliliuga, e pei ona laga e le Matagaluega o Faamasinoga. E tatau ona faatino ma le faaeteete se faaiuga a'o lei aofia ai isi upu o loo faamatalaina uiga i isi atunuu ae peitai e leo mafia ona faamatalaina uiga i totonu o le Tulafono o Nakoti a Samoa. Mo se faaitaiga; 'meafaitino faatonuina', 'oloa', 'taavale', 'falesuesue faamaonia', 'tagata faigaluega faatagaina', 'fesiitaiga carrier', 'sone faapitoa', 'faaoina atu o oloa i sona tulaga faatonuina', 'mataitu', 'vaalele', 'nofoaga e pulea e le ofisa o le tiute', 'meatotino', ma le 'meafaitino'.
- 3.18. Na lagolagoina e le Komisi le manatu o le Matagaluega a Leoleo e faafou le faauigaga o le leoleo i le 'o se tagata ua faatauto a le Matagaluega a Leoleo' ina ia o gatasi ma le *Tulafono o Galuega tau Leoleo 2009*. O isi upu e pei o le 'cultivate atiina a'e' ma le 'galueaina' e faaono manaomia le toe faafou ina ia aofia ai le luluina ma le totonu lea e leo aofia ai le faataapepeina o fatu, tausiga ma le seleseleina o laau. E manaomia le faamatalaina o le uiga o le upu 'tagata fesoasoani assistants' e pei ona ta'ua i nisi o aiaiga o le Tulafono. Ua toe ta'ua foi e le Komisi, o lona manatu e tatau ona vaavaai ma le faaeteete i se faaiuga fai ao lei faafouina ma toe faamatalaina uiga o nei upu.
- 3.19. Mo le faamoemoega o aiaiga mo le faoa, ua manatu le Komisi o le upu 'meafaitino' ma le 'item', e tatau ona faamatala o latou uiga, ma faapupula atili ona e leo manino mai pe faamata o nei ituaiga upu e faasino i 'oloa' poo 'meatotino' e mafai ona faoa. E le gata i lea, na lagolagoina e le Komisi manatu o Faamasino ole Famasinoga le aofia i totonu o le tulafono fou poo a mea e faoa, o ituaiga mafuaaga e tatau ai ona faoa meafaitino, ma pe faamata sa iai se faafaigata ua afua mai i le faoa. O le a talanoaina atili i sona atoaga le 'faoa' i le **Vaega 6 (I. Aiaiga Patino mo le Faamalosi)**

FAUTUAGA 8: E tatau ona vaavaai ma le faaeteete i faaiuga fai i le taimi e faaopoopo ai upu fou (ft. 'auina mai', 'tuuina atu' ma isi e aofia ai upu mai isi atunuu) ma le toe faamatalaina o uiga o upu o loo iai nei (ft. 'atiina a'e') i totonu o le tulafono fou. E faamautinoa ai i lea tulaga o nei upu o le a tali atu i le manulauti o le tulafono fou ma le a faaogaina faalauaitele. O upu ua ma'ea ona faamatalaina o latou uiga i totonu o isi Tulafono a le Palemene (ft. 'faatau atu' i lalo o le *Tulafono o le Faauigaina o Tulafono 2015*, 'nofoaga e pulea e le ofisa o le tiute' i lalo o le *Tulafono o le Ofisa o Tiute 2014*) e tatau ona faamatala tutusa ina ia ogatasi ma atoatoa. O le upu 'leoleo' e tatau ona toe faafou i lona uiga 'o se tagata faatauto a le Matagaluega a Leoleo' ina ia ogatasi ma le *Tulafono o Galuega tau Leoleo 2009*.

FAUTUAGA 9: Mo le faamoemoega o aiaiga o le faoa, o le upu 'meafaitino' e tatau ona faamatala lona uiga i totonu o le tulafono fou ina ia aofia ai mataupu e pei o substances, meafaitino, oloa, meatotino ma taualumaga o soligatulafono o fualaau faasaina.

III. Puleaina o le Faatinoga o le Tulafono

- 3.20. O le Vaega 3 o le Tulafono o loo tuuina mai o le Matagaluega a le Soifua Maloloina e pulea le faatinoga o le Tulafono.
- 3.21. O loo tutusa lea faatinoga ma Niu Sila lea e pulea ai foi e le Matagaluega a le Soifua Maloloina le faatinoga o le Tulafono. O le *Tulafono o le Faatonutonuina o Fulaau Faasaina* a Toga o loo pulea le faatinoga e le Minisita o Leoleo a'o NSW o loo nafa ma le Loia Sili sei vagana ai le 'Vaega 2A: ofisa autu mo le vaavaaia lelei o tui' lea e vaavaalua ai le Minisita o Leoleo ma le Minisita a le Soifua Maloloina
- 3.22. E leo talanoaina i le Pepa o Faamatalaga le faafitauli o le puleaina o le faatinoga o le Tulafono. Ae peitai, sa laga lea faafitauli i le taimi o faatalatalanoaga ma paaga.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu poo ai tonu e talafeagai mo le puleaina o le faatinoga o le tulafono fou.

- 3.23. O loo iloa e paaga e aofia ai le MOP, MJCA ma le Customs o loo pulea e le Matagaluega a le Soifua Maloloina le faatinoga o le Tulafono o Nakoti a Samoa. Na faaalua mai e le MJCA e tusa lava poo le a le tulaga o loo iai nei, e manaomia le toe faamalositia atili o le matafaioi pulea a le MOH i totonu o le tulafono fou. O lea tulaga, o le a avea ai le MOH ma Matagaluega tutotonu mo le puleaina o le faatinoga o le Tulafono.

MANATU O LE KOMISI

- 3.24. O le MOH o le itutino lea e nafa ma le puleaina o le faatinoga o le Tulafono o Nakoti a Samoa e pei o Niu Sila. O Toga ma NSW e aofia ai isi itutino talafeagai. Mo se faataitaiga; o Toga o le Matagaluega a Leoleo ma le Loia Sili, o NSW o le Matagaluega a Leoleo ma le Soifua Maloloina. O lea, ua manatu le Komisi mo le mataaalia o le faatinoga o tiute ma matafaioi i lalo o le tulafono, e taua tele le maioio mai o le Matagaluega o le a nafa ma lea tulaga i totonu o le tulafono fou o fualaau faasaina.
- 3.25. O le MOH e tatau ona pulea ma faatautaia le faatinoga o le tulafono fou o fualaau faasaina (ona o loo latou taulimaina laisene talafeagai) faatasi ai ma le MOP (ona o loo matele lava ina feagai ma le faamalositia). O nei Matagaluega e lua e tatau ona galulue soosootauai faatasi i le faatinoga ma le puleaina o le tulafono ina ia faamautinoa ai le faatinoga lelei ma le faamalositia o le tulafono fou o fualaau faasaina.

FAUTUAGA 10: O le Matagaluega a le Soifua Maloloina ma le Matagaluega a Leoleo e tatau ona faafoeina le tulafono fou o fualaau faasaina. O nei Matagaluega e lua e tatau ona galulue soosootauai faatasi ina ia faamautinoa ai le faatinoga lelei ma le faamalositia o le tulafono fou.

IV. Tofiga o Tagata Asiasi

- 3.26. O le Vaega 4 o le Tulafono o loo tuuina mai ai o le Komisi o Galuega a le Malo e tusa ai o le fautuaga a le Ofisa Sili o Pulega a le Matagaluega a le Soifua Maloloina, e tofiaina se tagata faigaluega a le Malo e fai ma tagata asiasi mo le faamoemoega o le Tulafono o Nakoti a Samoa ma le tuuina atu o le malosiaga i nei tagata asiasi i lalo o le Tulafono.

- 3.27. O faatalatalanoaga amata na atagia mai ai e leai se manino o taiala mo le tofiaina o tagata asiasi. E leo mafai foi e le Tulafono o Nakoti a Samoa ona faamaoti mai itu e tatau ona iloiloina e Ofisa Sili o Pulega pe a faia ia tofiga. E le gata i lea, o glauuga tauave ma malosiaga o se tagata asiasi o loo faataapeapeina i totonu o le Tulafono o Nakoti a Samoa, ae le o ta'ua i lalo o se aiaiga se tasi. Mo se faataitaiga:
- i. malosiaga o tagata asiasi e faoa ma faaleagaina ai se laau faasaina poo se fatu o laau faasaina;⁸⁶
 - ii. le malosiaga e faia ai se talosaga mo le su'eina e ulufale ma sueina ai nofoaga ma fale ua ta'ua poo tagata i luga o ia nofoaga ma fale;⁸⁷
 - iii. le malosiaga e ulufale atu ai i fale ma nofoaga o se tagata ua faatagaina e tagofia fualaau faasaina (e pei o tagata poto faapitoa i vailaau mo togafitiga) ma le manaoga e asiasia soo se tusi poo faamaumauga e faatatau i feutagaiga a sea tagata ma nakoti poo vailaau faatonuina;⁸⁸ ma
 - iv. le malosiaga e pueina ai se tagata sa faaulufaleina/faaulufaoina atu faasolitulafono soo se nakoti poo vailaau faatonuina.⁸⁹

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu i itu e tatau ona iloiloina e le Ofisa Sili o Pulega pe a tofia ni tagata asiasi, o a galuega e tatau ona tauave e se tagata asiasi i lalo o le tulafono fou o nakoti ma pe faamata e tatau ona faamatala le uiga o le upu 'ofisa faatagaina' i totonu o le tulafono fou o fualaau faasaina.

Tagata asiasi: Faatinoga o loo iai nei

- 3.28. O isi fa'atalatalanoaga ma le MOH o lo'o fa'aalia ai e iai tagata asiasi ae e le o mautinoa pe na faatino 'asiasiga' o loo mana'omia i lalo o le Tulafono a Nakoti Samoa. E i ai tagata asiasi mo isi mataupu e pei o vailaau ma mea taumafa i lalo o le *Tulafono o Vaila'au 1967* (Drugs Act 1967) ma le *Tulafono o Mea Taumafa 2015*. O le taimi nei o le tofiaina o tagata asiasi e le PSC ua le toe aoga. Na fautuaina e le MOH e tatau ona tofia e i latou tagata asiasi. Na latou fautuaina e faatumau pea tagata asiasi mo nisi tulaga e manaomia ai le asiasia o tusi, ona o loo i nei tagata asiasi le tomai e le o maua e Leoleo ma Ofisa o le Tiute. Afai o le a tuuina atu matafaioi tau asiasiga i le Matagaluega o Leoleo, e tatau la ona aumai se faatagaga a le Ofisa Sili o Pulega a le Matagaluega a le Soifua Maloloina. E le gata i lea, na faailoa mai e le MOH e manaomia pea le faatumauina o tagata asiasi ona e iai le manatu o le a faateteleina le mauaina o fualaau faasaina i le lumanai e manaomia ai asiasiga.

Itu e vaavaai iai mo le tofiga o tagata asiasi

- 3.29. O le toatele o paaga na latou tuuina mai itu ua ta'ua i lalo pe a faia tofiga o tagata asiasi:
- Tusi pasi talafeagai ma tausaga na faigaluega ai i sea poto masani (ft. o se tagata poto faapitoa i fualaau faasaina ma le 5 tausaga na faigaluega ai);⁹⁰

⁸⁶ *Tulafono o Nakoti 1967* (Samoa) s 6(4).

⁸⁷ *Tulafono o Nakoti 1967* (Samoa) s 14 (1).

⁸⁸ *Tulafono o Nakoti 1967* (Samoa) s 15 (1).

⁸⁹ *Tulafono o Nakoti 1967* (Samoa) s 16 (1).

⁹⁰ Ministry of Police, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Transnational

- Lelei le aoaoina ma talafeagai lelei i le faatinoina o asiasiga ma suesuega;⁹¹
- Tele ma atoatoa le malamalamaag i itu lelei ma itu leaga o fualaau faasaina;⁹²
- Leai se faamaumauga tau soligatulafono (aemaise lava i fesootaiga ma soligatulafono tau fualaau faasaina).⁹³

Galuega Tauave a Tagata Asiasi

3.30. O le toatele o paaga na malilie e aofia se lisi atoatoa o galuega tauave a tagata asiasi i totonu o le Tulafono.⁹⁴ O lea tulaga o le a:

- fesoasoani ai i tagata asiasi ina ia manino lelei ia latou galuega e faatino ma ia mafai ai ona latou manino i le eseese ma galuega a ‘tagata fesoasoani’ ma ‘leoleo’⁹⁵; ma
- fesoasoani i le pulega talafeagai o le a faatagaina (Ofisa Sili o Pulega a le MOH) i itu e iloilo pe a faia nei tofiga.⁹⁶

3.31. O se tasi o paaga a le Komisi na fautuaina se aiaiga tuuese/tutoatasi i totonu o le tulafono fou o fualaau faasaina e patino lava mo le lisi atoatoa o galuega tauave a tagata asiasi e pei le o iai i aiaiga mo le tofiga o tagata asiasi.⁹⁷

MANATU O LE KOMISI

3.32. E ui lava i le leai o se manino i le faatinoga o loo iai nei a tagata asiasi, ua manatu le Komisi e taua tele le faatumauiina pea o tagata asiasi ina ia mafai ai e le MOH ona faatino lelei a

Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁹¹ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁹² Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁹³ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁹⁴ Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written submissions to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

⁹⁵ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁹⁶ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁹⁷ Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

latou galuega tauave i lalo o le tulafono fou o fualaau faasaina. Mo se fa'ata'ita'iga, o le mana'oga mo asiasiga o so'o se tusi poo faamaumauga e faatatau i feutagaiga a ia tagata ma fualaau faasaina po o vailaau faatonuina. O ia tagata asiasi e tatau ona tofia e le MOH. E le gata i lea, o le tofiaina o tagata asiasi e tãua tele e feagai ma le ulufale mai o fualaau faasaina fou i totonu o Samoa.

- 3.33. Ua matauina e le Komisi e faapea o "tagata asiasi" ma lo latou tofiaina i isi tulafono, o le a maua ai ni taiala i matafaioi talafeagai a tagata asiasi i totonu o le tulafono fou o fualaau faasaina. Mo se fa'ata'ita'iga, o le *Tulafono o Vailaau 1967* o lo'o fa'amatalaina ai le uiga o le tagata asiasi e avea o se tagata ofisa na tofia e avea ma tagata asiasi o le Soifua Maloloina i lalo o le *Tulafono o le Soifua Maloloina 1959*. O lana matafaioi i lalo o le fuaiupu 20 o le ulufale ma asiasia so'o se nofoaga pe a iai vaila'au (e pei ona fa'amatalaina i totonu o le *Tulafono o Vaila'au 1967*) lea o lo'o i ai i le tagata ofisa mafuaaga talafeagai mo le talitonuina ua faamoemoe e fa'atauina. E mafai foi ona faoa faamalosi so'o se fualaau faasaina, po o fea lava e maua ai, lea e fa'aumatia pe tu'uina. I totonu o le *Tulafono o le Soifua Maloloina 1959*, e mafai e se tagata asiasi ona ulufale i luga o soo se fanua poo fale ma asiasia mea uma ma e mafai ona faia soo se galuega e tatau ai mo le tauaveina o ana galuega tauave. O le *Tulafono o Mea Taumafa 2015* o lo'o tofia ai tagata asiasi e faatulafonoina feutagaia e faia i mea'ai, pisinisi o mea taumafa ma asiasiga ma auiliiliga o mea'ai. E mafai foi e ia ona siaki mea'ai mai fafo po'o ave fa'ata'ita'iga.⁹⁸
- 3.34. Ua matauina foi e le Komisi ni manatu na tuuina mai e faatatau i itu talafeagai mo le tofiaina o ni tagata asiasi mo le faamoemoe o le tulafono fou o fualaau faasaina. O ia tulaga e aofia ai agavaa talafeagai, tomai i asiasiga ma suesuega, malamalama lautele e uiga i fualaau faasaina.

FAUTUAGA 11: O le tofiga o tagata asiasi e tatau ona aofia i totonu o le tulafono fou o fualaau faasaina. E tatau ona faia nei tofiga e le Ofisa Sili o Pulega a le Matagaluega o le Soifua Maloloina. Mo le faapupulaga atili o matafaioi a tagata asiasi i totonu o le tulafono fou o fualaau faasaina, e mafai ona maua mai nisi taiala pe a vaavaai i aiaiga talafeagai o loo i totonu o le *Drugs Act 1967* ma le *Tulafono o Meataumafa 2015*.

FAUTUAGA 12: I le tofiaina o tagata asiasi, o itu taua e tatau ona iloiloaina e le Ofisa Sili o Pulega a le Matagaluega o le Soifua Maloloina e aofia ai le iai o tusipasi talafeagai, agavaa e faatino ai asiasiga ma suesuega, ma le malamalama lautele e uiga i fualaau faasaina.

V. Malosiaga ma Galuega Tauave a le Minisita

- 3.35. E le o faatulagaina mai i le Tulafono o Nakoti a Samoa galuega tauave a le Minisita o le Soifua Maloloina. E na o le faamatalaina mai o le malosiaga a le Minisita e tuuina atu ai laisene e faatagaina ai le umiaina, faaogaina ma le faaulufaleina maio nakoti ma vailaau faatonuina.⁹⁹
- 3.36. I se faatusatusa atu, o le *Misuse of Drugs Act 1975* o loo lisiina mai ai galuega a le Minisita e faatatau i le puipuia lelei o le faaogaga sese o fualaau faasaina. O nei galuega e aofia ai le

⁹⁸ *Food Act 2015* (Samoa) ss 12-14, 20, 24.

⁹⁹ *Tulafono o Nakoti 1967* (Samoa) s 12.

tu'uina atu ma le lolomiina o ripoti, fa'amatalaga, ma fautuaga e uiga i le fa'aaoga sese o fualaau faasaina ma togafitiga o tagata o lo'o mafatia i le fa'aaoga sese o fualaau faasaina.¹⁰⁰ E le gata i lea, o le Minisita talafeagai e iai foi le malosiaga e faasa ai le faaulufale mai o fualaau faasaina faatonuina mo soo se vaitaimi patino e le sili atu i le 1 le tausaga, pe afai e le o faaaogaina lea malosiaga e sili atu ma le tasi mo le fualaau lava lea.¹⁰¹ E mafai foi e le Minisita ona tuuina atu se faasilasilaga e taofia ai soo se tagata faatagaina mai le fa'amaonia o fualaau faasaina sei vagana ai ua tuuina mai se fautuaga le Komiti o Foma'i.¹⁰²

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tataua ona aofia i le tulafono fou o fualaau faasaina galuega tauave ma malosiaga o le Minisita e pei o Niu Sila.

Faatulafonoina o Malosiaga ma galuega tauave a le Minisita

- 3.37. O le toatele na manatu o le Tulafono e tataua ona aofia ai se lisi atoatoa o malosiaga ma galuega tauave a le Minisita talafeagai, e tutusa ma Niu Sila.¹⁰³ Mo se faataitaiga:
- Saunia ma lomina ripoti, faamatalaga ma fautuaga e uiga i le faaaoga sese o fualaau faasaina ma togafitiga o tagata o loo mafatia i le faaaoga sese o fualaau faasaina
 - Faasa le faaulufaleina mai o fualaau faasaina faatonuina mo soo se aitaimi patino e le sili atu i le tausaga e tasi pe afai o lea malosiaga e lei faatinoina e sili atu ma le tasi mo lea lava fualaau faasaina.
 - Tuuina atu se faasilasilaga e taofia ai soo se tagata faatagaina e pei o se foma'i poo se fomai e suesueina vailaau faasaina sei vagana ai ua tuuina mai se fautuaga i le Komiti a Foma'i.
- 3.38. O le tuuina atu o malosiaga ma galuega tauave a le Minisita talafeagai i le tulafono e taua tele, aua o le a logoina ai le Minisita talafeagai ma tagata lautele e uiga i malosiaga ma galuega a le Minisita.
- 3.39. E le gata i lea, ina ia lelei le faafoeina ma le puleaina o le Tulafono lea e vaavaalua ai ma le Ofisa Sili o Pulega, e tataua i le Tulafono ona fautuaina ai malosiaga aooatetele a le Minisita nai lo na'o malosiaga tau galuega o loo iai nei a le Minisita.¹⁰⁴

¹⁰⁰ *Misuse of Drugs Act 1975* (New Zealand) s 5B.

¹⁰¹ *Misuse of Drugs Act 1975* (New Zealand) s 22.

¹⁰² *Misuse of Drugs Act 1975*(New Zealand) s 23.

¹⁰³ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written submissions to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

¹⁰⁴ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

MANATU O LE KOMISI

- 3.40. Ua matauina e le Komisi le tele o manatu e aofia i totonu o le tulafono fou o fualaa faasaina le lisiina o malosiaga ma galuega tauave a le Minisita talafeagai. O le a fesoasoani tele lea i le fa'alauiaina ma le tetee atu i fualaa faasaina. O lea faiga o le a mafai ai foi e le Minisita talafeagai ona faafoe lelei le Tulafono faatasi ma le Ofisa Sili o Pulega. Mo nei mafuaaga, ua lagolagoina ai e le Komisi le faatulagaina atu o malosiaga o le Minisita talafeagai i le tulafono fou o fualaa faasaina, e pei ona iai le tulafono a Niu Sila. Mo se fa'ata'ita'iga, malosiaga o le Minisita e tu'uina atu ma lomia faasalalau ai lipoti, fa'amatalaga ma fautuaga e uiga i le fa'aaoga sese o fualaa faasaina ma togafitiga o tagata o lo'o mafatia mai le fa'aaogaina o fualaa faasaina.

FAUTUAGA 13: E tatau i le tulafono fou o fualaa faasaina ona tuuina mai ai ni galuega tauave a le Minisita o le Soifua Maloloina e faalauiloa ma tetee atu ai i le soona tagofia o fualaa faasaina. E tatau ona tagatagai ma faaaogaina aiaiga talafeagai o loo tuuina mai i totonu o le tulafono a Niu Sila.

4. VAEGA 3: FAAVASEGAINA O FUALAAU FAASAINA

- 4.1. O leni mataupu o lo'o talanoaina ai aiaiga talafeagai i le fa'avasegaina o nakoti i lalo o le Tulafono a Nakoti Samoa ma faafitauli na laga mai fa'atalatalanoaga. Mulimuli ane, o loo iloiloaina ai isi vailaa ma laau e iai a'afiaga tutusa e pei o mariuana ma isi fualaa. Mo se fa'ata'ita'iga, pulouaitu ma le logo. E le gata i lea, o leni vaega o lo'o talanoaina ai psychoactive vailaa ma fualaa fa'asaina (party pills) ia e le o aofia i lalo o le Tulafono a Nakoti Samoa. O le a faamauina aiaiga talafeagai mai isi atunuu ma maliega fa'avaomalo tau fualaa fa'asaina e feso'ota'i ma vailaa fa'amalosi. O finagalo o le mamalu o le atunuu o le a fesoasoani lea i le fausia o fautuaga mo lea vaega.

I. Faamatalaga

- 4.2. O le Tulafono o Nakoti a Samoa e aofia ai Faamatalaga e fa. O faamatalaga taitasi e tu'uina atu i se vasega patino o fualaa faasaina. Mo se fa'ata'ita'iga, o le Faamatalaga 1 o lo'o i ai fualaa faasaina e maualuga tele le lamatiaga i tagata taitoatasi ma / poo le atunuu e aofia ai le kokeni, aisa, lysergic acid, heroin ma isi vailaa e 35. O le Faamatalaga 2 e aofia ai fualaa faasaina i le Vasega B lea e aofia ai le mariuana, fualaa mea tiga e gaosi mai i le opium ma opium ma isi vailaa e 125. O le Faamatalaga 3 o lo'o lisiina ai fualaa faasaina o le Vasega C (83 vailaa). E tusa ai ma faatalatalanoaga amata ma le MOH ma le MOP, na faamamafa mai ai o Faamatalaga o loo i le Tulafono na gata mai lona toe iloiloaina ma lona faafouina i le 2009 ina ia aofia ai vailaa faatonuina (22 vailaa) e pei ona lisiina i le Faamatalaga 4.
- 4.3. E iai fo'i Faamatalaga nei e pei o Toga, ae peitai e eseese le faatulagaina. Mo se fa'ata'ita'iga, o le Fa'amatalaga 1 o lo'o lisiina ai le Vasega A, Vasega B ma le Vasega C ma sa aumai sa'o lava mai Maliega e tolu a Malo Afaatasi e faasino i fualaa faasaina.¹⁰⁵ O le Fa'amatalaga 2 o lo'o lisiina ai vailaa/vailaa faatonuina. Fa'amatalaga 3 o loo lisiina ai meafaitino ma

¹⁰⁵ *Illicit Drugs Control Act 2003* (Tonga) sch 1. The United Nations Conventions include Single Convention on Narcotic Drugs 1961 (amended by the 1972 Protocol), Convention on Psychotropic Substances 1971, and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988.

soo se fualaa faasaina lisi lisi o vaila'au ma so'o se meafaitino o loo fesootai ma le faia o se soligatulafono i lalo o le Tulafono a Toga. Mo se fa'ata'ita'iga, meafaitino fa'aaoga mo le gaosiga o vaila'au.

- 4.4. O fa'amatalaga o fualaa faasaina faatonuina i Niu Sila e tutusa ma Samoa i le tele o itu. Ae ui i lea, o suesuega a le Komisi na faailoa mai ai o faamatalaga o loo i le *Tulafono o le Faaaogaina Sese o Fualaa Faasaina a Niu Sila 1975* e masani ona faafouina.¹⁰⁶ O le tali lenei i mataupu e tula'i mai e pei o le fa'avaeina o fualaa fa'asaina fou.

II. Faavasegaina o Nakoti

- 4.5. Mo le faamoemoega o le faasalaga talafeagai poo soo se mataupu talafeagai, ua faavasega mai e le vaega 4A e pei ona tuuina atu i lalo, e faavae i luga o le ogaoga o le aafiaga o se fualaa faasaina i se tagata toatasi ma/poo le atunuu ona o le soona faaoga le tatau:¹⁰⁷
- Vasega A o nakoti – fualaa faasaina e matuai ogaoga lona aafiaga;
 - Vasega B o nakoti – fualaa faasaina e ogaoga lona aafiaga; ma
 - Vasega C o nakoti – fualaa faasaina e feoloolo lona aafiaga.
- 4.6. I le faaopoopoina poo le aveeseina o soo se fualaa faasaina, sauniuniga poo se vailaaui lisiina i lalo o fualaa faasaina o loo faailoa poo faamatala atu i le Faamatalaga Tasi, Lua ma le Tolu, poo soo se laau o lo lisiina o se laau faasaina o loo i lalo o le vaega 2, poo le tuuina atu o soo se sauniuniga o soo se fualaa poo vailaaui mai le isi Faamatalaga i le isi Faamatalaga, e tataui i le Ao o le Malo ona tuuina atu se poloaiga e faatagaina ai nei feuaiga, i luga o le fautuaga a le Kepeneta.¹⁰⁸ E faaono mafai foi e le Ao o le Malo ona faia se poloaiga e faatino ai tulaga ua ta'ua i lalo e fua agai i le fautuaga e tuuina mai e le Kapeneta:
- Faamatalaga agai i se fualaa faasaina, o le aofaiga lea e avea ma Prescribe in relation to a drugs, a quantity that is to be regarded as trafficable quantity of that drugs (v 5(2)).
 - Faaopoopo atu se vailaaui fou i le Faamatalaga fa poo le suia poo le aveesea o se vailaaui o loo lisiina i le Faamatalaga fa (v 5(3)).
 - Prescribe in relation to a controlled precursor, a quantity that is to be regarded as a controlled quantity of that controlled precursor (s 5(4)).
- 4.7. O fa'atalatalanoaga amata na laga ai se faafitauli e faapea o le Tulafono oloo i ai nei e le'o manino pe faapefea ona fuafuaina le tulaga lamatia. E le o manino foi tulaga talafeagai e tataui ona mulimulita'ia (pe afai e i ai) e le HOS e fuafua ai le fa'avasegaina o nakoti.
- 4.8. Na matauina foi e le Komisi mai faatalatalanoaga amata e mafai e le Minisita o le Soifua Maloloina i lalo o le *Tulafono a le Matagaluega o le Soifua Maloloina* ona faavaeina itutino faufautua e fesoasoani i le Minisita poo le MOH i le tauaveina o a latou galuega faatino i lalo o lea lava tulafono poo soo se tulafono talafeagai. I le faatinoga o lea tulaga, e faaono

¹⁰⁶ See *Misuse of Drugs Amendment Regulations 2014* (New Zealand) and *Misuse of Drugs Amendment Regulations (No 2) 2016* (New Zealand).

¹⁰⁷ Generally speaking, Samoa follows the United Nations' (UN) classification of hard drugs. The UN internationally recognized illegal drug classification system classifies illegal drugs according to their accepted dangers and comparative harmfulness either to individuals or to society at large when they are misused.

¹⁰⁸ *Tulafono o Nakoti 1967* (Samoa) s 5.

faia e nei itutino ni talosaga, faia ni suesuega poo le lipoti atu i le Minisita.¹⁰⁹ O le mea lea, e tusa ai o galuega tauave a le MOH mo le faafoega o le Tulafono o Nakoti a Samoa, ua matauina e le Komisi o lenei aiaiga atonu o se auala e faaoga e le MOH e faavae ai se komiti faufautua e fautuaina le faavasegaina o fualaau faasaina.¹¹⁰

Isi Atunuu faatusatusa

Niu Sila

- 4.9. O le *Tulafono o le Faaaoga Sese o Fualaau Faasaina 1975* a Niu Sila o loo faavaeina ai komiti faufautua o la latou matafai oi o le fautuaina o le Minisita o le Soifua Maloloina e uiga i soo se faamoemoega o sea Tulafono,¹¹¹ ma se Komiti Faufautua Faapitoa o Fualaau Faasaina (**EACD**) lea e nafa tonu ma le fautuaina o le faavasegaina o fualaau faasaina.¹¹² E faia e le EACD su'esu'ega fa'apitoa ma su'esu'ega faasaienisi ma faia fautuaga i le Minisita e uiga i le toe fa'avasegaina, pe a mana'omia. I le faaopoopo atu i le fautuaga a nei komiti, e tatau i le Minisita ona iloilo i itu taua¹¹³ ao le i fautuaina ni teuteuga i faamatalaga o le Tulafono ua i totonu o le Palemene.¹¹⁴
- 4.10. E tusa ai ma le EACD, ua aiaia e le tulafono e tatau ona aofia ai tagata ei ai tomai faapitoa i mataupu e faatatau i fualaau ma vailaau mo togafitiga, soifua maloloina lautele, faamasinoga amiotonu faapea foi ma se tasi o loo aveva ma sui o manatu o tagata o loo faaogaina auaunaga tau fualaau faasaina.¹¹⁵

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu e faasino i le faatinoga o loo iai nei (faaopopo poo le toese) faamatalaga e le HOS ma faafitauli pe faamata e tatau ona faavaeina se komiti suesue faapitoa (tutusa ma Niu Sila) e tuuina atu fautuaga pe faia suiga i faamatalagama le fetuunaiga o se a komiti

Teuteuga o Faamatalaga: Faatinoga o loo iai nei

- 4.11. E le'i i ai ni finagalo e fa'amatalaina le faatinoga o loo iai nei a le HOS i lalo o le vaega 5 o le Tulafono o Nakoti a Samoa. Ae ui i lea, o nisi o paaga a le Komisi na faaalua le manatu afai e iai sea faatinoga, e tatau ona faatulafonoina e taiala ai le faia o nisi toe teuteuga i le faavasegaina o fualaau faasaina i le lumanai.

¹⁰⁹ *Ministry of Health Act 2006* (Samoa) s 13.

¹¹⁰ Email from the Office of the Attorney General to the Samoa Law Reform Commission (preliminary consultations), 1 May 2017.

¹¹¹ *Misuse of Drugs Act 1975* (New Zealand) s 5.

¹¹² *Misuse of Drugs Act 1975* (New Zealand) s 5AA.

¹¹³ These factors include, the likelihood or evidence of drug abuse, including such matters as the prevalence of the drug, levels of consumption, drug seizure trends, and the potential appeal to vulnerable populations; and the specific effects of the drug, including pharmacological, psychoactive, and toxicological effects; and the risks, if any, to public health; and the therapeutic value of the drug, if any; and the potential for use of the drug to cause death; and the ability of the drug to create physical or psychological dependence; and the international classification and experience of the drug in other jurisdictions; and any other matters that the Minister considers relevant. See *Misuse of Drugs Act 1975* (New Zealand) s 4B (2).

¹¹⁴ *Misuse of Drugs Act 1975* (New Zealand) s 4B.

¹¹⁵ *Misuse of Drugs Act 1975* (New Zealand) s 5AA (3).

Pulega talafeagai e faatinoina le faavasegaina

4.12. O le tele o manatu e faapea o le Minisita, e tutusa ma Niu Sila ma mo mafuaaga talafeagai, e tataua ona tauaveina galuega i lalo o le vaega 5.¹¹⁶ I le isi itu, o nisi o paaga na tuuina mai e faatumauina pea le tulafono o loo i ai nei mo le HOS ina ia toe teuteuina ona o le HOS o loo iai le pule maualuga i le atunuu.¹¹⁷ E le gata i lea, o le fa'amalosiina o se tagata e ese mai i le HOS (ft. o le Minisita) e faaono mafai ona maualuga ai le tetee atu i le soona faaoga o le malosiaga.¹¹⁸

Komiti Suesue Faapitoa (fetuunaiga ma galuega tauave)

4.13. O isi paaga na malilie e faatuina se komiti faufautua/suesue faapitoa ft. 'Komiti Faatino o Fualaa Faasaina' e latou te fautuaina le pulega talafeagai i lalo o le Tulafono i teuteuga talafeagai i faamatalaga o loo i le Tulafono.¹¹⁹

4.14. Sa i ai fo'i nisi o finagalo na tu'uina mai e fa'aaoga komiti o loo i ai nei e iai a latou matafaioi e feso'ota'i ma mataupu tau le puipuiga lautele ma le saogalemu o le atunu'u. O se tasi o paaga na fautuaina le faaogaina o le Komiti o le Puipuiga Lautele.¹²⁰ I le taimi nei, o lea Komiti e latou te fautuaina le Kapeneta i mataupu tau puipuiga lautele e aofia ai le mataituina o le feuaiga o fualaa faasaina. O lo'o aofia ai le Loia Sili, Komesina o Leoleo, Ofisa Sili o Matagaluega a le MOH, Matagaluega a le Palemia & Kapeneta (MPMC), Ofisa o Tiute, Kuarenitini, Ofisa o Femalagaaiga, TCU ma isi Matagaluega ma Faalapotopotoga Tumaoti.¹²¹ Atunu'u. O le isi paaga na fautuaina e fa'aaoga le Komiti o Fualaa Faasaina o ana fautuaga na mafua ai teuteuga i le Tulafono o Nakoti a Samoa i le 2009.¹²²

¹¹⁶ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017;

¹¹⁷ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Ministry of Education, Sports and Culture, Written submissions to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017;

¹¹⁸ Ministry of Police, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

¹¹⁹ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written submissions to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Consultation with members of the Judiciary (Judges Chambers, Ministry of Justice and Courts Administration Office, Sogi, 13 September 2017).

¹²⁰ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

¹²¹ Ministry of Prime Ministry and Cabinet submission, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

¹²² Transnational Crimes Unit, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

4.15. E le gata i lea, na fa'aalia e le MOH le manatu e tatau ona avea le toe faavasegaina o fualaau fa'asaina ma matafaioi ma galuega tauave a le Komiti o Fualaau Faasaina ma Tomai Ola, ma e tatau ona fa'avae i luga o le Faiga Fa'avae Fa'avaomalo o le Fa'atonutonuina o Nakoti (INCB). O galuega a le komiti e tatau ona aumai mai i Faiga Fa'avae o Fualaau a le Atunuu.

a) Fetuunaiga/Faavaeina

4.16. E ui lava i komiti eseese na fa'atulai mai, o le tele o manatu o so'o se komiti fa'apitoa po'o se komiti faufautua e tatau ona aofia ai tagata nei:

- Ofisa Sili o Matagaluega talafeagai/Faalapotopotoga a le Malo (ft. MOH, SROS, MOP, Ofisa o le Tiute);
- Fomai ma fomai faapitoa tau vailaau;
- Sui talafeagai mai le vaega tau aoaoga;
- Sui talafeagai o Faalapotopotoga Tuma'oti;
- Tagata e iai tomai faapitoa i fualaau faasaina ma meafaitino o loo faaaogaina.

e) Galuega Tauave

4.17. O galuega tauave a nei komiti faapitoa poo komiti faufautua, e pei ona talosagaina e nisi o paaga, e tatau ona aofia ai tulaga ua ta'ua i lalo:

- ia fautuaina le Minisita o le a fitoitonu iai lea tulaga pe afai ua talafeagai le faaopoopoina poo le toesea o fualaau faasaina poo se sauniuniga i le Faamatalaga;¹²³
- ia fuafua le maualuga o tulaga lamatia ma tuuina mai le maualuga o aafiaga e afua mai i fualaau faasaina (e pei o aafiaga i le tino, tulaga eseese o le faalagolago ma aafiaga lautele);¹²⁴
- ia malamalama lelei i le alualu i luma o le lotoifale o fualaau faasaina i le atunuu ma atunuu i fafo;¹²⁵
- ia fautuaina le Kapeneta i faafitauli o le puipuiga lautele/faafitauli o le saogalemu lautele ma mataitu le feuiaga ma le tufatufaina o fualaau faasaina.¹²⁶

MANATU O LE KOMISI

4.18. Ua maitauina e le Komisi e faapea o le tele o manatu na tuuina mai e lagolagoina le faatumauina o le faatinoga o lo'o iai nei i lalo o le vaega 5, ma o le HOS o loo iai le pule maualuga. O lenei tulaga e faaitiitia ai so'o se fa'aaogaina le tatau o le malosiaga po'o faiga le tonu pe afai o le isi pulega o le a tauaveina galuega a le HOS. O isi paaga na latou lagolagoina o le Minisita talafeagai e tutusa ma le faiga i Niu Sila ona o lona tomai i mataupu tau soifua maloloina. Sa i ai foi finagalo faaalia e fa'aoga komiti ma itutino

¹²³ Samoa Law Society, Written Submission to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967, 31 October 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

¹²⁴ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

¹²⁵ Samoa Law Society, Written Submission to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967, 31 October 2017.

¹²⁶ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Consultations with the Ministry of Education, Sports and Culture (Education, Sports and Culture Building, Malifa, 8 August 2017).

faufautua o loo iai nei e tutusa ma i latou ia e mafai ona fa'atuina e le Minisita o le Soifua Maloloina i lalo o le *Tulafono o le Soifua Maloloina 2006*.¹²⁷

- 4.19. Ua manatu le Komisi o se faatinoga talafeagai e mo le Minisita o le Soifua Maloloina e fa'avasega ai fualaau faasaina (toese, fa'aopopo ma teuteu). E le gata i lea, ua manatu le Komisi e tatau ona faatuina se komiti faapitoa faufautua (atonu e talafeagai le faatuina i lalo o le *Tulafono o le Matagaluega o le Soifua Maloloina 2006*) poo le faaoga o komiti o loo iai nei e fautuaina le Minisita talafeagai e uiga i faafitauli e pei o le talafeagai ai o le faaopoopoina poo le toesea fualaau faasaina, fuafua le maualuga o tulaga lamatia, ma tuuina mai le maualuga o aafiaga (aafiaga lautele ma aafiaga i le tino) e mafua mai i fualaau faasaina. O aiaiga o lo'o i lalo o le tulafono a Niu Sila e mafai ona fa'aaoga ma fetuunai.
- 4.20. O sea komiti faapitoa poo se komiti faufautua e tatau ona aofia ai sui mai ofisa talafeagai e iai le poto ma le malamalama faapitoa i fualaau faasaina, foma'i ma foma'i faapitoa o vailaau, ma so'o se isi tagata faigaluega talafeagai. O le tulafono a Niu Sila e mafai ona fa'aaogaina e fai ma ta'iala e faasino i le faavaeina o ia komiti aepeitai e faatoa mafai ona faia lea tulaga pe afai o loo o gatasi ma le tulaga o loo iai le atunuu. O le mea lea, o sea komiti e iai galuega talafeagai e fautuaina ai le Minisita o le a faamautinoa ai o loo faavasega fualaau faasaina i sona tulaga talitonuina ma talafeagai lelei.

FAUTUAGA 14: O le faavasegaina ma le teuteuina o Faamatalaga i le Tulafono (Vaega 5) e tatau ona avea ma matafai oi autu a le Minisita o le Soifua Maloloina, i le faia i luga o fautuaga a se komiti faapitoa po o se komiti faufautua, pe faamata e faavaeina i lalo o le *Tulafono o le Matagaluega o le Soifua Maloloina 2006* poo le faaogaina komiti o loo iai nei.

FAUTUAGA 15: O lenei komiti faapitoa poo se komiti faufautua e tatau ona aofia ai sui mai ofisa talafeagai e iai le poto faapitoa i fualaau faasaina, foma'i ma foma'i faapitoa o vailaau, ma soo se isi tagata faigaluega talafeagai. O le tulafono a Niu Sila e mafai ona fa'aaoga e fai ma ta'iala pe a talafeagai ai.

FAUTUAGA 16: Ina ia o gatasi ma manatu o le atunuu lautele, o galuega tauave a sea komiti faapitoa poo se komiti faufautua, e tatau ona aofia ai tulaga ua ta'ua i lalo:

- ia fautuaina le Minisita pe afai ua talafeagai le faaopoopoina poo le toesea o fualaau faasaina poo se sauniuniga i le Faamatalaga;
- ia fuafua le maualuga o tulaga lamatia ma tuuina mai le maualuga o aafiaga e afua mai i fualaau faasaina (e pei o aafiaga i le tino, tulaga eseese o le faalagolago ma aafiaga lautele);
- ia malamalama lelei i le alualu i luma o le lotoifale o fualaau faasaina i le atunuu ma atunuu i fafo;
- ia fautuaina le Kapeneta i faafitauli o le puipuiga lautele/faafitauli o le saogalemu lautele ma mataitu le feuiaiga ma le tufatufaina o fualaau faasaina

¹²⁷ See *Ministry of Health Act 2006* (Samoa) s 13.

III. Isi Vailaau o loo maua i le Atunuu

- 4.21. O nisi su'esu'ega amata a le Komisi na alia'e mai ai o vaila'au o loo faaaoga taatele e aofia ai le aisa, vaigase (vaigase), mariuana, opium, heroin, codeine ma le tele o vailaau tau amphetamine, o lo'o puipua lelei i lalo o vasega A, B ma le C.
- 4.22. Ae peitai, o se faafitauli taua na laga i faatalatalanoaga amata o le taatele o le faaaogaina o isi vailaau ma laau i totonu o Samoa lea ua lauiloa le i ai o aafiaga taufaamatau. Mo se fa'ata'ita'iga, o le fa'aaogaina o le logo/tagamimi (daturametel),¹²⁸ pulouaitu, ma le sikaleti taai. O ia vailaau ua lauiloa le taatele o lona fa'aaogaina e nu'u i tua, ma ua mafua ai le tele o fa'afitauli o le soifua maloloina (faafitauli i le mafaufau) ma e o'o lava i le oti i nisi tulaga.
- a) *Pulouaitu (mushroom head)*
- 4.23. O le pulouaitu ua lauiloa i totonu o Samoa o se faamalu ua ma'ea ona mamananu o se pulou patino.¹²⁹ O lenei fungi e talitonuina na fa'alauiloa faatasi mai ma povi i le taimi muamua i totonu o Samoa i le seneturi talu ai ma o lo'o maua nei i le lautele o Samoa.¹³⁰ O Pulouaitu e masani ona fa'aputuina mai fanua faifaatoaga ua tupu i luga o taepovi lea e aveese ai o latou pulou ma faapuna i totonu o le vaivela ina ia maua ai se vai inu lanu uliuli lea e masani ona fa'afefilo ma le kofe.¹³¹ I le isi itu, o nisi tagata Samoa e taumafaina le pulou e aunoa ma se isi faiga, poo le taumafa faatasi ma le coca cola, pe tuu ai e faamago e ulaula ai.¹³² E le gata i lea, o le taumafaina o ulu o pulouaitu e amata ona faaosofia ai lagona o le fiafia i ata ma leo e oo atu i le 7 itula le umi.¹³³ O le taumafaina e mafua ai le faaleagaina o le aoga o maso o le tino.¹³⁴
- 4.24. E taua le matauina, o le tulafono o loo i ai nei o loo faavasega atu ai pulouaitu malosi o se PSILOCYBINE (3- (2-dimethylaminoethyl) indol-4-yl dihydrogen phosphate), o le Vasega A o fualaau faasaina (lea e tutusa lona a'afiaga ma le ulu o le pulouaitu).

¹²⁸ Invasive Species Compendium, 'Brugmansia Candida (angel's trumpet)' *Cookies in Invasive Species Compendium* (2017) <<http://www.cabi.org/isc/datasheet/10133>>.

¹²⁹ Editors of Encyclopaedia Britannica, 'Mushroom' *Encyclopaedia Britannica* (28 August 2017) <<https://www.britannica.com/science/mushroom>>.

¹³⁰ Paul Alan Cox, 'Use of hallucinogenic mushroom, Copelandiacyanescens, in Samoa' *Department of Botany University of Hawaii at Manoa* (1981) <<http://www.botany.hawaii.edu/basch/uhnpscesu/pdfs/sam/Cox1981WS.pdf>>.

¹³¹ Paul Alan Cox, 'Use of hallucinogenic mushroom, Copelandiacyanescens, in Samoa' *Department of Botany University of Hawaii at Manoa* (1981) <<http://www.botany.hawaii.edu/basch/uhnpscesu/pdfs/sam/Cox1981WS.pdf>>.

¹³² Paul Alan Cox, 'Use of hallucinogenic mushroom, Copelandiacyanescens, in Samoa' *Department of Botany University of Hawaii at Manoa* (1981) <<http://www.botany.hawaii.edu/basch/uhnpscesu/pdfs/sam/Cox1981WS.pdf>>.

¹³³ Paul Alan Cox, 'Use of hallucinogenic mushroom, CopelandiaCyanescens, in Samoa' *Department of Botany University of Hawaii at Manoa* (1981) <<http://www.botany.hawaii.edu/basch/uhnpscesu/pdfs/sam/Cox1981WS.pdf>>.

¹³⁴ Paul Alan Cox, 'Use of hallucinogenic mushroom, Copelandia Cyanescens, in Samoa' *Department of Botany University of Hawaii at Manoa* (1981) <<http://www.botany.hawaii.edu/basch/uhnpscesu/pdfs/sam/Cox1981WS.pdf>>.

e) *Logo poo tagamimi (daturas)*

- 4.25. O le 'logo' po'o le 'tagamimi' e faasino e le Sāmoa i le laau lea e lauiloa o le 'daturas'¹³⁵ e iai ona fugalaau e pei o se pu tele lanu paepae, samasama, lanu piniki ma le lanu violē.¹³⁶ O mea uma lava o lenei ituaiga e iai meatotino tau hallucinogenic¹³⁷ ma ona laulaau ma fatu e iai hallucinogen alkaloids ma le pu a le agelu, o le pu o le tele ma le jimsonweed o le sili ona ta'uta'ua o ituaiga.¹³⁸ I totonu o Samoa, o le logo o le laau e masani lava ona maua i auvai o vaitafe, i luga o le pito o le vaomatua ma e oo lava i luga o auala.¹³⁹
- 4.26. O le laulau i lalo o lo'o lisiina ai isi vaila'au ma laau ma o latou fa'avasegaga i lalo o le Tulafono a Nakoti Samoa. E taua le maitau mai le laulau, e le o manino pe fa'apefea ona fa'avasega le vailaau o le logo po'o le tagamimi (daturametel).

Vailaau o loo maua i le Atunuu	Vasega A	Vasega B	Vasega C	Vailaau Faatonuina	E leo Faavasegaina
Pulou Aitu (psilocybine)	✓				
Logo (Daturametel)					✓
Sikaleti Ta'ai					✓

- 4.27. E le gata i lea, o le fa'aaogaina o isi vaila'au pei o le karasini ma le penisini e taai ai le tapaa, na fa'aalia ai popolega i nisi o foma'i fa'apitoa ona o le a avea ma tulaga e aafia ai le mafaufau.¹⁴⁰ E le gata i lea, o lenei mea na mafua ai le manatu pe faamata o nei faatinoga e tatau ona aofia i lalo o le tulafono.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata o talitonuina le faatinoga o loo iai nei le faavasegaga, o isi fualaau faasaina o le a talanoaina e le o aofia i totonu o Faamatalaga, ma umi e tatau ai ona faafou nei faamatalaga.

O le lelei o le Faavasegaga o loo iai nei

- 4.28. E le'i mauaina e le Komisi ni manatu e uiga i le lelei o le faavasegaga o fualaau faasaina o loo iai nei. Ae ui i lea, sa i ai finagalo na tu'uina mai e fa'aaoga le *Tulafono o le Fa'aaoga Sese o Fualaau Faasaina a Niu Sila 1975* ina ia fa'amaonia mai ai fualaau faasaina talafeagai e faaono manaomia le faaopopo atu i le faavasegaga o fualaau faasaina i lalo o le Tulafono o Nakoti a Samoa.

O fualaau faasaina fou e faaopopo ma o latou aafiaga

- 4.29. Na maua e le Komisi ni manatu na faailoa mai ai fualaau faasaina (fou) lea e tatau ona aofia i le faavasegaina o fualaau faasaina i totonu o le tulafono fou o fualaau faasaina. Mo se fa'ata'ita'iga, ia aofia ai le laau o le logo ma le ulu o le pulouaitu o se laau faasaina. E tusa

¹³⁵ Augustin Kramer, *The Samoa Islands: Material Culture* (1994) 453.

¹³⁶ Christina Pratt, *An Encyclopedia of Shamanism* (2007) 134.

¹³⁷ Christina Pratt, *An Encyclopedia of Shamanism* (2007) 134.

¹³⁸ Thomas Nordegren, *The A-Z Encyclopedia of Alcohol and Drug Abuse* (2002) 210.

¹³⁹ B.E.V. Parham, *Plants of Samoa* (1972) 116.

¹⁴⁰ Consultation of the Mental Health Unit (Mental Health Unit Conference Room, Moto'otua Hospital, 22 August 2017).

ai ma nisi na tuuina mai manatu, o nei la'au e fa'aaogaina ona o le faalogona maualuga e maua ai le tagata o loo faaaogaina.¹⁴¹ Mo nisi o manatu, sa faaalua ai o se popolega lea tulaga ona ua avea ma tulaga lauiloa ma taatele i tupulaga talavou.¹⁴²

- 4.30. O se tasi o paaga na patino lava lana talosaga e aofia synthetic drugs ma e-cigarettes (vapour cigarettes) i le faavasegaina o fualaau faasaina.¹⁴³ Na fautuaina e le MHU e iloilo fualaau faasaina fefiloi e pei o le sikareti o loo taai faatasi ma le karasini ona o le maualuga o gasegase e tuuina atu i le MHU ua vaivai ona atonu e afua mai i nei sikareti.¹⁴⁴ Na faaalua manatu o Alii ma Faipule a Savaii ma Upolu e iloilo le faavasegaina o vailaau e pei o le mautofu ma le vaoelefane lea e faaaoga e faafefiloi ma fualaau faasaina moni ona e oona ma e ono afaina ai le mafaufau.¹⁴⁵
- 4.31. Na fesiligia e nisi o i latou na tuuina mai manatu, pe faamata o le ava o se fualaau faasaina ma pe faamata e tatau foi ona iloilo ina ona o a'afiaga le talafeagai i le soifua maloloina o se tagata.¹⁴⁶

Faafouina o Faamatalaga

4.32. O le tele o manatu o le tu'uina atu lea o se taimi faatapulaa e mafai ai ona iloilo ina ma toe fa'afouina Faamatalaga. O nisi o ē na tu'uina mai manatu e toe iloilo ina Fa'amatalaga i totonu o le tasi tausaga pe tolu (3) foi tausaga.

- 4.33. I le isi itu, o nisi o paaga na manatu e iloilo ina Faamatalaga i luga o se mana'oga¹⁴⁷ po'o le tu'uina atu i Ofisa Sili o Pulega a paaga talafeagai mo sa latou faatatau.¹⁴⁸ O se tasi o paaga a le Komisi na fautuaina le fa'aogaina o Niu Sila e fai ma taiala poo le a le umi e fai ai ma toe iloilo Faamatalaga a Samoa.

MANATU O LE KOMISI

- 4.34. Ua matauina e le Komisi o Faamatalaga o fualaau faasaina a Samoa o loo iai nei o loo lelei ona o loo tuuina mai ai vailaau faasaina taatele e aofia ai le vaigase, aisa, mariuana, opium, heroin, codeine ma le tele o ituaiga vailaau tau amphetamine o loo i lalo o Vasega A, B ma le C. E tusa ai ma lea tulaga, o le faavasegaina o fualaau faasaina a Samoa o loo matele lava ina tutusa i le tele o itu ma isi atunuu i fafo e pei o Niu Sila ma NSW.

¹⁴¹ Consultation with the University of the South Pacific (Samoa) (University of the South Pacific Alafua Campus, 15 September 2017).

¹⁴² Consultation with the University of the South Pacific (Samoa) (University of the South Pacific Alafua Campus, 15 September 2017).

¹⁴³ Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

¹⁴⁴ Consultation of the Mental Health Unit (Mental Health Unit Conference Room, Moto'otua Hospital, 22 August 2017).

¹⁴⁵ Public Consultations with Alii ma Faipule (Upolu and Savaii 25-26, 28-29 September 2017).

¹⁴⁶ Consultation with the University of the South Pacific (Samoa) (University of the South Pacific, Alafua Campus, 15 September 2017).

¹⁴⁷ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

¹⁴⁸ Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

- 4.35. Na matauina foi le taatele o le faaaogaina o isi vailaau e pei o le laau o le logo (daturametel), ulu o le pulouaitu ma le sikareti faafefiloi. O nei vailaau o lo’o avea ma popolega tele i totonu o le atunu’u, aemaise lava i tupulaga talavou, ma ua mafua ai ona iai faafitauli tau le soifua maloloina ma oo ai i le maliu i nisi o tulaga. Ua matauina e le Komisi magic pulouaitu ua faavasegaina o se vailaau i le Vasega A, ae peitai, e le o mautinoa pe o isi mea e pei o le logo ma le sikaleti faafefiloi o loo aiaia i lalo o le tulafono.
- 4.36. O le mea lea, ua manatu ai le Komisi o le toe fa’afouina o faamatalaga e taua tele ina ia fa’amautinoa o loo aofia uma ai fualaau fa’asaina taatele ma isi vaila’au ua matauina e aafia ai le atunuu ft. logo, mautofu, vaoelefane ma le sikareti faafefiloi. E manaomia le faatino o nisi o suesuega faaopoopo e faasino i nei vailaau ogaoga e fuafua ai le maualuga o le aafiaga ma ia faailoa mai ai nisi o vailaau matautia e tatau ona faatulafonoina. O le Komiti ua faavaeina i lalo o le **Fautuaga 14** o lenei Lipoti e mafai ona faia nisi su’esu’ega faaopoopo poo le Matagaluega o le Soifua Maloloina i lalo o lana vaega talafeagai. E le gata i lea, o le fa’afouina o Fa’amatalaga e tatau ona faia i luga o se tulaga manaomia.

FAUTUAGA 17: O Faamatalaga o le Tulafono o Nakoti a Samoa e tatau ona faafouina e le aunoa ina ia faamautinoa ai o loo aofia ai fualaau faasaina taatele ma isi vailaau e pei o le logo ma sikareti faafefiloi. E manaomia nisi suesuega faaopoopo e faasino i nei vailaau e fuafua ai le maualuga o aafiaga ma faailoa mai ai isi vailaau matautia (e pei o le logo ma le pulouaitu) lea e tatau ona faatulafonoina. O isi su’esu’ega e mana’omia ona fa’atinoina i luga o nei vaila’au e fuafua ai le tele o le fa’alavelave na tupu ma ia iloa isi mea leaga (e tutusa ma le logo ma le pulouaitu) e tatau ona fa’atonutonu. O le Komiti ua faavaeina i lalo o le **Fautuaga 14** o lenei Lipoti e tatau ona faia sea su’esu’ega faaopoopo poo le Matagaluega o le Soifua Maloloina i lalo o lana vaega talafeagai.

FAUTUAGA 18: E tatau ona toe iloilo Faamatalaga i luga o se tulaga manaomia e faamautinoa ai lelei atoatoa pe a faia iloiloga o se fualaau faasaina ua faaofi mai.

IV. Vailaau Oona ma Fualaau Gaosi Faasaina

- 4.37. O fualaau gaosi faasaina ma vailaau fou psychoactive ua amata ona taatele i le lalolagi ma o loo aafia ai le soifua maloloina o tagata. Mo se fa’ata’ita’iga, pe a fa’aaoga pe foloia ia vailaau i totonu o le tino, o le a aafia ai o latou mafaufau, ft. mafaufauga.¹⁴⁹ O ia mea o loo gaosia e faaoga ai vaila’au nai lo le mea o le natura, po o laau o le vaomatua. O fualaau gaosi faasaina o loo faamoemoe e tai tutusa ma maua lelei aafiaga o fualaau faasaina o loo iai nei e pei o le cocaine ma le ecstasy. O fualaau gaosi fa’asaina ua taatele e aofia ai party pills, synthetic cannabinoids ma le herbal highs.
- 4.38. I le taimi nei, e le o iai se tulafono a Samoa e faatulafonoina ai vailaau psychoactive fualaau gaosi faasaina. E le gata i lea, o loo fuafua e avea Samoa ma se tasi o sui i le *Feagaiga mo Vailaau Psychotropic 1971 (Feagaiga 1971)* lea na faavaeina ai se faiga fa’avaomalo faatonutonu mo vailaau psychoactive. E ui lava e le o se mea taatele i totonu o Samoa i lenei taimi vailaau psychoactive ma fualaau gaosi faasaina, e iai le faamoemoe o le a avea

¹⁴⁹ World Health Organization, ‘Management of substance abuse: Psychoactive substances’ <http://www.who.int/substance_abuse/terminology/psychoactive_substances/en/>.

lea tulaga ma atugaluega tele mo Samoa i se taimi lata mai i le lumanai. O le a avea lea tulaga e fesiligia ai pe faamata e tatau ona avea Samoa ma sui o le Feagaiga 1971.

Faatatusasaga i isi Atunuu

Niu Sila

- 4.39. Na paisa e Niu Sila *Tulafono o Vailaau Psychoactive 2013 (NZ PS Act)* lea e faatagaina ai mo le tulafono, e tusa lava pe puipuia lona faatulafonoina, fa'aaogaina ma le fa'atau atu o fualaau gaosi fa'asaina lea e lauiloa lona maualuga faaletulafono poo party pills. O nei vaila'au gaosi pepelo o loo gaosia ina ia tutusa lelei ma aafiaga o fualaau faatonuina e pei o le mariuana, ecstasy, LSD ma le amphetamines. O le manulauti o lenei Tulafono a Niu Sila o le puipuia lea o tagatanuu mai le fa'aaoga sese o fualaau faasaina e le i faaitaitaia i se maketi e le o faatulafonoina.¹⁵⁰
- 4.40. E pei ona taua i luga, o le PS Act a Niu Sila ua faatulaga manino mai ai manaoga tapulaa mo le fa'aaogaina ma le fa'atauina atu o nei fualaau faasaina. Mo se fa'ata'ita'iga, e faigata le mauaina o se laisene e fa'atau atu ai ma o oloa e fuafua e fa'atau atu e tatau ona fa'amaonia muamua pe a maea ona faaitaitai e faamautinoa ai ua saogalemu mo le taumafaina.¹⁵¹ Ona o le iai o le PS Act a Niu Sila, e le o toe mana'omia e le malo o Niu Sila ona toe teuteuina a latou tulafono e fa'afetaui ai le fa'aofiina atu o fualaau gaosi fa'asaina fou, ona o lea ua tuuina atu lea matafaioi i le au gaosi oloa e fa'amaonia a latou oloa ao le'i fa'atagaina i luga o le maketi.
- 4.41. O le PS Act foi a Niu Sila o loo fa'asaina ai le faatauina atu o party pills i ai latou ei lalo o le 18 tausaga le matutua. O se soligatulafono le faatauina mai poo le umia o soo se vailaau psychoactive e se tasi ei lalo ifo o le 18 tausaga le matua. e fa'atau ai pe o lo'o umia so'o se mea e mafaufau i le mafaufau. E le gata i lea, o le faatinoga atoa o le tuuina atu (gaosiga, felauaiga ma le faatauina atu) e matuai faia a latou lafoga ma e fa'atulafonoina.¹⁵²
- 4.42. E ui lava i le i ai o le PS Act a Niu Sila, o fualaau gaosi faasaina ua mafua ai popolega tele mo le Malo, foma'i soifua maloloina, leoleo ma tagata lautele. E mafua ona o nei fualaau faasaina e lamatia ai le ola ma e o'o ai lava i le maliu. Mo se fa'ata'ita'iga, na fa'aalia mai i se lipoti lata mai talu ai nei, e fitu tagata na maliliu ina ua mae'a le fa'aaogaina o le mariuana gaosi i le masina o Iulai i Aukilani.¹⁵³

Peretania

- 4.43. O le Tulafono o Vailaau Fa'aonaponei 2016 (PS Act UK) o lo'o fa'asalalau ai mea fa'amalosi i le UK. O vailaau psychoactive ua faatulafonoina i lalo o le tulafono a Peretania. O vailaau psychoactive o lona uiga i lalo o tulafono a Peretania o se fualaau faasaina ia e mafai ona maua ai se aafiaga tau psychoactive o se tagata na te faaogaina, e ala i le faaosofia pe

¹⁵⁰ *Psychoactive Substances Act 2013* (New Zealand) s 3.

¹⁵¹ *Psychoactive Substances Act 2013* (New Zealand) ss 17-18.

¹⁵² *Psychoactive Substances Act 2013* (New Zealand) ss 52-64.

¹⁵³ NZ Herald, "Seven deaths in Kiwi synthetic cannabis epidemic this month", 21 July 2017 (online ed.), <http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11893530>. Accessed 18 December 2017. See also "Police: Twenty deaths linked to synthetic drugs", 14 September 2017 (online ed.) <http://www.nzherald.co.nz/nz/news/article.cfm?c_id=1&objectid=11922356>. Accessed 18 December 2017.

faavaivaia ai le fatugalemu o se tagata.¹⁵⁴ O nei vailaau e afaina ai le mafaufau ma lagona o le mafaufau o se tagata.¹⁵⁵ I le silia ma le sefulu tausaga talu ai, o legal highs i Peretania na fesoota'i atu i nisi o maliu e 76. E ui lava o le numera o maliu na o se vaega itiiti o i latou mai nakoti faaaogaina faasolitulafono e pei o le heroin po'o le cocaine, ua siitia le popolega o le atunuu ona o le maualuga o le faalauiloaina faalauaitetele o maliu ma le faigofie ona maua o nei vailaau i faleoloa ma le faatauina mai i luga o le initaneti.

- 4.44. E le gata i lea, o le PS Act UK o lo'o tu'uina mai ai e matuai faasaina le gaosiga, tu'uina atu, fa'aulufale mai ma le fa'aulufafo atu o vailaau psychoactive ua fuafua mo le faaaogaina e tagata.¹⁵⁶ Ae ui i lea, o le PS Act UK e le o faasaina ai le umiaina o nei fualaau faasaina. O lenei tapulaa e faatoa mafai ona faatino mo vailaau e le o lisiina ma fa'amaonia manino mai e le Fa'amatalaga 1 o le tulafono. O oloa e le o iai e aofia ai vaila'au, ava malosi, nicotine, oloa tau tapaa, oloa tau caffeine ma oloa mo mea'ai.

Ausetalia

a) Malo

- 4.45. O le faiga a le malo o Ausetalia 'federal' e faatatau i legal highs ua matuai motusia ma ua i'u ai i le eseese o le tali atu faaletulafono a teritori i nei vailaau. O tulafono o fualaau faasaina o loo o gatasi e faatoa faaoga pe afai e iai se malosiaga faalefaavae a Malo o le Taupulega. Mo se faataitaiga, o Malo o le Taupulega ei ai le puleaga i le faatulafonoina o le faaulufaleina mai o nei vailaau psychoactive i totonu o Ausetalia.¹⁵⁷
- 4.46. Na pasia e le Mälō o le Taupulega le *Tulafono o le Teuteuga o Soligatulafono (Vailaau Psychoactive ma isi alafua) 2015 (CLA Act)*. O le manulauti o le CLA Act o le fa'asaina lea o le faaulufaleina mai o vaila'au o lo'o i ai se aafiaga psychoactive.¹⁵⁸ O le aafiaga i le mafaufau e faauigaina o le faaosofia po o le atuatuvaile o le fatugalemu o le tino o le tagata, e mafua ai le gaioiga po o se faalavelave matuia i totonu, po o se suiga taua i, galuega tau afi, mafaufauga, amioga, manatu, malamalama po o lagona, po o le faatupuina o se tulaga faalagolago, e aofia ai manaoga lasi i itu tau le tino po'o le mafaufau.¹⁵⁹ O le CLA Act e aofia ai tulaga tutusa e le o aofia i aiaiga a Peretania, e ui lava e sili atu ona lautele.
- 4.47. O isi aiaiga faaopoopo i le Tulafono a le CLA Act e fa'asaina ai foi le faaulufaleina mai o vaila'au lea avea ma fualaau fa'ata'ita'i matuia.¹⁶⁰ Mo se fa'ata'ita'iga, pe a fa'apea o ia vailaau e aafia ai le mafaufau lea e tutusa ma, poo e foliga tutusa ma aafiaga o se fualaau ua faasaina, pe o se suitulaga fa'atagaina faaletulafono i se fa'asaina ua fa'asaina.

¹⁵⁴ *Psychoactive Substances Act 2016* (United Kingdom) s 2.

¹⁵⁵ *Psychoactive Substances Act 2016* (United Kingdom) s 2.

¹⁵⁶ *Psychoactive Substances Act 2016* (United Kingdom) s 8.

¹⁵⁷ *Crimes Legislation Amendment (Psychoactive Substances and other measures) Act 2015* (Cth, Australia) s 320.2.

¹⁵⁸ *Crimes Legislation Amendment (Psychoactive Substances and other measures) Act 2015* (Cth, Australia) Long Title.

¹⁵⁹ *Crimes Legislation Amendment (Psychoactive Substances and other measures) Act 2015* (Cth, Australia) s 320.1.

¹⁶⁰ *Crimes Legislation Amendment (Psychoactive Substances and other measures) Act 2015* (Cth, Australia) s 320.3.

e) *Niu Sa Uelese*

- 4.48. O le Malo o NSW na feagai ma le tele o faafitauli i le tele o tausaga e feso'otai i le fa'ateteleina o le fa'aaogaina o fualaau faamalositino ma fualaau gaosi faasaina. Mo se fa'ata'ita'iga, i le 2013, e 1.2 pasene o le faitau aofa'i o tagatanuu o NSW (e tusa ma le 230,000 tagata) na fa'aaogaina fualaau faasaina e gaosi mai i le mariuana (synthetic cannabinoids) i le 12 masina talu ai, ma le 0.4% (e tusa ma le 80,000 tagata) na fa'aaogaina se isi vailaau oona faamalositino e pei o le mephedrone.¹⁶¹
- 4.49. O se taunuuga, na afua ai loa ona faia e le Malo o NSW teuteuga i le *Drugs Misuse and Trafficking Act 1985* e fa'asaina ai le gaosia, tu'uina atu, ma faasalalauga o nei vailaau oona faamalositino.¹⁶² O nei teuteuga na amata faamamaluina ia Setema 2013.
- 4.50. O le *Drugs Misuse and Trafficking Act 1985* ua aiaia ai e noatia se tagata e na te gaosia se vailaau oona faamalositino mo le tuuina atu.¹⁶³ E le gata i lea, o le tulafono foi o lo'o faasaina ai so'o se fa'asalalauga o vaila'au oona fa'amalositino lea e fa'alauiloaina ai tuusa'o pe le tuusa'o le taumafaina, tuuina atu poo le faatauina atu o se vailaau ona o aafiaga faaletino.¹⁶⁴ O leni taofiga e fa'aaoga fo'i i fa'asalalauga e maua ai fa'amatalaga pe fa'aapefa pe o fea foi e mafai ai ona maua ai vailaau oona faamalositino.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau ona faatulafonoina e Samoa vailaau oona faamalositino ma fualaau gaosi faasaina i lalo o se tulafono tutoatasi poo le avea o se vaega o le tulafono fou o fualaau faasaina.

- 4.51. O le tele o manatu na tuuina mai ia aofia vailaau oona faamalositino ma fualaau gaosi faasaina i totonu o se tulafono tutoatasi e pei o le PS Act a Niu Sila.¹⁶⁵ O lea tulaga o le a manino mai ai le faatulafonoina ma faamamafa atili mai ai le fa'asaina o fualaau gaosi fa'asaina.¹⁶⁶ E le gata i lea, o le a fesoasoani sea tulafono i le MOP e atia'e fa'amaoniga ma metotia mo su'esu'ega e fa'aleleia nei atinae.¹⁶⁷ O le TCU a Samoa na toe fautuaina mo leni Tulafono tutoatasi ina ia tuuina atu ai e matuai faasaina lava le Tetrahydrocannabinol (THC).

¹⁶¹ Drug Info, Synthetic Drugs, Drug info State Library New South Wales <<http://druginfo.sl.New South Wales.gov.au/drugs-z-drugs/synthetic-drugs>>.

¹⁶² *Drug Misuse and Trafficking Act 1985* (New South Wales) pt. 2C.

¹⁶³ *Drug Misuse and Trafficking Act 1985* (New South Wales) s 36ZF.

¹⁶⁴ *Drug Misuse and Trafficking Act 1985* (New South Wales) s 36ZG.

¹⁶⁵ Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Office, FMFM II Building, Matagalalua, 29 August 2017); Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Samoa Law Society, Written Submissions to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

¹⁶⁶ Consultation with the Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

¹⁶⁷ Individual Submission to Samoa Law Reform Commission, Continuing Legal Education Hotspot Seminar on the Drugs Reform (Review of the Tulafono o Nakoti 1967), 31 July 2017.

- 4.52. O sui o le Faamasinoga na latou fa'aalia se manatu e talafeagai le iai o se tulafono tutoatasi pe afai e iai ni su'esu'ega malosi e lagolago ai.¹⁶⁸
- 4.53. Na tu'uina mai se manatu a le MOP e aofia i totonu o le tulafono fou o fualaau faasaina ni aiaiga e uiga i vailaau oon faamalositino ma fualaau gaosi faasaina, nai lo se tulafono tutoatasi. Ae peita'i, afai o nei vailaau oona faamalositino ma fualaau gaosi faasaina e avea ma se fa'afitauli i se taimi, ona faatoa talafeagai ai lea o se Tulafono tutoatasi e pei o Niu Sila.¹⁶⁹

MANATU O LE KOMISI

- 4.54. Ua maitauina e le Komisi le tele o manatu e faatulafonoina vailaau oona faamalositino ma fualaau gaosi faasaina i lalo o se tulafono tutoatasi, e tutusa ma Niu Sila. E le o ioeina e le MOP lenei manatu ma na latou fautuaina le aofia o ni aiaiga i totonu o le tulafono fou o fualaau faasaina. I le taimi nei, e leai se tulafono a Samoa mo lea tulaga. Ua matauina e le Komisi e ui lava i le itiiti o nei faafitauli i totonu o Samoa, e iai le faamoemoe o le a avea lea tulaga ma se atugaluga ogaoga i le lumana'i ona o loo agai i luma ma o loo iai atina'e fou o le siosiomaga o fualaau faasaina. Ua maitauina foi e faapea o atunuu e pei o Niu Sila ma Ausetalia e i ai tulafono tutoatasi o loo faatulafonoina ai vailaau oona faamalositino ma fualaau gaosi faasaina.
- 4.55. E tusa ai ma lea tulaga, ua manatu le Komisi e tatau ona i ai tulafono a Samoa e faatulafonoina ai vailaau oona faamalositino ma fualaau gaosi faasaina e tutusa lelei ma isi atunuu faatusatusa. O lea tulaga e tatau ona aofia i totonu o le tulafono fou o fualaau fa'asaina, ae le o se tulafono tutoatasi. O ia tulafono o le a tali lelei i le siitia ma aafiaga e ono tula'i mai e mafua mai i vailaau oona fa'amalositino ma fualaau gaosi fa'asaina pe a o'o i le taimi e maua ai i Samoa. O le a fesoasoani foi lea i matagaluega o le a faamalosia le tulafono e atiae fa'amaumauga ma metotia mo su'esu'ega e fa'aleleia ai nei atinae fou.

FAUTUAGA 19: E tatau ona faavaeina ni tulafono a Samoa e faatulafonoina ai vailaau oona faamalositino ma fualaau gaosi faasaina e tutusa ma faatinoga a isi atunuu faatutusa. E tatau ona aofia lenei tulaga i totonu o le tulafono fou o fualaau fa'asaina e pei o New South Wales, ae le o se tulafono tutoatasi. Afai o le a faia lea tulaga, e tatau ona fuafuaina e Samoa le sainia o le *Feagaiga a Malo Aafaatasi i Vaila'au Psychotropic substances 1971* lea e puleaina ai le faatonutonuina of vailaau oona faamalositino faavaomalo.

5. VAEGA 4: SOLIGATULAFONO MA FAASALAGA

- 5.1. O lenei Vaega o lo'o talanoaina ai aiaiga o 'Soligatulafono ma Faasalaga' i lalo o le Tulafono o Nakoti Samoa ma tulafono tali tutusa a isi atunuu. O le a silasila i finagalo o tagata lautele e uiga i faafitauli na laga i fa'atalanoaga amata e fausia ai fautuaga i soligatulafono ma faasalaga talafeagai e talafeagai lelei ma mana'oga o Samoa i le taimi nei.

¹⁶⁸ Consultation with members of the Judiciary (Judges Chambers, Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

¹⁶⁹ Consultation with the Ministry of Police (Ministry of Police Building, Apia, 28 August 2017).

I. Soligatulafono

a) Laau Faasaina

Galueaina faasolitulafono o laau faasaina ma le umiaina o fatu laau

5.2. O le Vaega 6 o le Tulafono e faasaina ai le galueaina o se laau faasaina po o le umia o so o se tasi o ona fatu seia vagana ai o ia gaoioiga ua pa'u i lalo o tuusaunoaga ua aiaia i lalo o le Tulafono.¹⁷⁰

5.3. E tutusa aiaiga o tulafono a Niu Sila, Toga ma NSW.¹⁷¹

e) Fualaau Faasaina ma Vailaau Faatonuina

Umiaina faasolitulafono, faaogaina, (faatau, ulaina, taumafaina), tuuina atu poo le puleaina o fualaau faasaina

5.4. I lalo o le vaega 7 o le Tulafono, o se tagata ua ia umiaina ma lona iloa lelei (pe taumafai e umia) poo le fa'aaogaina o fualaau faasaina (e uiga i tulaga ua tuuina atu e pei o le fa'atau, taumafa, ulaula po'o se isi mea) ua ia faia se soligatulafono.¹⁷² E le gata i lea, o se soligatulafono le tu'uina atu po'o le puleaina (po'o le taumafai e tu'uina atu pe pulea) fualaau fa'asaina i se tagata.¹⁷³ E i ai tuusaunoaga ua aiaia i lalo o le Tulafono lea e fa'atagaina ai se tagata faaletulafono, e umia, fa'aaoga po'o le tu'uina atu po'o le puleaina o fualaau fa'asaina i se isi tagata.¹⁷⁴

5.5. E tutusa aiaiga i tulafono a Toga, Niu Sila ma NSW o se soligatulafono le umiaina, fa'aaogaina ma le puleaina o fualaau faatonuina se vagana ai ua tuusaunua i lalo oa latou Tulafono.¹⁷⁵

5.6. Talu ai o se soligatulafono mo atunuu uma nei e tolu le *tu'uina atu* o fualaau faasaina,¹⁷⁶ o le vaega 25A o le tulafono a NSW ua fausia ai se soligatulafono o le tu'uina atu o fualaau fa'asaina *i luga o se tulaga fa'aaauau*¹⁷⁷ *pea*. O le mea lea, o se tagata o ia lea ua tuuina atu ni fualaau faasaina (e ese mai le mariuana) e faatolu pe sili atu i luga o faatinoga eseese i totonu o le 30 aso mo mafuaaga o le maua mai ai o tupe poo isi tau i ua nofosala i se soligatulafono.¹⁷⁸ E le gata i lea, e tataua ona faamalieina le faamasinoga o nei faatinoga eseese e tolu sa faalagolago iai o le mafuaaga tonu lea o le soligatulafono ma tuuina atu

¹⁷⁰See *Tulafono o Nakoti 1967* (Samoa) s 6(2).

¹⁷¹*Misuse of Drugs Act 1975* (New Zealand) ss 9, 13(1) (b); *Drug Misuse and Trafficking Act 1985* (New South Wales) s 23(1) (a), (c); *Illicit Drugs Control Act 2003* (Tonga) s 4.

¹⁷²*Tulafono o Nakoti 1967* (Samoa) ss 7 (a)-(b).

¹⁷³*Tulafono o Nakoti 1967* (Samoa) s 7 (c).

¹⁷⁴*Tulafono o Nakoti 1967* (Samoa) s 7 (2).

¹⁷⁵ See *Illicit Control Drugs Act 2003* (Tonga) s 4; *Misuse of Drugs Act 1975* (New Zealand) s 7; *Drug Misuse and Trafficking Act 1985* (New South Wales) ss 10, 12-13.

¹⁷⁶*Illicit Control Drugs Act 2003*(Tonga) s 4; *Misuse of Drugs Act 1975* (New Zealand) s 6(1) (c), 7(1) (b); *Drug Misuse and Trafficking Act 1985* (New South Wales) s 25.

¹⁷⁷ Common examples of supplying prohibited drugs on an ongoing basis include: Dealing drugs such as ecstasy, cocaine, ice or heroin three or more times in a month; Agreeing to organise cocaine for you and your friends in exchange for not having to pay for all of your share three Saturday nights in the same month; Selling a friend a small amount of ice every week from your own stash; or Buying 60 pills for \$600 and selling 20 to three street dealers for \$250 each.

¹⁷⁸*Drug Misuse and Trafficking Act 1985* (New South Wales) s25A (1).

faatonuga e uiga i lea tulaga.¹⁷⁹ E tuusaunoa atu se tagata mai le tuuina atu o fualaau faasaina i luga o se tulaga faifai pea, pe afai ua umia se laisene e faatino ai, poo le faatinoaina foi e tusa ai ma se faamaoniga na tuuina atu e le Faatonu Sili Aoao o le Soifua Maloloina.

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Faaulufale ma le Faaulufafo Faasolitulafono ma le feuaiga o vailaau faatonuina

5.7. O se soligatulafono i lalo o le vaega 10 o le Tulafono o Nakoti Samoa le faaulufaleina mai i totonu po o le faaulufafoina atu ma Samoa le opium ua saunia, o se laau faasaina po o soo se nakoti o loo lisiina i totonu o le Tulafono.¹⁸¹ Peitai, e le o tuusaunoina e le Tulafono tagata, oe ua laiseneina i lalo o le vaega 11, e faaulufale mai poo le faaulufafo atu ma / poo le feuaiga i:

- a) nakoti o loo lisiina i Faamatalaga 1, 2 ma le 3,¹⁸² ma
- e) aofaiga faatonuina o se vailaau faatonuina.¹⁸³

5.8. O lenei tulaga e faia foi i Niu Sila ma Toga.¹⁸⁴ Ae peitai, e le mafai ona maua se tuusaunoaga faapena i totonu o Toga. I totonu o Ausetalia, o le faaulufaleina mai poo le faaulufafo atu faasolitulafono o se 'fualaau faatonuina e puipuia ai' o se soligatulafono tau malo/taupulega.¹⁸⁵ O fualaau ua ta'ua o 'fualaau faatonuina e puipuia ai' ua fa'amaonia i lalo o le tulafono (e aofia ai) ma o latou faasalaga tutusa.¹⁸⁶

Gaosia faasolitulafono o fualaau faasaina

5.9. Soo se tagata o ia na te gaosia faasolitulafono se fualaau faasaina e noatia foi mo se soligatulafono i lalo o le Tulafono o Nakoti a Samoa. O le "Gaosia" o lo'o tu'uina mai i lalo o le Tulafono o se gaoiga e gaosia ai se nakoti (e ese mai galueaina o laau) ma aofia uma ai gaoiga gaosia e pei ona fa'amaonia e le vaega 18A o le Tulafono o Nakoti.¹⁸⁷

5.10. O le soligatulafono o le gaosia o fualaau faasaina e le tusa ai ma le tulafono ma o se soligatulafono i Tonga, Niu Sila ma NSW.¹⁸⁸ O ia soligatulafono e molia ai i faasalaga matuia/mamafa.

Faatau atu, gaosia, tuuina atu poo le umia o vailaau faatonuina faasolitulafono

5.11. O se soligatulafono i lalo o le Tulafono o Nakoti a Samoa le faatau atu, gaosia, umia (pe taumafai e umia), tuuina atu (po'o le taumafai e tu'uina atu) po'o le tagofia o vailaau

¹⁷⁹ See *Drug Misuse and Trafficking Act 1985* (New South Wales) s25A (3) and *R v Seymour* [2001] NSWCCA 272 at [11]–[12].

¹⁸⁰ *Drug Misuse and Trafficking Act 1985* (New South Wales) s 25A (9).

¹⁸¹ *Tulafono o Nakoti 1967* (Samoa) s 10(1).

¹⁸² *Tulafono o Nakoti 1967* (Samoa) s 10(2).

¹⁸³ *Tulafono o Nakoti 1967* (Samoa) s 10(3A).

¹⁸⁴ *Illicit Control Drugs Act 2003* (Tonga) s 3; *Misuse of Drugs Act 1975* (New Zealand) s 6(1) (a).

¹⁸⁵ *Criminal Code Act 1995* (Australia) ss 307.1-307.4.

¹⁸⁶ *Criminal Code Act 1995* (Australia) s 314. See also *Criminal Code Act 1995* (Australia) ss 301.4-301.6 for the definitions of 'border controlled drugs', 'border controlled plants', and 'border controlled precursors'.

¹⁸⁷ *Tulafono o Nakoti 1967* (Samoa) s 18A (2).

¹⁸⁸ *Illicit Control Drugs Act 2003* (Tonga) s 4; *Misuse of Drugs Act 1975* (New Zealand) s 6(1)(b); *Drug Misuse and Trafficking Act 1985* (New South Wales) s 24.

faatonuina ma le faamoemoega o le a fa'aogaina lea vailaau e gaosia ai se nakoti.¹⁸⁹ Ae ui i lea, o se tagata ua laiseneina e umia se aofaiga faatonuina o se vailaau faatonuina ua tuusaunua mai se soligatulafono.¹⁹⁰ O sea foi tagata e le noatia mo le faatauina atu o ia vailaau pe afai ua ia faatauina atu ma le iloa i se isi tagata ua laiseneina.¹⁹¹

5.12. I lalo o le *Tulafono o le Faaaoga Sese o Fualaau Faasaina 1975* a Niu Sila, o se soligatulafono foi le tuuina atu, gaosia o so'o se vailaau faatonuina ma le silafia o sea vailaau o le a faaogaina i le poo le, gaosiga o soo se fualaau faatonuina poo le galueaina o se laau faasaina (faasalaga faafalepuipui mo le 7 tausaga).¹⁹² I le avea ai o se alafua faatonuina, o tagata e nafa ma vaila'au e mataituina le fa'atauina o fualaau/vailaau mo le aisa. Latou te tu'uina atu i Leoleo igoa, tuatusi, numera o le laisene o le taavale, faamatalaga o loo i luga o le laisene avetaavale a le tagata avetaavale, le numera ma le ituiga oloa tau pseudoephedrine ua talosagaina, ma aso ma taimi o le fa'atau.¹⁹³ Na fa'atalosagaina foi e tagata e nafa ma vailaau/fualaau tagata faatau e fa'aali ata fa'amaonia a'o le'i fa'atau atu oloa o iai pseudoephedrine.¹⁹⁴

5.13. O se soligatulafono i lalo o le tulafono a NSW le umia o se vailaau ua avea o se 'vailaau' ua faaopoopoina i se fualaau faasaina. O le vailaau o se mea e fa'aogaina po'o se vaila'au e mafai ona fa'afefiloi faatasi ai ma isi mea po'o vaila'au mo le gaosia o fualaau faasaina. O ia vailaau faafefiloi e aofia ai mea e pei o vailaau, laau, fungi poo isi meaola o loo maua i le siosiomaga. O le mea lea, o se tagata o ia lea ua ia umia se muai aofaiga o le aofaiga e le itiiti ifo nai lo le aofaiga ua faatonuina e tulafono faatonutonu e faasino i lena vailaau ua faamaonia i se soligatulafono.¹⁹⁵ Mo se faataitaiga:¹⁹⁶

- Maua ni pusa se sefulu o pseudoephedrine i lau taavale;
- Fa'aalia o lo'o i ai se sioti e aofia ai le benxaldehyde (o se vaila'au e fa'aogaina e fai ai le aisa) i totonu o lau faletaavale;
- Fa'aogaina o nai atigi apa laiti o le methylamine (o le kesi e fa'aogaina e gaosi ai le aisa) i totonu o lau ato fa'afafa; po'o
- Teuina o vaila'au eseese ma laau totō i totonu o lau falema'i fualaau faasaina.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamataga e tataua ona aofia i totonu o le tulafono fou o vailaau faasaina ona aofia ai se soligatulafono mo se tagata e tuuina atu se fualaau faatonuina i luga o se tulaga faifai pea e aunoa ma se laisene, e peio o NSW.

¹⁸⁹*Tulafono o Nakoti 1967* (Samoa) s 18B (1).

¹⁹⁰*Tulafono o Nakoti 1967*(Samoa) s 18B (1) (e).

¹⁹¹*Tulafono o Nakoti 1967*(Samoa) s 18B (3).

¹⁹²*Misuse of Drugs Act 1975* (New Zealand) s12A (1) (b)-12A (2) (b).

¹⁹³ New Zealand Parliamentary Library, "Methamphetamine ('Speed and 'P') in New Zealand", *Background Note: Information Briefing for Members of Parliament*, 1 July 2003, <<https://www.parliament.nz/resource/mi-nz/00PLSocRP03061/ce52c5808bee59927b0843154d1c75cffb397a47>>.

¹⁹⁴Deborah Benson, *Reporting system put to the test: New Zealand Pharmacy* (2003) 16. It should be noted that it is not an offence to purchase pseudoephedrine if there is no intention to later use it for producing methamphetamine.

¹⁹⁵*Drug Misuse and Trafficking Act 1985* (New South Wales) s 24B (1).

¹⁹⁶John Sutton, 'Possession of Precursor for manufacture' *Armstrong Legal*

<<https://www.armstronglegal.com.au/criminal-law/offences/drugs/possession-of-precursors>>.

- 5.14. O le tele o manatu na lagolagoina le fingingalo e faia se soligatulafono e faasalaina ai se tagata o lo'o tu'uina atu se fualaau faatonuina i se tulaga faifaipea e aunoa ma se laisene po'o se faatagana a le Faatonu Sili Aoao o le Soifua Maloloina / Ofisa Sili o Pulega, e tutusa ma le tulafono a NSW.¹⁹⁷ E leai ni mafua'aga ua taua, ae ui i lea, ua manatu le Komisi o se tasi o mafua'aga o le aloese mai le fefaatauaiga ma le sauaina.
- 5.15. I se isi itu, na taua e se tasi e faapea e le talafeagai mo Samoa ona faia lenei soligatulafono sei vagana ua tauaveina se faasalaga maualuga. E mafua lenei tulaga ona afai e tu'uina atu e se tagata fualaau faasaina i se tulaga faifaipea ma e leai se laisene e faia ai, e mafai ona molia i le moliaga o le umiaina.¹⁹⁸

MANATU O LE KOMISI

- 5.16. O lenei vaega o loo talanoaina ai nisi o soligatulafono tau fualaau faasaina i lalo o le Tulafono o Nakoti Samoa ma aiaiga e tutusa lelei ma isi atunuu fa'atusatusa e pei o Toga, Niu Sila ma NSW. E ui lava i le tele o aiaiga tau soligatulafono i totonu o Samoa e tutusa ma isi atunuu, o lo'o i ai soligatulafono faaopoopo e feso'otai i le tuuina atu faasolitulafono, lea e talafeagai ai se iloiloga. Mo se fa'ata'ita'iga, o se soligatulafono i NSW le tu'uina atu o fualaau fa'asaina i se tulaga faifaipea. E faasino lea tulaga pe a faatolu pe sili atu foi ona tu'uina atu e se tagata se fualaau faasaina i faatinoga eseese i totonu o se vaitaimi o le 30 aso sosoo. Ua matauina e le Komisi le tele o manatu e aofia i totonu o le tulafono fou o fualaau faasaina se ituaiga soligatulafono faapea. E tusa ai o fuainumera faamauina e pei ona talanoaina i le Vaega 1 e uiga i soligatulafono tau fualaau faasaina ma ona aafiaga lautele ma aafiaga i le tamaoaiga i le atunuu, ua manatu le Komisi o le fausia o sea soligatulafono o le a fesoasoani mo le su'eina o i latou o loo tuuina atu fualaau faasaina. Ua manatu le Komisi e faapea o se faasalaga talafeagai, e faavae i luga o le mamafa o le soligatulafono e tatau ona tuuina atu mo sea soligatulafono. Mo se fa'ata'ita'iga, e tatau ona maualuga se faasalaga e tuuina atu pe afai e tuuina atu fualaau faasaina i luga o se tulaga faifaipea mo se faamoemoega faapisinisi. O le tulafono a NSW e mafai ona fa'aaoga e fai ma ta'iala.
- 5.17. E le gata i lea, e ui o le tulafono o loo i ai nei ua faamatalaina ai le uiga o le trafficable quantity ma o le fefa'atauaiga o fualaau faasaina e mafai ona aofia i lalo o le soligatulafono o le feuiaiga (tuuina atu),¹⁹⁹ ua manatu le Komisi e taua le aofia ai i lalo o le tulafono o se soligatulafono tutoatasi. E mafua ona o le fefa'ataua'iga e tutusa ma le soligatulafono o le

¹⁹⁷ Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Office, FiamemataafaFaumuinaMulinuu II, Matagalalua, 29 August 2017); Consultation with the Ministry of Prime Minister and Cabinet (Ministry of Prime Minister and Cabinet Conference Room, FMFM II Building, Matagalalua, 7 August 2017); Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017); Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017); Consultation of the Mental Health Unit (Mental Health Unit Office, Moto'otua, 22 August 2017); Consultation with the Ministry of Health (Ministry of Health Office, Moto'otua Hospital, 17 August 2017).

¹⁹⁸ Consultation with the Transnational Crimes Unit (Transnational Crimes Office, FMFM II, Matagalalua, 29 August 2017);

¹⁹⁹ See *Tulafono o Nakoti 1967* (Samoa) s 7.

tu'uina atu, sei vagana ai ua tele naua fualaaui oona e aofia ai. O le itu lelei o le avea o lenei mea o se soligatulafono tutoatasi o le a mafai ona mataitu ai se aofaiga tele o fualaaui faasaina e maua e i latou na sue'ina ma molia i moliaga e tusa ai.

FAUTUAGA 20: O le tulafono fou o fualaaui faasaina e tatau ona aofia ai se soligatulafono o le tu'uina atu o fualaaui i luga o se tulaga faifai pea, e tutusa ma NSW. O sea ituaiga soligatulafono o le a fesoasoani i le su'eina o i latou ua fai ma masani le tuuina atu o fualaaui fa'asaina i totonu o Samoa. E fua i le mamafa o le soligatulafono se faasalaga talafeagai e tatau ona tuuina atu mo sea soligatulafono. Mo se fa'ata'ita'iga, pe afai o le tuuina atu o fualaaui fa'asaina e mo mafuaaga faapisinisi, e talafeagai le tuuina atu iai o se faasalaga mamafa. E mafai ona faaogaina le tulafono a NSW e fai ma ta'iala.

FAUTUAGA 21: O se soligatulafono tutoatasi e faasino i feaatauaiga o fualaaui faasaina e tatau ona aofia i lalo o le tulafono fou o fualaaui faasaina. O le itu lelei o lenei faatinoga o le a mafai ai ona su'eina i latou e umia se aofaiga maua luga o fualaaui faasaina ua maua e i latou ua fitoitonu iai lenei galuega.

i) Soligatulafono e aofia ai tamaiti

Aumaia o se tamaitiiti e tuuina atu poo le auai i le tuuina atu o fualaaui faasaina, ma se aiaiga patino e nafa tonu ma tamaiti solitulafono.

5.18. E leai ni aiaiga patino i lalo o le Tulafono o Nakoti a Samoa e faatatau i tamaiti. I lalo o le Vaega 25 o le *NSW Drug Misuse and Trafficking Act 1985*, o se soligatulafono pe a fai e aumai e se tagata se tasi e 16 tausaga po'o le la'ititi e tu'uina atu fualaaui fa'asaina pe auai i le tuuina atu o se faasaina faasaina.²⁰⁰ O fa'atalanoaga amata na laga ai se faafitauli pe faamata e tatau ona fuafua e Samoa le i ai o se aiaiga e puipui ai tamaiti o lo'o auai i faatinoga tau fualaaui faasaina.

5.19. E le gata i lea, o atugaluga e uiga i le tupu pea o soligatulafono e aofia ai le tupulaga talavou ua fesiligia ai pe faamata e tatau ona aofia i lalo o le tulafono se soligatulafono patino e faatatau i tamaiti/talavou. O soligatulafono i totonu o Samoa ua fa'atulafonoina e le *Tulafono o Soligatulafono 2013*, lea e aofia ai soligatulafono a tupulaga talavou. E leai se tulafono patino e faatulafonoina ai soligatulafono a tupulaga talavou. Ae ui i lea, o le *Young Offenders Act 2007* o le tulafono autu lea i totonu o Samoa lea e aiaia ai se faiga faamasinoga amiotonu mo tupulaga talavou, o faatinoga a le faamasinoga, ma isi mafuaaga e fesootai iai.²⁰¹ I lalo o lenei Tulafono, e mafai e le Faamasinoga mo Tupulaga Talavou (o se vaega faapitoa o le Faamasinoga Faaitumalo) ona fofogaina so o se moliaga faasolitulafono faasaga i se tagata talavou sei vagana ai le fasioti tagata lea e tuuina atu i le Faamasinoga Maua luga.²⁰²

²⁰⁰*Drug Misuse and Trafficking Act 1985* (New South Wales) s 25(2C)-(2D).

²⁰¹*Young Offenders Act 2007* (Samoa) Long title.

²⁰²*Young Offenders Act 2007* (Samoa) s 5(1), (3).

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau i le tulafono fou o fualaau faasaina ona iai se soligatulafono i le aumaia lea o se tamaititi e tuuina atu fualaau faasaina poo le auai i le tuuina atu o fualaau faasaina. E le gata i lea, pe tatau foi i le tulafono fou o fualaau faasaina ona iai se aiaiga e nafa ai ma tamaiti laiti o lo'o a'afia soligatulafono tau fualaau faasaina.

Aumaia o se tamaititi e auai i le tuuina atu o fualaau faasaina

- 5.20. O le tele o manatu o le tusa lava pe iai aiaiga i totonu o le tulafono, o le umiaina ma le fa'aaogaina o soligatulafono o nakoti e tatau ona fa'alauteleina e fa'asa ai le aumaia o se tamaititi e tu'uina atu fualaau fa'asaina po'o le auai i le tu'uina atu o fualaau fa'asaina, e tutusa ma NSW.²⁰³ O sea aiaiga o le a fesoasoani e foia ai le faafitauli o le faaaogaina o tamaiti laiti e tu'uina atu laau fa'asaina po'o le auai i soligatulafono tau fualaau faasaina a'o talavou le olaga.²⁰⁴ Na faailoaina mai e sui o le Faamasinoga e faapea, o loo i ai faafitauli i le taimi nei o matua o perpetuators ma o loo latou faaaogaina a latou fanau e faatau atu fualaau faasaina. O le mea lea, o sea aiaiga e tatau ona fuafua lelei ina ia mautinoa o lo'o puipuia tamaiti.²⁰⁵
- 5.21. Na laga foi e ui lava o ia soligatulafono e le masani ai i totonu o Samoa, ae si ou tatou atunuu o loo iai se manaoga o ia ituaiga soligatulafono e tatau ona atagia mai i la tatou tulafono.²⁰⁶ Na faaalai mai e le TCU e iai mataupu talu ai na faia ai e se tagata solitulafono na molia le fa'aaogaina o tamaiti e tagofia ma tu'uina atu fualaau faasaina. Ua faailoa mai foi e le Ofisa o Tiute e faapea ua atamamai tagata i le sailia o auala fou e 'alo mai ai i le tulafono lea e aofia ai le fa'aaogaina o tamaiti e natia fa'amalosi fualaau faasaina e pei ona matauina le tupu i isi atunuu i fafo.²⁰⁷
- 5.22. Na fesiligia e nisi pe faamata o le *Tulafono Taufaaofi mo le Puipuiga o Tamaiti* o loo talanoaina ai le faafitauli o le faaaogaina o tamaiti e faatau atu pe auai i le faatauina atu o fualaau faasaina.²⁰⁸ Afai o loo talanoaina e le Tulafono Taufaaofi lenei lea tulaga, o lona

²⁰³ Ministry for Revenue, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

²⁰⁴ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁰⁵ Consultation with members of the Judiciary (Judges Chambers, Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017);

²⁰⁶ Consultation with Ministry for Revenue (Ministry for Revenue (Custom) Office, Matautu, 15 August 2017).

²⁰⁷ Consultation with Ministry for Revenue (Ministry for Revenue (Custom) Office, Matautu, 15 August 2017).

²⁰⁸ Consultation with members of the Judiciary (Judges Chambers, Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

uiga e gafatia e lea lava tulafono ma o le a fesoasoani e puipuia fanau a Samoa mai le faaogaina o fualaau faasaina po’o le fa’aaogaina mo le tu’uina atu o fualaau faasaina.²⁰⁹

Aiaiga patino e nafa ma tupulaga talavou ua solitulafono

5.23. O le tele o manatu na tuuina mai e faapea e aofia ai se aiaiga patino e feagai ai ma tupulaga talavou o lo’o a’afia i soligatulafono tau fualaau faasaina.²¹⁰ O tupulaga talavou o lo’o maua i lalo o lenei aiaiga e tatau ona tu’uina atu i le Faamasinoga mo Tupulaga Talavou e pei ona i ai le puleaga mo ia mataupu ma o le Faamasinoga talafeagai e tagofia ia mataupu e tusa ai ma le *Tulafono o Soligatulafono a Talavou 2007*.²¹¹ E le gata i lea, e tusa ai ma le toefuataiga o tupulaga talavou solitulafono, na fa’amamafaina ai o le au’aunaga a le ADC e tatau ona faaavanoaina mo tupulaga talavou, i luga o le faasinomaga a le Faamasinoga mo Tupulaga Talavou.²¹²

5.24. Ae ui i lea, o se tasi o paaga a le Komisi na tuuina mai e faapea o sea aiaiga (feagai ma tagata talavou e aafia i soligatulafono tau fualaau faasaina) e faatoa talafeagai pe afai e tuuina atu ai le pule faitalia a le Faamasinoga e feagai ai ma le tupulaga talavou i se auala e atagia mai ai isi tulaga ogaoga o le soligatulafono (aofaiga, auai i sauaga, soligatulafono talu ai ma le auai)²¹³

MANATU O LE KOMISI

5.25. E leai se aiaiga patino i lalo o le Tulafono a Nakoti Samoa i le aumaia lea o se tamaitiiti e tuuina atu pe auai i le tu’uina atu o fualaau faasaina. E na’o se aiaiga e faasino o se soligatulafono i lalo o le vaega 24(2) le aumaia o se nakoti poo se vailaau faatonuina. I NSW, o se soligatulafono pe afai e aumai e se tagata se tamaitiiti e 16 tausaga po’o le la’ititi e tu’uina atu fualaau faasaina po’o le auai i le tu’uina atu o se fualaau faasaina. Ua maitauina e le Komisi mai manatu na tuuina mai e faapea, o nei soligatulafono e seasea maua i totonu o Samoa, ae tatau ona taatia manino mai i totonu o le tulafono fou o fualaau faasaina ina ia talanoaina ai atugaluga e faasino i le auai o tamaiti poo le aumai e matua o a latou fanau poo tagata matutua, e tuuina atu poo le auai i le tuuina atu o fualaau faasaina a’o talavou le olaga. O le mea lea, ao fa’atali le pasia o le *Tulafono Taufaaofi mo le Puipuiga o Tamaiti 2017*, ua manatu le Komisi e tatau ona iai se aiaiga faaopopo i le tulafono fou o fualaau faasaina mo lenei tulaga. Ae peitai, e tatau ona iai ma se faasalaga talafeagai e iloilo mo le mamafa o le soligatulafono (aafia ai tamaiti) ma manaoga o le toefuataiga o le tagata solitulafono.

²⁰⁹Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²¹⁰ Consultation with the Ministry of Education, Sports and Culture (Ministry of Education, Sports and Culture Building, Malifa, 8 August 2017); Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FiameMataafaFaumuinaMulinuu II Building, Matagalalua, 29 August 2017); Consultations with the Ministry of Police, (Ministry of Police Main Office, Apia, 28 August 2017); Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²¹¹Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²¹²Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²¹³ Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot on Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

- 5.26. Ua ma'ea ona aofia i lalo o le *Tulafono mo Soligatulafono a Tupulaga 2007* aiaiga patino mo le mataituina o tupulaga talavou. O sea Tulafono ua aiaia ai se faiga fa'afaamasinoga tau solitulafono mo tupulaga talavou, faatinoga a le faamasinoga, ma isi fa'amoemoe e fesootai iai. O le mea lea, ua manatu le Komisi e faapea e le tatau ona aofia ni aiaiga mo tupulaga talavou solitulafono i lalo o le tulafono fou o fualaau faasaina.

FAUTUAGA 22: A o fa'atalia le pasiaina e le Palemene o le *Tulafono Taufaaofi mo le Puipuiga o Tamaiti 2017*, e tatau ona aofia i totonu o le tulafono fou o fualaau faasaina se soligatulafono faaopopo e aumai ai se tamaititi e tu'uina atu pe auai i le tu'uina atu o fualaau faasaina. E tatau ona iloilo le aofia ai o se faasalaga talafeagai e fua i le mamafa o le soligatulafono (aafia ai o tamaiti) ma manaoga faaleleia o le tagata solitulafono.

FAUTUAGA 23: E le tatau ona aofia i le tulafono fou o fualaau faasaina ni aiaiga mo tamaiti talavou e aafia i soligatulafono tau fualaau faasaina ona o loo talafeagai lelei le tagofiaina i lalo o le *Young Offenders Act 2007*.

o) Soligatulafono Esee

- 5.27. O nei soligatulafono e aofia ai le fa'aaogaina (po'o le faatagaina o le fa'aaogaina) o fale ma le umiaina o meafaitino faigaluega poo meafaitino mo le fa'amoemoe o le faia o se soligatulafono. O le ulaina o le opium ua saunia po o le fa'aaogaina i se isi mea e ese foi, o se soligatulafono i lalo o lenei aiaiga.²¹⁴ E tatau ona maitauina o le tagata na maua i luga o nofoaga ma fale o loo ulaina le opium ua ia faia se soligatulafono e faasaga i lenei Tulafono.²¹⁵
- 5.28. E iai aiaiga tutusa ma Niu Sila o loo lisiina ai se soligatulafono e faasino i le umia o fatu po o fualaauaina o so o se laau faasaina lea e le faatagaina le galueaina i lalo o le Tulafono.²¹⁶ O lo'o aiaia lea tulaga i lalo o le vaega 6 (1) (b) o le Tulafono o Nakoti a Samoa.

(i) Umia o se meafaitino mo fualaau faasaina

- 5.29. E tusa ai ma le soligatulafono pe a fai e umia e se tagata se nila, suau'u, paipa po o isi meafaitino mo le faamoemoe e faatino ai se soligatulafono, e leai se faasinomaga i le *tuuina atu, gaosia, gaosiga, auina atu i fafo po o le faaulufale mai o 'meafaigaluega po o meafaitino'* e faaoga mo le faia o se soligatulafono i lalo o le Tulafono a Nakoti Samoa.
- 5.30. O loo tuuina mai i le tulafono a Toga e faapea ua faia e se tagata se soligatulafono pe afai o ia ua umia, gaosia poo le tuuina atu o soo se vailaau faatonuina poo se meafaitino faigaluega ma lona iloa lelei o sea vailaau poo se meafaitino faigaluega e faaoga mo le faia o se soligatulafono i lalo o le *Illicit Drug Control Act 2003*.²¹⁷

²¹⁴*Tulafono o Nakoti 1967* (Samoa) s13 (c).

²¹⁵*Tulafono o Nakoti 1967* (Samoa) s3 (c).

²¹⁶*Misuse of Drugs Act 1975* (New Zealand) s 13 (1)(b).

²¹⁷*Illicit Drugs Control Act 2003* (Tonga) s 5.

5.31. O loo iai foi se aiaiga talitutusa ma Niu Sila.²¹⁸ E iai foi aiaiga a NSW e faasino i le umia o se meafaigaluega, ae peitai, e loloto lona talanoaina o se soligatulafono mo le umia o se tusi poo faatonuga mo le gaosia o fualaau faasaina.²¹⁹

(ii) Faaaogaina poo le faatagaina o le faaaogaina o soo se nofoaga mo feuiaiga

5.32. E le gata i lea, o le soligatulafono o le fa'aaoga po'o le fa'atagaina e fa'aoga so'o se nofoaga po'o se taavale e faia ai se soligatulafono i lalo o le Tulafono a Nakoti Samoa o lo'o lisiina foi e avea o se soligatulafono eseese nai lo se aiaiga tutoatasi.²²⁰ O le vaega talafeagai o lo'o fa'amatalaina ai 'nofoaga ma fale' e aofia ai se fale, vaalele, taavale, va'a, utaina, nofoaga.²²¹

5.33. Na atagia mai i faatalanoaga amata ma le Ofisa o le Loia Sili se popolega poo gafatia e le Tulafono o Nakoti a Samoa le faatulafonoina o nofoaga ma fale ua faaoga mo feuiaiga o fualaau faasaina. O se tali lea i mataupu ma lipoti a le afaasalalau i 'fale gaosi aisa' ua alia'e mai totonu o Samoa.²²² E ui o lenei aiaiga o le a taulai ai nei ituaiga fale, e fesiligia e le Komisi pe faamata e tatau ona atagia mai i se vaega tutoatasi o le tulafono ina ia faamamafa ma faailoa mai ai tuputupua'e o lenei faaaitaui.

5.34. I lalo o le tulafono a Niu Sila, o loo iai se aiaiga patino e faatatau i le faaaogaina o fale poo nofoaga, taavale, vaa ma isi mo le faia o se soligatulafono.²²³

5.35. E iai se vaega patino a NSW e tuuina atu i soligatulafono o loo aofia ai fale/nofoaga mo fualaau faasaina.²²⁴ O nisi o nei soligatulafono e aofia ai se tasi o ia e onaina poo se tasi o loo nofoia ua ia faatagaina ma lona iloa le faaaogaina o sea nofoaga mo fualaau faasaina poo le faasauni mai e se tagata o se nofoaga mo fualaau faasaina, mo se faataitaiga o le saunia o se fale faapitoa mo le gaosia o fualaau faasaina.²²⁵

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau i le tulafono fou o fualaau faasaina ona aofia ai se aiaiga i le umiaina lea o meafaitino faigaluega ina ia aofia ai le faaulufale mai, auina atu i fafo, gaosia poo le faia o meafaitino. E le gata i lea, pe faamata o le aiaiga 'o le faaaogaina o fale/nofoaga' e tatau ona tutoatasi, afai o lea, pe faamata e mafai ona faalauteleina ina ia aofia ai nisi faatinoga e pei ona ta'ua i lalo o tulafono a Niu Sila ma NSW.

²¹⁸*Misuse of Drugs Act 1975* (New Zealand) s 12A (2).

²¹⁹*Drug Misuse and Trafficking Act 1985* (New South Wales) s 11C (1).

²²⁰*Tulafono o Nakoti 1967* (Samoa) s 13(a).

²²¹*Tulafono o Nakoti 1967*(Samoa) s 14(1) (a).

²²²Email from the Office of the Attorney General to the Samoa Law Reform Commission (Preliminary consultations), 1 May 2017. See also the cases of *Police v Stuart Webber & Anor* [2016] WSSC 37 and *Police v Williams* [2014] 153 WSSC; See also Autagavaia Tipi Autagavaia, 'Samoa police in Samoa have uncovered drugs, illegal weapons, drugs and cash' (31 July 2015) *Radio NZ*<<http://www.radionz.co.nz/international/pacific-news/280147/samoa-police-raid-uncovers-weapons,-drugs-and-cash>>.

²²³*Misuse of Drugs Act 1975* (New Zealand) s 12.

²²⁴*Drug Misuse and Trafficking Act 1985* (New South Wales) pt 2B.

²²⁵ See *Drug Misuse and Trafficking Act 1985* (New South Wales) ss 36V-36Z.

Faalautele aiaiga o le umia o meafaigaluega e aofia ai le faaulufale mai, auina atu i fafo, ma le gaosia o meafaigaluega

- 5.36. O le toatele oi latou na fa'atalanoa na 'au faatasi i le manatu e fa'alauteleina aiaiga i lalo o le tulafono mo le umiaina o meafaitino faigaluega ina ia aofia ai le faaulufale mai, auina atu i fafo, gaosiga po o le gaosia o meafaitino faigaluega o loo fa'aaogaina mo le faatinoga o se soligatulafono e tutusa ma Toga, Niu Sila ma NSW.²²⁶ O le i ai uma o nei faatinoga i le aiaiga e tasi o le a manino ma faamautinoa ai mo i latou e faamalosi le tulafono pe a faia ni moliaga e faasaga i soligatulafono o lenei ituaiga.
- 5.37. Na laga e le Ofisa o le Tiute se faafitauli faapea na i ai mataupu talu ai e faatatau i moliaga fa'atasi ma le MOP. E failaina e le MOP moliaga mo le umiaina o meafaitino i lalo o le Tulafono o Nakoti Samoa ma e latou te failaina foi moliaga mo le faaulufaleina mai o oloa faasaina i lalo o le *Tulafono o le Ofisa o Tiute 2014* i le soligatulafono lava e tasi. Ona tula'i mai lea o se faafitauli pe a faasee atu faila i le Ofisa o le Loia Sili mo le iloiloga. I le toe iloiloga o le faila, o moliaga i lalo o le *Tulafono o le Ofisa o Tiute 2014* o nisi taimi e tolopoina ona o mafuaaga le iloa. Ae peitai, ua matauina e le Ofisa o Tiute, e ave lava le faamuamua i moliaga na faatoai mai e le MOP nai lo moliaga ua faatoai atu i lalo o le *Tulafono o le Ofisa o Tiute 2014*. E pei o lea, ua malilie ai le Ofisa o Tiute e faalauteleina ia aiaiga mo le faafaigofieina o nei tulaga ma le faatinoga. Mo se fa'ata'ita'iga, o meafaitino faigaluega uma ua faailoa mai mo le faatinoga o se soligatulafono ua taofia ma faoa faamalosi e tatau ona talanoaina ma tagofia i lalo o le Tulafono e tasi lea, ona o le a sefe ai le taimi ma punaoa.²²⁷
- 5.38. O nisi o paaga na latou laga e tatau ona iai se aiaiga tutoatasi mo meafaitino e faaoga mo fualaau faasaina.²²⁸
- 5.39. Ae ui i lea, o nisi o paaga na latou faaalua le taua o le mafaufau i meafaitino o loo faaoga i le fale i aso uma (faataitaiga o le sipuni) lea ua lauiloa mo le fa'aaogaina i fualaau faasaina (ina ia na'o se soligatulafono pe afai o le tagata o lo'o i ai le meafaitino e tatau foi ona umiaina se fualaau e fa'aaogaina ai sea meafaitino). E le gata i lea, o tagata e pei o foma'i ma tausisoifua e latou te umiaina nei meafaitino ona oa latou galuega faatinoga ma e tatau foi ona tuusaunua mai noataga.²²⁹

²²⁶ Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017); Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Transnational Crime's Unit, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²²⁷ Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

²²⁸ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FiameMataafaFaumuinaMulinuu II Building, Matagalalua, Samoa, 29 August 2017).

²²⁹ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

Aiaiga tutoatasi mo le faaaogaina o fale/nofoga mo feuaiga ma mea e aofia ai 'nofoga ma fale'

5.40. O le toatele o paaga a le Komisi na lagolagoina le i ai o se aiaiga tutoatasi mo le faaaogaina o nofoga ma fale mo le tagofiaina,²³⁰ ona ua i ai mataupu o nofoga ma fale ua maua mai osofaiga a leoleo talu ai nei ua faaoga e gaosia ai le aisa,²³¹ faapea foi ma mea na tutupu i le mauaina lea o fualaau faasaina i luga o vaa.²³² E le gata i lea, o sea aiaiga e tataua ona fa'amalamalama manino ai 'nofoga ma fale' e aofia ai mo se fa'ata'ita'iga, taavale, va'a, fale nofomau, nofoga (e pei o maketi / a'oga / nu'u) ma isi e pei ona i ai i lalo o le tulafono.

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MANATU O LE KOMISI

5.41. Ua maitauina e le Komisi o le vaega 13 (b) o le Tulafono o Nakoti Samoa e le o aofia ai le tuuina atu, gaosiga, faia, auina atu i fafo po o le faaulufaleina mai o mea ua lisiina i totonu o lenei vaega. E na'o le umiaina o loo i totonu o le tulafono. I Toga ma Niu Sila, o nei aiaiga tutusa o loo aofia ai le gaosiga ma le tu'uina atu o meafaitino faigaluega ma materials. O le tele o manatu na tuuina mai na lagolagoina le faalauteleina o le vaega 13 (b) e aofia ai le faaulufaleina mai, auina atu i fafo, gaosiga o meafaitino faigaluega, e tutusa ma Toga ma Niu Sila. O lenei faiga o le a tu'uina atu ai le manino mo i latou e faamalosia le tulafono pe a faia moliaga e faasino i soligatulafono o sea ituaiga. O le mea lea, ua fautua atu ai le Komisi e faalautele le vaega 13 (b) o le tulafono e aofia ai le tuuina atu, gaosiga, auina atu i fafo ma le faaulufale mai o meafaitino faigaluega ina ia ogatasi ma faatinoga a Toga ma Niu Sila.

²³⁰Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017); Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017, Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration, Sogi, 15 August 2017).

²³¹Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²³² Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

²³³Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; Ministry of Education, Sports and Culture, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 September 2017; Ministry for Revenue, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; See *Tulafono o Nakoti 1967* (Samoa) s 14(1) (a).

5.42. E le gata i lea, ua maitauina e le Komisi e faapea o le soligatulafono o le fa'aaoga po'o le fa'atagaina e fa'aaoga so'o se nofoaga po'o se taavale e faia ai se soligatulafono e tatau ona i lalo o le vaega 13 (c) (Soligatulafono eseese) ma e leai se aiaiga tutoatasi. O faatalatalanoaga amata na faaalua ai le faateleina o le numera o ripoti i le iai lea o 'fale mo le gaosiga o le aisa' i totonu o Samoa ma le manaoga e vavae ese lenei soligatulafono ina ia faamamafa ma faalauiloa atu ai lenei faafitauli tuputupu ae (e aofia ai le taumafaina o le aisa). Na faailoa mai foi i manatu na tuuina mai e iai mataupu na maua mai osofaiga a leoleo fale/nofoaga ua faaaogaina e gaosi ai le aisa. I lea tulaga, ua lagolagoina ai e le Komisi le iai o se aiaiga tutoatasi e ese mai aim o soligatulafono o le faaaogaina o fale/nofoaga mo le faamoemoe e faatino ai se soligatulafono. O le faaupuga 'nofoaga ma fale' e tatau ona faamatala auiliili ma manino lelei ina ia aofia ai taavale, vaa, fale nofo, nofoaga, maketi, a'oga ma nu'u.

FAUTUAGA 24: Ia faalautele soligatulafono i lalo o le vaega 13(b) ina ia aofia ai le tuuina atu, gaosia, auina atu i fafo poo le faaulufale mai o meafaitino faigaluega ina ia o gatasi ma Toga ma Niu Sila.

FAUTUAGA 25: Ia vavaeese le soligatulafono o le faaaogaina o fale/nofoaga e faaaoga mo feuaiga (vaega 13(a)) ma avea o se aiaiga tutoatasi ina ia faamamafa ma faailoa mai ai le faatupulaia o 'fale gaosi aisa' lea na maua i osofaiga a leoleo talu ai. E tatau ona faamatala auiliili ma manino lelei le faaupuga nofoaga/fale ina ia aofia uma ai nofoaga/fale o loo faaaogaina mo le faatinoga o se soligatulafono i lalo o le tulafono fou o fualaau faasaina ft. vaa, ma isi.

u) Faia o lipoti ua iai le faatagaga mo tulaga masalomia o le faaaogaina faasolitulafono o se nakoti poo vailaau faatonuina

5.43. E iai le matafaioi a foma'i, taasisoifua ma isi foma'i polofesa i lalo o le vaega 25B o le Tulafono a Nakoti Samoa e lipoti atu ai se gasegase po'o se tagata ua latou masalomia i se mafuaaga tatau, ua latou faaaogaina se fualaau faasaina poo se vailaau faatonuina.²³⁴ O le faatinoina o lenei matafaioi o le a avea ma se soligatulafono i lalo o lenei Tulafono. E taua le maitauina o Samoa na o le pau lea o le pule'aga o loo iai lenei soligatulafono.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau ona faatumauina pea le vaega 25B e tusa ai o agatapuia o gasegase/tagata mamai. Afai e aveeseina sea aiaiga, pe faamata o le matafaioi a foma'i ia aua nei latou tuuina atu fualaau iai latou o loo faalagolago i nei fualaau poo vailaau faatonuina, e pei o Niu Sila.

5.44. E eseese manatu e uiga i le fa'amalosia o le lipotiga o gasegase o e o loo fa'aaogaina fualaau faasaina. O nisi o paaga a le Komisi na taua e faapea o le a solia ai le agatapuia i le va o le gasegase ma le foma'i, o nisi na tuuina mai e faia ni tuutuuga ina ia agavaa ai mo le faamalosalia o lipoti ft. vasega o fualaau e a'afia ai fa'apea fo'i ma le lamatiaga a sea tagata ma'i e tu'uina atu i isi tagata. Na faaalua e le MHU o lo'o i ai a latou faatinoga e lipotia ai gasegase ua masalomia i le fa'aaogaina o fualaau faasaina i le taimi nei, ae o loo faa-autu

²³⁴Tulafono o Nakoti 1967(Samoa) s 25B (1).

lava i le 'faaaogaina ua masalomia'. Ae ui i lea, o nisi o paaga a le Komisi na faaalua mai e tatau ona ave i le faitalia a le foma'i pe lipoti pe leai foi ma mafaufau i taunuuga oa latou faatinoga.²³⁵ Atonu ei ai ni mataupu ogaoga e soona faaoga sese ai e se gasegase fualaau faasaina, e pei o le vaigase, o le mea lea e tatau ai i le foma'i ona i ai faia sana fa'amasinoga tonu pe faamata e tatau ona lipotia lea mataupu e tusa ai ma le mamafa o le gaioiga.²³⁶

- 5.45. Na faamanino mai e le MOH e faapea o le vaega 25B na fuafuaina e pasia mo le pu'eina o gasegase o loo latou faaaogaina faasolitulafono vailaau. Sa i ai mataupu o i latou e masani ona talosagaina fualaau o loo fefiloi ai ma vailaau e mafai ona gaosia ai fualaau malolosi. O le mea lea, pe aisea na faamalosi ai lipoti e tuuina atu e foma'i. O le fa'amoemoe foi e mo le ofisa o le tiute e lipoti atu mataupu o le soona faaulufale mai e se tagata e le fa'atagaina. O le tele o manatu na tuuina mai e mo Samoa e faia se aiaiga e le o se matafaioi a se foma'i le tu'uina atu o fualaau fa'asaina ia i latou ua latou talitonu e faalagolago i se vaila'au fa'atonuina, e tutusa ma Niu Sila.

MANATU O LE KOMISI

- 5.46. Ua matauina e le Komisi e faapea o le vaega 25B e tulaga ese ia Samoa ma o ia aiaiga e le mafai ona maua i tulafono a isi atunuu, e pei o Toga, Niu Sila ma NSW. O se manatu taatele na tuuina mai e faapea o se aiaiga e manaomia ai foma'i e lipotia se tagata ma'i poo se gasegase lea latou te masalomia o faaoga sese se fualaau faasaina po o se vailaau faatonuina, ua latou solia le agatapuia i le va o se foma'i ma le gasegase. O manatu na tuuina mai i le MOH o lo'o atagia ai se faamoemoe i tua atu o sea aiaiga o le lipotia lea o tagata e masani ona talosaga atu mo fualaau o loo fefiloi ai ma vailaau e mafai ona gaosia ai fualaau malolosi e pei o aisa. E ui lava i nei manatu, ua finagalo le Komisi o le tausisia o ia aiaiga o le a le na o le solia ai o le tulaga agatapuia, ae o le a faavaivaia ai tagata mai le sailia o fesoasoani e faatatau i faafitauli tau soifua maloloina e mafua mai i fualaau faasaina. O lea tulaga o le a avea ma mafuaaga o le a faia ai ni moliaga e faasaga i foma'i ma o se tulaga taugata foi lea mo le Malo. O le mea lea, e tatau ona iloilo lelei ina ia tutusa ma Niu Sila, se matafaioi a foma'i e faasa ai le tuuina atu o fualaau iai latou ua latou talitonu e faalagolago i fualaau faatonuina.

FAUTUAGA 26: Ina ia ogatasi ma atina'e ua iai atunuu i fafo, e tatau ona aveesea le vaega 25B ona o le a solia ai le agatapuia i le va o foma'i ma le gasegase/tagata mai, ma o le a faavaivaia ai se gasegase mai le sailia o fesoasoani e uiga i faafitauli tau soifua maloloina mai fualaau faasaina. O le a avea foi lea ma mafuaaga o le faia o moliaga e faasaga i foma'i ma e taugata mo le Malo. Mo lea mafuaaga, e tatau ona iloilo lelei ina ia ogatasi ma faatinoga a Niu Sila, se matafaioi a foma'i e faasa ai le tuuina atu o fualaau iai latou ua latou talitonu e faalagolago i fualaau faatonuina.

²³⁵Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

²³⁶Consultation with the Ministry of Health (Ministry of Health Office, Moto'otua Hospital, 17 August 2017).

f) Isi Soligatulafono

5.47. Na atagia mai i suesuega na faatinoina e le Komisi e iai isi "soligatulafono" e le o aiaia manino i lalo o le Tulafono o Nakoti a Samoa lea e tatau ona iloiloina. E aofia ai soligatulafono ua ta'ua i lalo:

(i) Gaoia o se fualaau faatonuina

5.48. O le gaoia o fualaau faatonuina e le o puipuia i lalo o le Tulafono o Nakoti a Samoa e ui o le gaoi o se soligatulafono i lalo o le *Tulafono o Soligatulafono 2013*. I Niu Sila, o se soligatulafono le gaoi o se fualaau faatonuina i se tulaga tau faasese. O lenei ituaiga aiaiga e mo le pu'eina o tagata solitulafono e faaono mafai ona gaoia mai fualaau faatonuina mai faletalavai, tuuina mai o se pepa talavai mai se fomai i se tulaga sese, poo le faaaogaina o le latou pule/faatagaga e tusia ma/poo le tuuina atu o fualaau faatonuina.

5.49. O lenei aiaiga o loo i totonu o le *Misuse of Drugs Act 1975* a Niu Sila, e ui lava o loo iai foi se soligatulafono mo le gaoi i lalo o le Tulafono o Soligatulafono 1961 a Niu Sila.²³⁷

5.50. 5.50. E ui i lea, e taua le maitauina e faapea, i le faatinoga, o foma'i o e ua maua ua latou fa'aaoga sese le pule e tuuina atu ai fualaau e aunoa ma se faatagaga o le a aumai i luma o le Fono a Fomai a Samoa. I le 2016, e tasi se mataupu e faasaga i se tausima'i o le na maua ua ia gaoia fualaau (vaigase) ma fa'aaogaina lava e ia. I lea lava mataupu, sa mafai e le tausimai ona maua se avanoa e tagofia ai totonu o le kapoti o vailaau malolosi lea o loo tuuina ma puipuia uma ai fualaau faatonuina. O le faatinoga o loo iai nei, e fa'atagaina tausimai sinia ona tagofia lenei kapeneta ma o le ki e pasia mai le tasi le fesuiaiga i le isi ona e na'o le tasi le ki i le kapoti. E tofua lava le vaega o le falemai ma se kapeneta o loo tuuina ai nei fualaau/vailaau malolosi e aofia ai le vaega o falema'i moa so uma, fa'alavelave fa'afuase'i ma fa'alapotopotoga uma. O lenei tausimai na maua ua atia'e se vaisu i sea fualaau ona o le mafai ona ia mauaina.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau mo Samoa ona iai se aiaiga e faasino i le gaoia o se fualaau faatonuina e pei o Niu Sila.

5.51. O le tele o manatu na mafua lava e tatau mo Samoa ona faia se aiaiga e faatatau i le gaoia o fualaau faatonuina e pei o Niu Sila.²³⁸ E tusa lava pe afai o loo iai le soligatulafono o le gaoi i lalo o le *Tulafono o Soligatulafono 2013*. O le faaaogaina o le faatinoga a Niu Sila e talafeagai ona o le soligatulafono o le gaoi i lalo o le Tulafono o Soligatulafono 2013 e fai si lautele. E le gata i lea, e faalagolago i le mamafa o le soligatulafono, e tatau foi ona tu'uina

²³⁷ See *Crimes Act 1961* (New Zealand), s 223.

²³⁸ Consultations with the Ministry of Health (Ministry of Health Office, Moto'otua Hospital, 17 August 2017); Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Consultation with the Ministry of Justice and Court Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

atu se faasalaga talafeagai.²³⁹ O lenei mea o le a fesoasoani e puipuia ai le soona faaoga.
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- 5.52. E na'ó le toatasi le manatu na faapea mai o le soligatulafono o le gaoi i lalo o le Tulafono o Soligatulafono 2013 o loo gafatia e aofia ai tulaga e a'afia ai le gaoia o fualaau faatonuina.
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MANATU O LE KOMISI

- 5.53. E le o tuuina mai i le Tulafono o Nakoti a Samoa soligatulafono o le gaoia o vailaau ma fualaau faatonuina. E na'ó le soligatulafono o le gaoi o loo lautele lona talanoaina i lalo o le *Tulafono o Soligatulafono 2013*. Ae peitai, i Niu Sila, o le gaoia o fualaau faatonuina o se soligatulafono e faasino tonu i le gaoia o se fualaau faatonuina i se tulaga le faamaoni/tulaga sese.²⁴² Ua maitauina e le Komisi mai manatu e faapea, o loo talanoaina i lona tulaga lautele le soligatulafono o le gaoi i lalo o le *Tulafono o Soligatulafono 2013* ma e le mafai ona ma'oti mai ai se talanoaina o lenei ituaiga soligatulafono patino e pei ona atagia mai i Niu Sila. O le mea lea, ua manatu ai le Komisi e tatau i le tulafono fou o fualaau faasaina ona i ai se aiaiga patino mo le soligatulafono o le gaoia o fualaau/vailaau faatonuina. E le gata i lea, ua lagolagoina e le Komisi le tuuina atu o se faasalaga talafeagai mo sea ituaiga soligatulafono e fuafua i lona natura, e pei ona fautuaina e le Sosaiete a Loia, MOP ma le MJCA ina ia puipuia ai le soona faaoga le tatau ma taofia ai le tuuina atu o pepa talavai ma le iloa lelei e mo fualaau faasaina.

FAUTUAGA 27: Ia iai se soligatulafono tutoatasi i lalo o le tulafono fou o fualaau faasaina mo le gaoia o fualaau ma Vailaau faatonuina e pei o Niu Sila. E tatau ona tuuina atu se faasalaga talafeagai mo sea soligatulafono e fua i le natura o le soligatulafono.

(ii) Taupulepulega e faia se soligatulafono i totonu ma fafo atu o Samoa

- 5.54. I le faaopoopo atu i le fesoasoani ma le fa'amalosia o le faia o se soligatulafono i lalo o le tulafono, o le tulafono i totonu o NSW ua aiaia ai foi se soligatulafono e feso'ota'i ma tulaga e taupulepule ai e se tagata ma se isi tagata po'o ni tagata e faia se soligatulafono i soo se nofoaga i fafo atu o NSW.²⁴³ O le i ai o lenei aiaiga i lalo o le tulafono a Samoa o le a tulituliloaina ai i latou o lo'o masalomia e iai a latou sootaga ma tagata solitulafono tau fualaau faasaina mai fafo. Ua maitauina foi e le Komisi o loo iai se *Extradition Act 1974* a Samoa lea o loo faatulaga mai ai le toe faafoi mai o tagata. I uluai faatalatalanoaga, na logoina ai le Komisi e faapea o loo i ai foi se Tulafono Taufaaofi o le *Extradition 2017*, lea e faamoemoe e faamaeaina ma faataatia i le Palemene i lenei tausaga. O le a tu'u manino

²³⁹Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁴⁰Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²⁴¹Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

²⁴²*Misuse of Drugs Act 1975* (New Zealand) s 11.

²⁴³*Drug Misuse and Trafficking Act 1985* (New South Wales) s 28.

mai e le Tulafono Taufaaofi le faiga masani ma tualumaga mo tusi saisai i mataupu tau noatia.²⁴⁴

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau mo Samoa ona iai se aiaiga mo le taupulepule e faia se soligatulafono i totonu ma fafo atu o Samoa.

- 5.55. O le manatu taatele na tuuina mai e le manaomia le faia e Samoa o sea aiaiga pe afai o le Tulafono Taufaaofi o le *Extradition 2017* e gafatia mo le talanoaina o sea ituaiga soligatulafono.²⁴⁵ E tatau i le tulafono fou o fualaau faasaina ona fesootea atu i aiaiga talafeagai o le Tulafono Taufaaofi o le *Extradition* e fai ma taiala. O lenei mafuaaga o le aloese mai ai i le toe faia fa'alua ma / po'o fete'ena'iga pe o le a le tulafono talafeagai pe a tula'i mai sea ituaiga faatinoga.²⁴⁶
- 5.56. O sui o le Faamasinoga na toe fa'aalia le manatu e fa'apea, mo soligatulafono ua faia e tagata Samoa o lo'o nonofo i fafo, e talafeagai le molia o sea tagata i lalo o se tulafono talafeagai o lena atunuu. O le toe faafoi mai o i latou e ma fa'amasinoina ma faasalaina i Samoa o le a avea ma tulaga e faatele galuega ai i le Faamasinoga. E le gata i lea, o na atunuu e sili atu le lelei o fale ma auaunaga e fesoasoani ai i nei tagata solitulafono.²⁴⁷
- 5.57. E toa itiiti lava paaga a le Komisi na faaalia le manatu e tatau ia Samoa ona faia se aiaiga ia tutusa ma Niu Sila.²⁴⁸ O le i ai sea aiaiga o le a mafai ona tagofia ai tagata Samoa e nonofo i fafo atu o Samoa ma tagata e le o ni tagatanuu i totonu o Samoa o lo'o molia i soligatulafono i lalo o le Tulafono o Nakoti a Samoa.

MANATU O LE KOMISI

- 5.58. Ua maitauina e le Komisi e leai se aiaiga patino i lalo o le Tulafono o Nakoti a Samoa mo le 'taupulepulega e faia se soligatulafono i fafo atu o Samoa'. O loo aiaia i le Vaega 28 o le Tulafono o le *Drug Misuse and Trafficking Act 1985* a NSW sea ituaiga soligatulafono. Ua matauina e le Komisi e faapea o le i ai o lenei aiaiga i totonu o le tulafono fou o fualaau faasaina o le a mafai ona pueina ai i latou o loo masalomia o loo i ai ni sootaga ma tagata solitulafono tau fualaau faasaina mai fafo.
- 5.59. Ua maitauina foi e le Komisi e faapea o loo i ai se *Tulafono Taufaaofi o le Extradition 2017*, lea e faamoemoe e faamaeaina ma faataatia i le Palemene ao le i oo i le faaiuga o le

²⁴⁴ Consultation with the Office of the Attorney General (Office of the Attorney General Conference Room, Tuiatua Tupua Tamasese Efi Building, 16 September 2017).

²⁴⁵ Samoa Nursing Association; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁴⁶ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁴⁷ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Office, Sogi, 13 September 2017).

²⁴⁸ Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

2017. O lenei Tulafono Taufaaofi o loo faatulaga manino mai ai le tulaga masani ma tualumaga mo tusi saisai i mataupu tau noatia. Ua fautuaina e le Komisi le faatalitali i le pasiaina o le *Tulafono Taufaaofi o le Extradition 2017* e foia ai lenei faafitauli.

FAUTUAGA 28: A o faagasolo le pasiaina o le Tulafono Taufaaofi o le Extradition 2017 e le Palemene, e tatau ona talanoaina le iai o se aiaiga mo le taupulepulega e faia se soligatulafono i totonu ma fafo atu o Samoa i lalo o le tulafono fou o fualaau faasaina.

(iii) Lolomiina o ata e faalauiloa ai le faaaogaina o fualaau (faasalalauga)

- 5.60. E le o iai se aiaiga i lalo o le Tulafono o Nakoti a Samoa e faasino i le faasalalauina o fualaau faasaina.
- 5.61. O le *Tulafono Faatonutonu a Niu Sila mo le Faaaoga Sese o Fualaau Fa'asaina 1977* o loo faatapulaa ai faasalalauga e faatatau i fualaau faasaina. O loo tuuina mai ai e le tatau i se tagata ona lolomiina, faia poo le faatagaina o le lolomiina, soo se faasalalauinga e faasino i *fualaau faatonuina*²⁴⁹ sei vagana fualaau ua faatagaina.²⁵⁰ Soo se tagata e lolomiina, pe faia, poo le faatagaina e lomina, soo se fa'asalalauga ua ia faia se soligatulafono e faasaga i nei tulafono faatonutonu.²⁵¹ E le gata i lea, o nei tapulaa i le lolomiina po'o fa'asalalauga e le fa'aaogaina mo fualaau o loo tufatufa atu i foma'i poo tagata poto faapitoa i vailaau pe a fai ua:²⁵²
- (a) taua le igoa moni ma le tuatusi o le nofoaga o le pisinisi a le tagata o ia lea po o ia lea e ona le talosaga ua lomina ai se faasalalauga; ma
 - (b) o loo lava le fa'amatalaga manino o loo iai e faailoa mai ai o le fa'asalalauga e feso'otai atu i se fualaau faatonuina, po'o, pe a fai o le fa'asalalauga o loo aofia i se lisi o tau poo se lomiga tutusa, o lo'o aofia ai le faapuupuuga "CD"
- 5.62. E le gata i lea, o *vailaau mo le mafaufau*, o loo faasaina ai e le tulafono a NSW se tagata mai le lolomiina po'o le fa'aalia i so o se faiga, auala, po'o se fa'aaliga so'o se fa'asalalauga ua ia iloa po'o le le iloa foi pe faamata o se faasalalauga o loo faalauiloa, poo le faalauiloa manino, o le faaaogaina, tuuina atu poo le faatauina atu o se vaila'au mo ona a'afiaga fa'apitoa tau le mafaufau, ma le tu'uina atu o fa'amatalaga pe fa'aapefa pe o fea foi e mafai ai ona mauaina ai nei vailaau o le mafaufau.²⁵³

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamata e tatau ona faatulafonoina e Samoa faasalalauga o loo faalauiloa ai fualaau faasaina, e pei o Niu Sila, ma poo a mafuaaga e tatau ai ona faatagaina faasalalauga (pe afai e iai).

²⁴⁹*Misuse of Drugs Regulations 1977* (New Zealand) r 50(1).

²⁵⁰*Misuse of Drugs Regulations 1977* (New Zealand) r 50(4).

²⁵¹*Misuse of Drugs Regulations 1977* (New Zealand) r 50(3).

²⁵²*Misuse of Drugs Regulations 1977* (New Zealand) r 50(2).

²⁵³*Drug Misuse and Trafficking Act 1985* (New South Wales) s 36ZG.

Tulafono faatonutonu e faasino i faasalalauga

5.63. O le tele o manatu na mafuli e tatau ona mo Samoa ona i ai ni tulafono fa'atonutonu e faatulafono ai fa'asalalauga o loo faalauiloa ai le faaogaina o fualaau faasaina e pei o Niu Sila.²⁵⁴ O nei Tulafono Faatonutonu o le a fesoasoani i le MOP, MOH ma le Komiti mo le Saogalemu Lautele a Samoa i le fa'atulafonoina o fa'amatalaga lautele e uiga i fualaau eseese. O le a fesoasoani foi i le taofia o le fa'aaogaina o fualaau aemaise lava i le puipuiga o lo tatou atunuu mai le iloa o nei faasalalauga e faatatau i fualaau faasaina aemaise lava tamaiti.²⁵⁵ E le gata i lea, o le faatapulaaaina o faasalalauga o le a aloese mai le faalauiloaina o oloa fou e pei o le e-cigarette (o se mea ua fai ma vaisu ua aafia ai le soifua maloloina o tagata) e le o aofia i lalo o le tulafono i le taimi nei.²⁵⁶

Taimi e faatagaina ai faasalalauga

5.64. O le tele o manatu na tuuina mai e faapea e faatoa tatau lava ona faatagaina faasalalauga mo fualaau faasaina mo le faamoemoega o le:

- Faalauiloa i le aafiaga o fualaau faasaina ina ia faavaivaia ai le faaogaina o nei fualaau faasaina ma puipuia mai ai i ona aafiaga;²⁵⁷
- Faailoa atu i fomai poo fomai e iai le poto faapitoa i fualaau ma Vailaau e fesoasoani i togafitiga o se aafiaga tau soifua maloloina i le iai lea o se tusi faamaonia moni.²⁵⁸

5.65. Na maitauina foi e faapea o so'o se faasalalauga e feso'ota'i ma fualaau faasaina e tatau ona faatagaina e le Komiti mo le Saogalemu Lautele ao le i faalauiloaina atu. I le tu'uina atu o le faatagaga, e tatau i le Komiti mo le Saogalemu Lautele ona fausia se ta'iala / faavaa e faailoa ai po'o le a le ituaiga o faasalalauga e faatatau i fualaau faasaina e tatau ona fa'atagaina.²⁵⁹

²⁵⁴ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Review of the Tulafono o Nakoti 1967*, 30 October 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²⁵⁵ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

²⁵⁶ Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

²⁵⁷ Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017); Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

²⁵⁸ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

²⁵⁹ Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

MANATU O LE KOMISI

- 5.66. O le tele o manatu na mafuli e tatau ona iai tulafono faatonutonu a Samoa e aiaia ai faasalalauga o loo faalauiloa ai le fa'aaogaina o fualaau faatonuina, e pei o Niu Sila. O lea tulaga o le a fesoasoani e faatonutonu ai poo a mea o loo avanoa mo le iloa e tagata. O faasalalauga o loo faatagaina e se pulega/komiti talafeagai e tatau ona faatagaina e nao mafuaaga patino.
- 5.67. Ua lagolagoina e le Komisi le i ai o tulafono faatonutonu e pulea ai faasalalauga e uunaia ai le faaaogaina o fualaau faasaina e tutusa ma Niu Sila. O nei tulafono faatonutonu e le tatau ona aiaia ai nao vailaau tau le mafaufau, ae tatau ona aiaia ai soo se ituaiga fualaau faatonuina. Ua maitauina e le Komisi o nei tulafono faatonutonu e faaono le talafeagai mo Samoa mo lea mafuaaga ona o nei fualaau faasaina e le o faaaogaina mo le faamoemoe mo faasalalauga e pei o Niu Sila ma NSW. Ae ui i lea, o loo vaavaai le Komisi i le faaono tulai mai o nei faasalalauga e faalauiloa ai fualaau faatonuina (ft. fualaau e gaosia mai i le mariuana) i se taimi lata mai i le lumanai.
- 5.68. E le gata i lea, o tuusaunoaga e tatau ona tu'uina atu i tulaga pe a faapea o le faamoemoega autu o sea faasalalauga o le logoina o tagata lautele e uiga i aafiaga o fualaau faasaina, fa'apea fo'i ma le fesoasoani i fomai mo togafitiga tau soifua maloloina.

FAUTUAGA 29: E tatau ona i ai tulafono faatonutonu e aiaia ai fa'asalalauga o loo faalauiloina le faaaogaina o fualaau faatonuina e pei o Niu Sila. O tulafono faatonutonu e le tatau ona fa'atapula'aina e na o vailaau o le mafaufau ae tatau ona aofia ai so'o se fualaau faatonuina. E ui lava o nei tulafono faatonutonu e faaono le talafeagai i Samoa i lenei taimi ona o nei fualaau e le o faaaogaina mo faamoemoega tau faasalalauga e pei o Niu Sila ma NSW, o se vaaiga tulaia a le Komisi iai le taimi e faia ai nei faasalalauga e faalauiloa ai fualaau faatonuina (ft. fualaau e gaosia mai i le mariuana) i se taimi lata mai i le lumanai. E le gata i lea, o tuusaunoaga e tatau ona tu'uina atu i tulaga pe a faapea o le faamoemoega autu o sea faasalalauga o le faalauiloina lea o aafiaga o se fualaau faasaina i le mamalu o le atunuu, fa'apea fo'i ma fesoasoani i fomai mo togafitiga tau le soifua maloloina.

II. Faasalaga

- 5.69. O lenei vaega o lo'o fa'atusatusaina ai nisi o fa'asalaga autu mamafa i isi atunuu aemaise lava Niu Sila, e auiliili ai le mataupu o le le talafeagai o faasalaga e pei ona laga i fa'atalanoaga amata. O manatu ua tuuina mai mo lenei mataupu o le a fua iai fautuaga e uiga i se taatiaga talafeagai mo faasalaga mo Samoa lea e faamalieina ai le faasinomaga.

a) *Faasalaga mo le umiaina o le mariuana*

- 5.70. O fa'asalaga i totonu o Samoa e matuā le fetau lava, pe a fa'atusatusa atu i Niu Sila ma NSW. Mo se fa'ata'ita'iga, ua tu'uina atu e Samoa se faasalaga pito i maualuga e oo i le 14 tausaga e nofosala ai mo le umiaina o le mariuana,²⁶⁰ ae o le solitulafono lava lea e tasi i Niu Sila o lo'o i ai se faasalaga maualalo e nao le 3 masina e nofosala ai poo le \$500 le sala tupe. I NSW, o le faasalaga ua tu'uina atu mo le umiaina o se laau fa'asaina e o'o atu i le \$ 5,000 - \$ 10,000 sala tupe ma / po'o le nofosala i le falepuipui mo le 2 tausaga.

²⁶⁰ Cannabis is considered a Class B drug in Samoa's *Tulafono o Nakoti 1967*.

e) *Faasalaga mo le umiaina o meafaitino e faaaoga mo fualaa faasaina (drugs paraphernalia)*

5.71. O le umia o meafaitino, meafaigaluega, ma tusi taiala, ma isi mo le fa'aaogaina ma le tu'uina atu, e tauaveina le faasalaga pito i mauuluga i Samoa e o'o atu i le 7 tausaga i le falepuipui ma / po'o le \$ 1,000 le sala tupe. O le faasalaga i Niu Sila e o'o atu i le 1 tausaga i le falepuipui ma / po'o le \$ 500 le sala tupe.

i) *Faasalaga mo le umiaina ma le tuuina atu o fualaa faasaina*

5.72. O le umiaina o se fualaa faasaina (ft. fualaa malolosi e pei o le aisa) i Samoa e tauaveina le faasalaga pito i mauuluga e oo atu i le nofosala i le falepuipui i le olaga atoa mo fualaa faasaina i le Vasega A. o le faasalaga lava lea e tasi e tauaveina mo le tuuina atu o fualaa faasaina.

5.73. E eseese faasalaga a Niu Sila ma NSW mo le umiaina ma le tuuina atu o fualaa faasaina, lea o loo tauaveina muamua ai se faasalaga e sili atu nai lo le faasalaga mulimuli. Mo se fa'ata'ita'iga, o le faasalaga i Niu Sila mo le umiaina ma le fa'aaogaina o se fualaa o le Vasega A e o'o atu i le 6 masina ma / po'o le o'o atu i le \$ 1,000 le sala tupe. O fualaa faasaina o le Vasega B e o'o atu i le 3 masina ma / pe oo atu i le \$ 500 le sala tupe, ma le Vasega C e o'o atu i le 3 masina ma / pe o'o atu i le \$ 500 le sala tupe. I NSW, o le faasalaga mo le umiaina ma le fa'aaogaina o fualaa fa'asaina e o'o atu i le \$ 2,000 le sala tupe ma / po'o le 2 tausaga. Mo mataupu o le tu'uina atu, e talitutusa faasalaga a Niu Sila ma Samoa ao NSW ei ai faasalaga eseese ua tu'uina atu mo mafuaaga eseese. Mo se fa'ata'ita'iga, o le tu'uina atu o se fualaa fa'asaina i luga o se tulaga fa'auau pea e ave iai se faasalaga e o'o atu i le \$35,000 le sala tupe ma / po'o le 20 tausaga, ae o le tuuina atu lautele e faasala i le oo atu i le \$ 200,000 ma / pe o'o atu i le 15 tausaga i le falepuipui.

5.74. O le mafua'aga o le eseese o soligatulafono o le umia ma le tu'uina atu, o le umia lea ua lauiloa o se soligatulafono mauulalo ma e mafai ona fa'aaogaina e le tagata lava ia (sei vagana ai le umiaina o se aofaiga tele mo le faamoemoe e tuuina atu). I le isi itu, o le soligatulafono o le tuuina atu e ogaoga faasalaga ona o ona aafiaga ft. o le faailoa atu lea i isi o ia vailaau faapea ma le aofaiga o tupe o loo aafia ai.²⁶¹

o) *Faatulagaga o Faasalaga: Faatinoga o loo iai nei*

5.75. O faasalaga oi ai nei i totonu o Samoa o lo'o fa'aalia ai se lagona agai atu i tali tuusa'o i soligatulafono tau fualaa fa'asaina. Mo se fa'ata'ita'iga, i le mataupu i le va o Leoleo ma Savusa [2017] WSSC 124, na ta'ua e le Faamasino le mataupu i le va o Leoleo ma Masame [2007] WSSC 92 (Faamasino Sili o Sapolu) o le uiga o le Faamasinoga o le tu'uina atu lea o fa'asalaga tau falepuipui i mataupu tau nakoti ona o le taatele o lenei ituaiga soligatulafono sei vagana ua i ai tulaga tulaga ese e ono tauamiotonuina ai se faasaolotoina mai faasalaga tau falepuipui.

5.76. I le fa'atinoga, o faasalaga i lalo o le tulafono e le o faamalosia lona faaaogaina ma o faasalaga e tu'uina atu ua tuu i le pule faitalia a le Faamasinoga. I le iloiloina o aggravating and mitigating factors, o faasalaga ua tu'uina atu e mauulalo ifo nai lo le faasalaga pito i mauuluga o loo i le tulafono ma / po'o le a'afia ai foi o se vaega mo le toefuataiga. Mo se

²⁶¹Misuse of Drugs Act 1975 (New Zealand).

fa'ata'ita'iga, i le mataupu i le va o *Leoleo ma Vili & Anor [2016] WSSC 132* o le tagata solitulafono na maua o lo'o ia umia sikareti mariuana e 250, na fa'asalaina i le 21 masina i le falepuipui. O le faasalaga o le 2 tausaga ma le 10 masina i le falepuipui na tuuina atu foi i se tagata solitulafono o ia lea na molia ma faasalaina mo le umiaina o laau faasaina e 61 ma le 2,876 fatu.²⁶² E tusa ai ma le tulafono, o nei soligatulafono e faasalaina mo le o'o atu i le 14 tausaga i le falepuipui.²⁶³

5.77. O mataupu mo le umiaina o le aisa (nakoti o le Vasega A) (lea e tuuina atu ai i le tulafono se faasalaga pito i maualuga o le nofosala i le falepuipui mo le olaga atoa), i le mataupu i le va o *Leoleo ma Stuart Webber & Anor [2016] WSSC 37*, na faasalaina ai e le Faamasinoga le ua molia i le 5 tausaga i le falepuipui. Ae peitai, i se isi mataupu e aofia ai le umiaina o le aisa, o le ua molia na tuuina atu i ai le faasalaga o le nofo vaavaaia mo le 8 masina mo tulaga faapitoa. O ia tulaga fa'apitoa e mana'omia ai le ua molia ia auai i polokalame tau fualaau faasaina ma le ava malosi (Toe Afua se Taea Fou) ma le nofo vaavaaia mo le ono vaiaso.²⁶⁴

5.78. E le gata i lea, o le ua molia o ia lea ua faamaonia le nofosala i le umiaina o se meafaitino e solia ai le fuaiupu 13 (b) o le Tulafono o Nakoti a Samoa sa tuuina atu i ai le faasalaga o le nofo vaavaaia mo le 8 masina.²⁶⁵ I se isi mataupu, na fa'asalaina se tagata solitulafono i le 3 masina i le falepuipui mo le umiaina o paipa tioata e lua ma se soketi u'amea.²⁶⁶ O sea soligatulafono i lalo o le tulafono e maualuga le faasalaga e oo atu i le 7 tausaga i le falepuipui ma / poo le \$ 2,000 le sala tupe.

u) O le vaavaai agai i isi tulafono pe a tuuina atu faasalaga iai latou ua solitulafono

5.79. I le faapoopo atu i le natura o le soligatulafono fa'apea ai foi ma tulaga tau aggravating and mitigating lea iloiloaina e le Faamasinoga, o loo vaavaai foi i isi tulafono talafeagai i totonu o Samoa pe a tuuina atu faasalaga mo tagata solitulafono.

5.80. O le *Tulafono o Faafoega o Iuga a Faamasinoga i Nuu ma Afioaga 2008* ua faaaoaga mo nisi mataupu²⁶⁷ ua mafai ai e le Faamasinoga ona faasala se tagata solitulafono i galuega i totonu o le atunuu ma alalafaga pe afai ua molia i se soligatulafono e faasalaina i le nofosala i le falepuipui.²⁶⁸ E le gata i lea, o le vaega 13 o le *Tulafono o Faafoega o Iuga a Faamasinoga i Nuu ma Afioaga 2008* ua aiaia ai e faapea e mafai e le Faamasinoga ona faaee atu se faasalaga o le vaavaaiga pe afai ua faamalieina le Faamasinoga e faapea o se faasalaga o le vaavaaiga o le a faaitiitia ai le ono mafai ona toe faia se soligatulafono e ala i le toefuataiga ma le toe faaleleia o le tagata solitulafono. O le vaega 16 o le *Tulafono o Faafoega o Iuga a Faamasinoga i Nuu ma Afioaga 2008* ua taua ai e faapea e mafai e le

²⁶²*Police v Savusa [2016] WSSC 124*. See also the case of *Police v Neemia [2017] WSSC 94* where the defendant who was in possession of 141 prohibited plants and seeds and was sentenced to only 2 years and 6 months.

²⁶³*Tulafono o Nakoti 1967* (Samoa) s 6(1).

²⁶⁴*Police v Tuala [2016] WSSC 123*.

²⁶⁵*Police v Tulua [2016] WSSC 123*.

²⁶⁶*Police v Stuart Webber & Anor [2016] WSSC 37*.

²⁶⁷ See for example, *Police v Tulua [2016] WSSC 123*.

²⁶⁸*Community Justice Act 2008* (Samoa) s 23 (1)(a).

Faamasinoga ona faaee atu ni aiaiga faapitoa e fesootai ma le toefuataoga poo le toe faaleleia o se tagata solitulafono pe afai ua manatu le Faamasinoga ua talafeagai.²⁶⁹

- 5.81. E le gata i lea, o le *Young Offenders Act 2007* ua aiaia ai foi nisi o faasalaga mo le Faamasinoga e iloiloina pe a faasalaina tupulaga talavou. O le mea lea, pe afai ua maua e le Faamasinoga se moliaga e fa'amaonia e faasaga i se tagata talavou, atonu pe a talafeagai ai, e aunoa ma le faia o se fa'amaoniga, tuuina atu se poloaiga i le tagata talavou i totonu o le ono masina e:²⁷⁰
- (a) tauaveina ana matafaioi i lalo o so o se maliega na ausia i se fono ao lei faia le faaiuga;; poo
 - (b) faia se vaitaimi o galuega i nuu ma afioaga e le silia le 100 itula, ma ia mae'a i totonu o le 6 masina; po'o
 - (c) faia se suesuega o ona mana'oga po'o se polokalame o le toefuataiga e le silia i le 6 masina le umi.
- 5.82. Ua maitauina foi e le Komisi e iai le avanoa mo se leoleo i lalo o le *Young Offenders Act 2007*, pe a molia se tagata talavou mo se soligatulafono, pe faamata e lava le lapataia o le tagata talavou, sei vagana ua le talafeagai se lapataiga ona o le matuia ma le natura o le soligatulafono, fa'apea foi ma le numera o soligatulafono na faia muamua e le tagata talavou.²⁷¹
- 5.83. E ese mai i nei Tulafono e lua, o tulafono fa'avae i nu'u ma isi ituaiga o isi fa'atagaga (e pei o suspended sentences) e le o manino mai i lalo o le Tulafono o Nakoti a Samoa. O nei ituaiga o faasalaga na fautuaina e le Komisi o le Toefuataiga o Tulafono a Vanuatu o ni auala e ono atiae ai le toefuataiga o tagata solitulafono.²⁷² Mo Samoa, na matauina e le Komisi i lana Pepa o Faamatalaga lea e manaomia ai faamatalaga faaopoopo ina ia mautinoa ai le lelei o galuega i tua i nuu i le faaitiitia o le toe solitulafono, aemaise lava i le taatele o soligatulafono o le mariuana i tupulaga talavou i totonu o Samoa.²⁷³

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu pe faamatala e tataua ona toe iloilo le faatulagaga o faasalaga a Samoa ina ia aofia ai se iloilo o isi tulaga (e pei o faasalaga e le nofosala ai i le falepuipui) e ese mai i faasalaga tau falepuipui ma/poo faasalaga tau tupe mo soligatulafono tau fualaau faasaina

Faasalaga e le talafeagai

- 5.84. O manatu na tuuina mai na atagia mai ai o faasalaga o i ai nei i totonu o Samoa e maualuga tele ma e le talafeagai pe a faatusatusa atu i isi atunuu e pei o Niu Sila.²⁷⁴ Mo se

²⁶⁹ See also *Police v Tulua* [2016] WSSC 123.

²⁷⁰ *Young Offenders Act 2007* (Samoa) s 15(1).

²⁷¹ *Young Offenders Act 2007* (Samoa) s 17(1).

²⁷² Vanuatu Law Commission, *Dangerous Drugs Act: Legislative Review*, Final Report (2014)

<http://www.lawcommission.gov.vu/images/pdf/Dangerous_Drugs_Final_Report.pdf>.

²⁷³ See TV3 Tala I Vaifanua, 'Police Media Report: Drug Offences' (March 2017) *TV3 Samoa*.

²⁷⁴ Ministry of Education, Sports and Culture, Written submissions to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of*

fa'ata'ita'iga, o le umiaina o se sikaleti mariuana se tasi e okometi lava le faasala i le 14 tausaga. E le gata i lea, o le faatulagaga o fa'asalaga o lo'o i ai nei e le o atagia mai ai faiga masani a le faamasinoga i totonu o Samoa ft. umiaina o se vaega itiiti o mariuana (4 po o le 5 pepa) e faasalaina i le 6 po o le 7 masina po'o le nofo vaavaaia.²⁷⁵ O le faatulai ese e pei ona faia e le Fono a Nuu o se tasi o faasalaga na laga lea faapea e matuia ma leai se aoga e taofia ai le toe solitulafono ma e le tatau ona tuuina atu.²⁷⁶ O le mea lea, e tatau ona toe iloilo le faatulagag o faasalaga e iloilo ai faatinoga o loo iai nei ma auala o loo faia e atunuu i fafo.

- 5.85. E le gata i lea, na lapataia e nisi o paaga e vaavaai muamua i le tulaga o loo iai Samoa mo so'o se fausaga fou ua fuafuaina mo le faatulagaga o faasalaga.²⁷⁷ O lo'o i ai polokalame mo le toe fuataiga a le ADC ma le *Young Offenders Act 2007*, lea o lo'o faaogaina e le Faamasinoga pe a tuuina atu faasalaga mo le tupulaga talavou o loo molia i soligatulafono.
- 5.86. I le isi itu, e le o auai nisi oi latou na tuuina mai manatu ma sa talosaga mai e faatumauina pea le tulaga o loo iai nei. E mafua ona sa faamauina o le mafua'aga autu mo faasalaga maualuga o le faamoemoe e taofia ai le toe solitulafono.²⁷⁸ E le gata i lea, e tuu lava i le pule faitalia a le faamasinoga e tuuina atu ai faasalaga talafeagai, (i le amanaia o itu taua e pei o se aofaiga tele) ma o le mea lea e le o faamalositia ai faaogaina lelei o le tulafono.²⁷⁹ O le faatumauina o le tulaga e talafeagai ma e iai itu lelei mo le lumana'i ona e faaono faasolo ina ogaoga mea o le a tutupu mai i faigamalaga fou e taunuu mai, o le a tele foi vaa ma o le a tele le uafu. O le mea lea, e utiuti lava se manaoga poo le leai foi o se manaoga e faia ai suiga i le tulafono e faasino i faasalaga.²⁸⁰
- 5.87. Na lagolagoina foi e le tele o manatu e faapea o le faatinoga o loo iai nei a le faamasinoga o loo o gatasi ma faatinoga o le tulafono i Niu Sila ma NSW.²⁸¹ O le mea lea, ua maea ona

the Tulafono o Nakoti 1967), 7 August 2017; Samoa Cancer Society, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

²⁷⁵ Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

²⁷⁶ Consultation with Samoa Returnees Charitable Trust (Samoa Returnees Charitable Trust Headquarters, Vailima) 31 August 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017;

²⁷⁷ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²⁷⁸ Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

²⁷⁹ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with the Office of the Attorney General (Office of the Attorney General Conference Room, Tuiatua Tupua Tamasese Efi Building, 16 September 2017.

²⁸⁰ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁸¹ Ministry of Health, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti*

faatua e le Faamasinoga se faasologa o faasalaga e aofia ai aofaiga eseese o mariuana. O le itiiti o le aofaiga e seasea faasalaina i faasalaga tau falepuipui sei vagana ai o loo faaleagaina e moliaga talu ai, o le iai o sauaga ma isi. E fai ma fa'ata'ita'iga, afai e molia se tasi mo le sikaleti mariuana e tasi ma le isi na molia i le 10 laau mariuana, o lona uiga o le a sili atu se faasalaga mo le soligatulafono lona lua.²⁸²

- 5.88. E le gata i lea, o le *Tulafono o Faasalaga 2016* o loo lava ona aiaiga i faasalaga i tulaga faatusatusa, i le fuaina o le mamafa o le faasalaga i le matuia o le soligatulafono. O nei ta'iala e fa'amautinoa ai o le itiiti lava o mariuana o le a fuafua tatau ai foi faasalaga. O le mea lea, e ui lava o loo ta'ua i le Tulafono e 14 tausaga le maualuga o le faasalaga mo le umiaina o mariuana, e lē faasalaina se tasi i le 14 tausaga i le falepuipui ai mo le umiaina o se sikareti mariuana se tasi.²⁸³

Faaaofia ai isi faasalaga talafeagai nai lo na'o faasalaga tau falepuipui

- 5.89. O le tele o talosaga na tuuina mai i le Komisi na faamamafaina ai e faapea o le tulafono o loo iai nei e tatau ona aofia ai isi faasalaga talafeagai ae le na o le faasalaga I le falepuipui ma / poo sala tupe.²⁸⁴ O le tuuina atu o faasalaga tau falepuipui e le tatau ona fa'amalosia mo soligatulafono uma (aemaise mo soligatulafono maualalo) ma e tatau ona tuu i le pule a le faamasinoga e fai se su'esu'ega ma fa'atagaina auaunaga i tua i nuu mo nei ituaiga soligatulafono.²⁸⁵
- 5.90. E le gata i lea, pe afai o lo'o a'afia ai fualaau faasaina aemaise lava popolega iai latou ua fai ma vaisu ma o lo'o molia, o le a sili atu ona talafeagai le i ai o se faasalaga mo le toefuataiga lea e tatau ai ona iai le pule a le faamasinoga e lloilo ai le vaitaimi/piriota e auai ai se tagata solitulafono i polokalame toefuatai faapea ma isi faasalaga talafeagai.²⁸⁶ O le mafai ona faaogaina isi ituaiga faasalaga talafeagai e amanaia ai taumafaiga a le Faamasinoga I nisi auala mo le toefuataiga o tagata e faasala soligatulafono tau fualaau faasaina.²⁸⁷
- 5.91. O isi paaga na latou tuuina mai isi mafuaaga e mafai ona ofoina atu nai lo le sala tupe poo le nofosala i le falepuipui, aemaise lava mo i latou ua solia aiaiga o se laisene, e aofia ai le

1967), 30 October 2017; Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot on Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

²⁸² Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot on Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

²⁸³ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Individual Submission to Samoa Law Reform Commission, *Continuing Legal Education Hotspot on Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

²⁸⁴ Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁸⁵ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

²⁸⁶ Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017.

²⁸⁷ Ministry of Justice and Courts Administration, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

le tuuina atu o a latou laisene faigaluega mo se vaitaimi seia iai se isi taimi, ma / po’o le teenaina o le faatagaina o le tuuina atu o fualaau mai se fale talavai.²⁸⁸

- 5.92. E na o le toatasi le na au ese ai ma faapea mai e tatau pea on faatino faasalaga faa-falepuipui.²⁸⁹

MANATU O LE KOMISI

- 5.93. Ua matauina e le Komisi le le talafeagai o nisi o soligatulafono i lalo o le Tulafono o Nakoti a Samoa pe a faatusatusa atu i pulega i atunuu i fafo e pei o Niu Sila. Mo se fa’ata’ita’iga, o soligatulafono e pei o le umiaina ma le tu’uina atu o fuala’au fa’asaina i totonu o Samoa e tauaveina le faasalaga sili atu le maualuga e 14 tausaga ma le nofosala i le falepuipui i le olaga atoa, pe a faatusatusa atu i Niu Sila mo nei lava soligatulafono e tauaveina faasalaga o le itiiti ifo i le 12 masina ma se sala tupe e le silia le \$ 1,000.
- 5.94. E le gata i lea, e ui lava o lo’o aiaia e le tulafono ia faasalaga maualuga, e le o faamalasia lona fa’atinoina ma lona faaaogaina e pei ona fa’aalia mai i mataupu na talanoaina i luga. O le Faamasinoga i totonu o Samoa ei ai le pule faitalia e tu’uina atu ai se faasalaga talafeagai pe a ma’ea ona iloilo ina itu uma tauleagaina ai ma tauamiotonuina ai. O le mea lea, o faasalaga o loo tuuina atu e le faamasinoga e sili atu ona maualalo ifo nai lo faasalaga ua tuuina mai e le tulafono. E le gata i lea, e tatau ona amanaia e le Faamasinoga isi tulafono taua e pei o le Tulafono o le Faafoega o Iuga-a-Faamasinoga i Nuu ma Afioaga 2008, Tulafono o Talavou Solitulafono 2007 ma le *Tulafono o Faasalaga 2016* pe a faasalaina tagata solitulafono. O nei tulafono o le a faia ai fillifiliga a le Faamasinoga i ni faasalaga talafeagai e tuuina atu e fua agai i le tulaga o loo iai se mataupu (ft. faasalaga mo i latou ua fai ma vaisu se soligatulafono).
- 5.95. Ua matauina e le Komisi o le tele o manatu o le toe teuteu lea o le faatulagaga o faasalaga o loo i ai nei ina ia atagia mai ai faatinoga o loo iai nei ma faatinoga a NZ ma NSW. I le isi itu, e toaititi i latou na mananao e faatumauina pea le faatinoga o loo iai nei. E i ai i le Faamasinoga le pule faitalia mo faasalaga talafeagai e tuuina atu (tusa lava pe maualalo poo soligatulafono maualuga) e fua i luga o le tulaga o loo iai se mataupu ma tulafono talafeagai e tatau ona vaavaai iai mo le faaaogaina. E le gata i lea, mo le tulafono ina ia fetau tonu ma mataupu e tula’i mai e aofia ai fualaau faasaina malolosi ma manatu fou o le faia o soligatulafono e faatatau i fualaau faasaina, na fautuaina ai e tatau ona faatumauina le tulafono o iai nei.
- 5.96. Ua manatu le Komisi e tatau ona lloilo ma le faaeteete pe afai ua iai se manatu e toe teuteu le faatulagaga o faasalaga a Samoa o loo iai nei. O le faatinoga o lo’o iai nei e le o manaomia ai le toe faatulagaina o faasalaga mo soligatulafono taatele e pei o le umiaina o fualaau faasaina. E ui lava o faasalaga pito i maualuga ma/poo le umi e falepuipui ai mo nei ituaiga soligatulafono i lalo o le Tulafono o Nakoti a Samoa e maualuga atu nai lo Niu Sila, e le o faamalasia le faaaogaina e le Faamasinoga o nei faasalaga. E i ai i le Faamasinoga le pule

²⁸⁸ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

²⁸⁹ Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

faitalia e faaee atu ai se faasalaga talafeagai e faavae i luga o le mafuaaga o se mataupu patino, i le ma'ea ona iloiloiga i itu uma o le tauleagaina ma le tauamionuina. O le Faamasinoga o lo'o lima taitaiina foi e isi tulafono e pei o le *Tulafono o le Amiotonu a le Malo 2008, Tulafono o Solitulafono Talavou 2007, ma le Tulafono o le Faasalaga 2016* pe a faia ana faaiuga. E le gata i lea, talu ai ona o le ofi mai o faafitauli e aofia ai fualaau faasaina malolosi ma manatu fou mo le faia o se soligatulafono tau fualaau faasaina, e tatau ona faatumauina le faatulagaina o faasalaga o loo iai nei ina ia foia ai nei mataupu. O lenei tulaga o le a faasaoina ai punaoa a le Malo ma tupe alu i le toe tau teuteuina o le tulafono i le lumana'i, ae tatau ona teuteuina loa le tulafono o lo'o iai i le taimi nei e aiaia ai ni faiga pito i talafeagai.

FAUTUAGA 30: O le faatulagag o fa'asalaga o lo'o iai nei e tatau ona faatumauina. O le Faamasinoga, i le limataitaia ai e isi tulafono talafeagai (e pei o le *Tulafono o le Fa'amasinoga o Nuu ma Afioga 2008*) e i ai le pule faitalia e tu'uina atu ai fa'asalaga talafeagai e fua i luga o ituaiga mataupu. E ui lava i le maualuga o faasalaga/umi e falepuipui ai e pei ona aiaia i lalo o le Tulafono o Nakoti a Samoa, e le o faamalosi lona faaaogaina e le Faamasinoga. O le faatumauina o le faatulagaga o fa'asalaga o lo'o iai nei o le a foia ai faafitauli e tula'i mai i le taimi nei ma le lumana'i e faatatau i fualaau faasaina ma soligatulafono fou. O lenei mea o le a faasaoina ai punaoa a le Malo ma tau mai le toe teuteuina o le tulafono i le lumana'i, pe afai e teuteu le tulafono o lo'o iai nei e aiaia ai ni faiga pito i talafeagai.

6. VAEGA 5: TUUSAUNOAGA MAI FAASALAGA

6.1. I le mulimuli ai i fautuaga i lalo o le Vaega 4 (Soligatulafono ma Faasalaga), o lenei Vaega o loo iloilo ai aiaiga o "tuusaunoaga i soligatulafono," i lalo o le Tulafono o Nakoti a Samoa. O tuusaunoaga e aofia ai le puipuiga i se moliaga, tapulaa ma laisene ua faamaonia e le Ofisa Sili o Pulega talafeagai. O le a iloiloina e le Komisi ni finagalo lautele i luga o lenei mataupu, lea o le a fua iai ana fautuaga.

I. Tuusaunoaga patino i lalo o le Tulafono o Nakoti a Samoa

a) Tuusaunoaga mai le galueaina faasolitulafono o laau faasaina ma le umiaina o fatu

6.2. O le Vaega 6 ua aiaia ai o se puipuiga i se moliaga mo le galueaina faasolitulafono o laau faasaina pe afai ua faamaonia e le ua molia:²⁹⁰

(a) e faapea o le tagata ua tetee na galueaina se laau faasaina po o sa ia umia le fatu o laau faasaina, po o le a lava le tulaga ei ai, lea e faasino i ai le tau faaee atu, i lalo o tuutuuga o se laisene ua tuuina atu i lalo o lenei Tulafono e le Ofisa Sili o Pulega; po'o

(e) e faapea o le laau faasaina po o le fatu e pei o le mataupu e mafai ona faasino i ai le moliaga, o se ituaiga o *Papaver Somniferum L*, ma e le i faamoemoeina e avea o se punavai o so o se nakoti po o e le o atiaeina se afaina mai se mea e mafai ona gaosia ai se nakoti.

6.3. O le uluai su'esu'ega a le Komisi na faaalua ai e le o fa'amaonia mai e le Tulafono o Nakoti a Samoa ni tulaga e mafai ai ona tu'uina atu laisene mo le galueaina poo le umia o laau

²⁹⁰*Tulafono o Nakoti 1967 (Samoa) s 6(3).*

po’o fatu, e ui lava e mafai ona faia tulafono faatonutonu i sea tulaga e tusa ai ma le fuaiupu 29 (c) o le Tulafono. Na faamamafa mai i faatalanoaga amata e iai le avanoa i lalo o le Tulafono Faatonutonu o Nakoti e tuusaunoo ai tagata mai faasalaga i lalo o le vaega 6 pe afai o le galueaina ma le umiaina o mariuana e mo le faamoemoe o le faia o suesuega faasaïenisi po o sailiiliga.²⁹¹ Ae ui i lea, na faailoa mai e tatau ona faia ni faatalatalanoaga taua ao le i faia ni tuusaunoaga, e taofia ai le faasaunoo i le lumana’i ma ia faamautinoa ai o loo i ai ni vaega/ofisa mo le mataituina/vaavaaia.²⁹²

- 6.4. O le Misuse of Drugs Act 1975 a Niu Sila e tuusaunoo ai le taumafaina, tuiina po’o le ulaina o se fualaau faatonuina i lalo o le laisene na tu’uina atu mo le fa’amoemoe o su’esu’ega po’o aoga.²⁹³ O le tulafono a NSW ua aiaia ai e faapea e tuusaunooaina se tagata mai faasalaga pe afai o le galueaina ma / poo le umia o laau faasaina na faatagaina e le Failautusi o le Matagaluega o le Soifua Maloloina mo le faamoemoe o suesuega faasaïenisi, suesuega, faatonuga, auiliiliga po o aoga.²⁹⁴ E tutusa foi lea tulaga ma Toga pe afai o laau faasaina ua lafoai e Leoleo e mafai ona lafoaia e ala i le tu’uina atu i le Matagaluega o le Soifua Malolōina ma / po’o le Matagaluega a Leoleo mo fa’amoemoe o a’oa’oga ma su’esu’ega.²⁹⁵

MANATU NA TUUINA MAI

Na sailia e le Komisi ni manatu i mafuaaga e tatau ai ona faamaonia laisene mo le galueaina poo le umiaina o laau faasaina ma pe faamata e talafeagai mo Samoa ona tuusaunooaga mo suesuega faasaïenisi ma aoga.

Mafuaaga mo le faamaonia o “laisene mo le galueaina” o laau faasaina

- 6.5. O nisi o paaga a le Komisi na latou finagalo o laisene e galueaiina ai mariuana e tatau ona faamaonia i luga o mafuaaga mo suesuega faasaïenisi, aoga ma auiliiliga, ma e tatau ona limataitaia e faiga faavae ma taiala.²⁹⁶ Na latou tuuina mai foi e faapea o se laisene e tusa ai ma le faamaoniga a le Kapeneta e tatau ona tuuina atu mo ia faamoemoe ma e tatau ona aoga mo le 3 masina pe itiiti ifo i le 12 masina.²⁹⁷
- 6.6. O nisi o paaga na faapea mai e tatau foi ona aofia ai tulaga o le galueaina o mariuana e faaoga mo togafitiga faafoma’i.²⁹⁸

²⁹¹ *Narcotics Regulations 1967* (Samoa) reg 3(f).

²⁹² Consultation with the Office of the Attorney General (Office of the Attorney General Conference Room, Tuiatua Tupua Tamasese Efi Building, 16 September 2017).

²⁹³ *Misuse of Drugs Act 1975* (New Zealand) s 14 (3).

²⁹⁴ *Drug Misuse and Trafficking Act 1985* (New South Wales) ss 23 (4)(b), 10 (2)(b).

²⁹⁵ *Illicit Drugs Act 2003* (Tonga) s 32 (2) (a).

²⁹⁶ Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017;

²⁹⁷ Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with the Ministry of Education, Sports and Culture (Ministry of Education, Sports and Culture Headquarters, Malifa, 8 August 2017).

²⁹⁸ Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

- 6.7. O isi na tuuina mai manatu e faapea o tuutuuga mo laisene i lalo o le tulafono ma / poo tulafono faatonutonu e manaomia ona faamatalaina ma mata'ituina lelei.²⁹⁹ Mo se fa'ata'ita'iga, na matauina e le Ofisa o Tiute e faapea e tatau i le MOH ona logoina le Ofisa o le Tiute i le taimi, aso ma le aofaiga o fualaau e faaulufale mai i Samoa mo mafuaaga o le mataituina lelei. Mo tagata e iai le tomai i vailaau/fualaau (pharmacists), e manaomia ona latou faaali atu i le Ofisa o Tiute se laisene faapea foi ma le lisi o fualaau o lo'o latou fa'aulufale mai.
- 6.8. E lua ni talosaga sa tetee malosi i le tuuina atu o se laisene e galueaiina pe totoina ai mariuana mo suesuega, suesuega ma auiliiliga. E tatau ona tumau le tulafono e fa'amalosi e tusa lava pe iai se fa'amoemoe tatau.³⁰⁰ Na faaopoopoina foi e le tatau ona tuuina atu laisene e umia ai ni fualaau faasaina.³⁰¹

Tuusaunoaga mai le gaosia a le galueaiina o laau faasaina i lalo o le tulafono

- 6.9. O le tele o manatu o le tuusaunoaina o le galueaiina ma / po'o le umia o "laau faasaina" mo le faamoemoe o su'esu'ega fa'asaienisi po'o su'esu'ega e tatau ona aofia i lalo o le tulafono. E le gata i lea, na taua e se tasi afai e aofia ai lenei tuusaunoaga, o isi tuusaunoaga aemaise lava, umiaina ma / poo le totoina o laau faasaina mo "togafitiga faafomai" e tatau foi ona aofia ai i luga o le aiaiga ua faamaonia e se komiti filifilia poo le MOH .
- 6.10. Sa i ai foi i latou sa i ai le popolega i le faatagaina ma ia tuusaunoaga ona o le faigata o le mataituina ma le faatonutonuina o ia gaoioiga e pei o le totoina. Sa i ai foi le atugaluga e faapea, e leai se tomai fa'apitoa e fa'atautaia ai su'esu'ega ma su'esu'ega a Samoa, pe a faatusatusa i Niu Sila. O le mea lea, na aiaia ai e faapea o so'o se tuusaunoaga mo le galueaina po'o se isi lava soligatulafono, e tatau ona iloiloina e le Komiti talafeagai (ole Komiti ole Puipuiga ole Atunuu) o ia lea e tatau ona fautuaina le Minisita ma le Kapeneta.

MANATU O LE KOMISI

- 6.11. O le tuusaunoaga o lo'o i ai i le vaega 6 o le Tulafono o Nakoti o lo'o i ai nei e le o manino i tulaga e fa'atagaina ai I lalo o se laisene le totoina faasolitulafono o laau faasaina ma le umiaina o fatu. O nisi o paaga a le Komisi na faailoa mai e tatau ona iloiloina le tuusaunoaga o le tuuina atu laisene mo 'su'esu'ega faasaienisi su'esu'e ma auiliiliga', e mulimuli i aiaiga i Niu Sila, Tonga ma NSW. O sea tuusaunoaga e tatau ona fa'amaonia. O isi paaga na faailoa mai se finagalo e tatau ona aofia ai i lalo o nei tuusaunoaga le 'faaaogaina mo togafitiga o gasegase' ae tatau ona mataituina lelei. Na iai lava nisi na faamauina lo latou tetee i lenei manatu.
- 6.12. E ui i Tulafono Faatonutonu a Nakoti Samoa (tulafono faatonutonu 3 (f)) i luga o le laisene e faaulufaleina mai ai nakoti mo faamoemoega faasaienisi, ua manatu le Komisi e faapea o le tuusaunoaga 'suesuega faasaienisi suesuega ma auiliiliga' e tatau ona faamaoti mai i

²⁹⁹ Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017.

³⁰⁰ Ministry of Health, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 14 November 2017.

³⁰¹ Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017.

totonu o se faataatiaga faaletulafono fou o fualaau faasaina, e faamanino atili ai tuutuuga lea e mafai ai ona tuuina atu sea laisene. Ua maitauina e le Komisi e ono mafai ona soona fai pe afai o sea tuusaunoaga e fa'amaonia, ona o le fuainumera o fa'asalaga i totonu o Samoa. Peitai, o sea tuusaunoaga e tatau ona matua fa'amalosia ma siakiina e pulega talafeagai, ao le i faatagaina le laisene. I le isi itu, o nisi o paaga a le Komisi na taua e faapea e tatau ona iloiloina le mataupu Samoa; pe o iai le tomai fa'apitoa ma le fa'atupega e fa'amaonia ai se tuusaunoaga, le ono mafai ona fa'aleagaina, ma pe fa'aapefea ona faia ia ituaiga su'esu'ega masani.

FAUTUAGA 31: Fa'atasi ma atina'e i Toga ma Niu Sila, o le tuusaunoaga 'suesuega faasaienisi su'esu'e ma au'ili'iliga' e tatau ona fa'amaonia i totonu o se faataatiaga faaletulafono fou mo vaila'au. Ua maitauina e le Komisi e ono mafai ona fa'aleagaina pe afai o sea tuusaunoaga e fa'amaonia ona o le fuainumera o soligatulafono i totonu o Samoa. Ae ui i lea, o sea tuusaunoaga, pe a fai o le laisene talafeagai ua tu'uina atu, e tatau ona fa'amalosia ma fa'atonutonuina e pulega talafeagai.

e) Tuuina atu o le Opium

- 6.13. Fuaiupu 8 ua maua ai o le opium, o le Class B narcotic, e mafai ona tuuina atu mo I latou ua resitalaina o I latou ua avea lenei vailaau faasaina ma vaisu. O le aiaiga e manaomia ai le Ofisa Sili o Pulega o le MOH ona tausia le tusi resitala o tagata o e ua manatu o ia ua avea ia fualaau faasaina ma vaisu a'o le i pasia le Tulafono a Nakoti, ma e ono le toe mafai I ai se isi togafitiga e aloe se ai ma lea fualaau oona.. Ua aiaia ai foi e faapea e mafai e le Ofisa Sili o Pulega ona tuuina atu le tele o aofaiga o opium e pei ona ia manatu e fetau i tagata o latou igoa o loo i luga o lena tusi resitala. O le fuaiupu 8 (3) o lo'o fa'amatala manino mai ai le tuusaunoaga e mafai e tagata taitoatasi (luga o le tusi resitala) ona fa'aaogaina le opium ma se auala fesoasoani mo togafitiga e aunoa ma le faia o se solitulafono.
- 6.14. E le gata i lea, o isi oloa e pei o vaigase ma le codeine na gaosia mai le opium e masani ona fa'aaogaina i totonu o Samoa mo se mapu mai tiga. Mo se fa'ata'ita'iga, o le vaigase o le fualaau autu lea ua fa'amaonia i totonu o Samoa mo togafitiga o fa'ama'i e pei o le kanesa. E ui lava e ofoina atu se toomaga, ae mo le toatele o tagata ua maua i le kanesa tulaga ogaoga, e le aoga i le tali atu i tiga.

MANATU NA TUUINA MAI

Na sailia e le Komisi ni talosaga i luga o le faagasologa oi ai e faatatau i le faatonuina o le opium i tagata gasegase i Samoa ma pe tatau ona taofia ma faamanino sea ituaiga aiaiga i totonu o se Tulafono fou o fualaau faasaina.

Faagasologa o le tuuina atu o le opiana ma tulaga mafuaaga e tuuina atu ai

- 6.15. E tusa ai ma le MOH, o le faagasologa oi ai nei mo le faatonuina o le opium i totonu o Samoa, e afua mai i feutagaiga ma le fa'atagaga a se foma'i sinia po'o se faufautua faafomai. O pepa faamaonia o tala vai e faamaonia ai e mo togafitiga o gasegase, mo se mo i latou o lo'o gasegase tigaina. Na matauina o le opium e mafai foi ona faaulufale mai ma mafia ona tuuina atu I a I latou ua fai lea vailaau ma vaisu ma ua faamauina o latou igoa i le resitala. Na matauina e le MOP o le lisi o tagata gasegase / tagata ua fai ma I latou lea vaisu ua tatau ona mafia ona tuuoina atu i le Komesina ma le MOP ina ia latou iloa nei tagata pe a latou faia ni osofaiga, ina ia aua ai ona taofia sese se tagata e leoleo.

Faatumauina pea aiaiga e faasino i le opiana

6.16. E faavae i luga o mafuaaga ua taua i luga (o le opium e iai sona aoga o se vailaau mo togafitiga faamaonia mai fomai), o le toatele o tagata na lagolagoina le iai pea o fuaiupu o le tulafono faatatau i le sapalai faaltulafono o le opium.

MANATU O LE KOMISI

6.17. Ua maitauina e le Komisi mai folasaga e faapea o le 'opium' o lo'o mafia pea ona tuuina atu I e ua fai le opium ma vaisu I lalo o se fa'amaoniga ma le fa'atagaga a se foma'i sinia po'o se faufautua faafoma'i. Ole fuainumera o I latou ua fai le opium ma o latou vaisu e oo mai i le aso nei e le o iloa, ae o folasaga ua faailoa mai ai o le opium o loo talosagaina ma faaaogaina mo ma'i tigaina ogaoga. O le tele o manatu o le faatagaina pea lea o le 'opium' e tu'uina atu e fesoasoani ai ia i latou o lo'o gasegase ogaoga ma i latou ua resitalaina I le Resitala o tagata ua avea le opium ma vaisu. Ua manatu le Komisi afai o lo'o galue pea le MOH i se vaega tele i le faatonuina o le opium mo e ua fai le opium ma vaisu, ma isi aoga e pei o togafitiga faafoma'i, e talafeagai pea le faatagaina o le opium i lalo o aiaiga maumaututu ma talafeagai e puipuia ai le faaoga seseina.

FAUTUAGA 32: O le aiaiga e faatatau i le tuuina atu o le opium e tatau ona taofia ma aofia i totonu o se faataatiaga faaletulafono fou o fualaau faasaina. E mafua ona o le Matagaluega o le Soifua Maloloina o lo o faia pea se vaega tele i le tuuina atu faaletulafono mo I latou ua fai ma vaisu le opium, faatasi ma nisi aoga o le opium mo nisi lava gasegase (e pei ona faaalua i feutagaiga). Ae ui i lea, e tatau ona i ai tulaga talafeagai e pulea ai le soona faaoga seseina.

II. Isi Tuusaunoaga e leo i totonu o le Tulafono o Nakoti a Samoa

a) O se mea sese ua faatinoina e faasino i fualaau faasaina ma vailaau faatonuina

6.18. E lē iai i lalo o le Tulafono o Nakoti a Samoa se vaega mo le puipuia lea o i latou e le i silafia o se fualaau faasaina o loo latou tagofia. E ui ina iai le avanoa I taimi o faamasinoga e faaleo ai, ua finagalo le toatele o tagata e tatau on tāmāu I le Tulafono ma ia mautinoa e le faaaogaina e I latou ua solia le tulafono lea tulaga e fai ma alofaga mai se soligatulafono.

6.19. O le Tulafono Fa'aaogaina o Fualaau Fa'atau a Niu Sila 1975 o lo'o aiaia ai e le tatau ona fa'asaolotoina se ua molia i se solitulafono lea na molia ai i latou ona e latou te le'i iloina o le vaega o loo latou tagofia, poo se sauniuniga, paluga, po'o le mea o lo'o fesiligia o se vaila'au fa'asaina faapitoa po'o le vaila'au vailaau faasaina; o lona uiga o lo latou le iloa ma manatu sese i le natura o fualaau faasaina.³⁰²

MANATU NA TUUINA MAI

Na sailia e le Komisi ni finagalo i se faataatiaga fou o se Tulafono o fualaau faasaina ma le tuusaunoina i luga o le le iloa o se fualaau o umia o se fualaau faasaina, e tutusa ma Niu Sila.

³⁰² *Misuse of Drugs Act 1975 (New Zealand) s 29.*

- 6.20. O le tele o talosaga na tu'uina mai e tatau i le tulafono fou o fualaau faasaina ona iai se aiaiga tutusa e pei o Niu Sila.³⁰³ O ia aiaiga o le a fesoasoani e fa'amautinoa ai e le fa'aaogaina e le tagata solitulafono lenei mea e fai ma fa'atagaga e aloese ai mai noataga.³⁰⁴
- 6.21. I le isi itu, o nisi o paaga a le Komisi na latou faaalua e faapea o se puipuiga e mafai lava ona talafeagai mo Samoa aua o loo i ai mataupu i aso ua tuanai pe afai o le vailaau e le o se vailaau faasaina ae o le mea moni o le suauu palu.³⁰⁵

MANATU O LE KOMISI

- 6.22. O Samoa e leai se aiaiga i lalo o le Tulafono o Nakoti e tuusaunua ai se tagata i luga o le'i iloa, poo le faaseseina. O le toatele o manatu mai talosaga na i ai o le i ai o se aiaiga i se tulafono fou o fualaau oona, e tutusa ma Niu Sila. Ua manatu le Komisi o le lapataiga e tatau ona faatinoina muamua pe a fai o sea aiaiga o le a aofia i totonu o se tulafono fou o fualaau faasaina. O aiaiga faaletulafono o le 'tuusaunua ona o le leiloa' o lo'o taatele i le tele o tulafono o soligatulafono. Ae peitai, o le sese o le mea moni e tatau ona faamaoni ma talafeagai. O le mea sese e tatau ona tasi e foliga mai e talafeagai i le faamasino poo faatonu. Ua manatu le Komisi e faapea afai o se "tuusaunua ona o le leiloa" o loo aofia i totonu o le tulafono fou o fualaau faasaina, e tatau ona tuu i le faauigaina a le Faamasinoga.

FAUTUAGA 33: O le 'puipuia o le mea sese e tusa ai ma le natura o fualaau faasaina po'o vailaau fa'amalosi' e tatau ona aofia i totonu o le fualaau fou o vaila'au. Afai o sea aiaiga o lo'o finau, e tatau ona tu'uina i le fa'amatalaga a le Fa'amasinoga.

e) Tuusaunua o tagata femalagaaiga faavaomalo

- 6.23. O Samoa e leai se aiaiga i lalo o le Tulafono o Nakoti e tuusaunua ai tagata femalagaa'i o lo'o fa'atagaina e o latou atunuu i uta e ave fualaau faasaina mo togafitiga togafitiga i se isi atunuu. I le taimi nei, so'o se vaila'au fa'asaina e maua i le tuaoi e le Ofisa o Tiute ua faoa ma taofia. Ae ui i lea, ei ai tulaga e mafai ona tuusaunua ai se tagata malaga faavaomalo o ia lea ua maua o ia ituaiga o vailaau fa'amaonia i luga o le tulaga o lo'o i ai se tusi faamaonia e fa'atagaina ai sea tagata e tauaveina sea vailaau faasaina. I le vaitau o le 1990, sa i ai se mataupu pe a malaga atu se pasese a Ausetalia i Samoa o lo'o fa'atagaina fualaau faasaina. O lenei tagata na faatagaina e ave atu fualaau faasaina i totonu o Samoa i luga o le aiaiga e faapea na faatagaina e lana foma'i i Ausetalia.³⁰⁶
- 6.24. I totonu o lana Pepa o faatalatalanoaga, na talanoaina ai o Toga ma Niu Sila e iai ni tuusaunua mo tagata femalagaa'i faavaomalo o lo'o tauaveina fa'amalosi fualaau

³⁰³Transnational Crimes Unit, Written Submission to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967), 5 September 2017; Ministry of Education, Sports and Culture, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 August 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

³⁰⁴Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

³⁰⁵ Consultation with the Ministry of Prime Minister and Cabinet (Ministry of Prime Minister and Cabinet Conference Room, FiameMataafaFaumuinaMulinuu II, Matagalalua, 7 August 2017.

³⁰⁶Consultations with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

faasaina mo le togafitiga o se foma'i (pe mo se tagata i lalo o latou tausiga e pei o NS), ma o le vailaau fa'asaina na tu'uina atu faaletulafono. Mai totonu o le atunuu na afua mai i se foma'i togafitiga ma e le sili atu ma le tasi le masina le sapalai.³⁰⁷ Ae ui i lea, o Niu Sila ua fa'amalamalamaina ituaiga o fualaau faasaina e mafai e tagata faimalaga ona aveina i lana Malaga. Mo se fa'ata'ita'iga, o oloa e iai ma le fualaau fasaina (cannabis) mo togafitiga o gasegase e fa'aaogaina i le US e mafai ona fa'atagaina i totonu o Niu Sila pe a fai o lea oloa o le US Food and Drug Administration approval.³⁰⁸

MANATU NA TUUINA MAI

Na sailia e le Komisi ni finagalo e tusa ai pe tatau ona aofia ai i totonu o le tulafono fou o fualaau faasaina se aiaiga e faatatau i le tuusaunoaina o tagata malaga faavaomalo mai le tauaveina o fualaau faasaina.

- 6.25. O le manatu masani e faapea e tatau i Samoa ona faatagaina tagata femalagaa'i faavaomalo e ave fualaau faasaina pe afai e fa'amaonia e se tagata faatagaina i totonu oo latou atunuu.³⁰⁹ O se tasi na auina mai o ia na faailoa mai lena manatu e faapea o le fualaau faasaina o le cannabis i le taimi nei ua iloa nei ua lelei lona faaaogaina mo le kanesa, ma e ono amataina lenei auala aemaise lava le tulai mai o mataupu o le kanesa i le lalolagi atoa. O le mea lea, o le tele ma le tele o tagata o lo'o fa'alagolago i nei fualaau faasaina mo togafitiga ua mafai ona latou ave fa'atasi ma i latou ao faimalaga. Na fautuaina e mafai ona fa'aaogaina Niu Sila e ave ma ta'iala e pei ona talafeagai ai.
- 6.26. Aepeitai, o loo faamalosia pea taiala ma alafua ua uma ona faataatitia e limataitaina ai le faatinoina o nei mataupu.³¹⁰ Mo se faataitaiga o nei alafua e aofia ai;³¹¹

³⁰⁷ For Tonga, see *Illicit Drugs Control Act 2003* (Tonga) s 6; For New Zealand, see Ministry of Health (NZ), *Bringing Medicines into New Zealand* (7 December 2016) <<http://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicines-control/bringing-medicines-new-zealand>>.

³⁰⁸ Ministry of Health (NZ), *Bringing Medicines into New Zealand* (7 December 2016) <<http://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicines-control/bringing-medicines-new-zealand>>.

³⁰⁹ Ministry of Education, Sports and Culture, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 August 2017; Samoa Nursing Association, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Prime Minister and Cabinet, Written submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

³¹⁰ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017.

³¹¹ Ministry of Education, Sports and Culture, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 August 2017; Ministry for Revenue, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Police, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Samoa Law Society, Written Submission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

- Le aofa'i/numera o fualaau faasaina e mafai onafaaulufale mai I Samoa ma ia lalo atu o le 1 masina e faaoga ai i.e. pemitā mo le 30 aso
- Sa faatauina I luga o le tulafono le fualaau faasaina ma sa uia ala uma e pei ua faamaonia le gasegase o loo maua ai e manaomia ai le fualaau ma ua faamaonia e se foma'i ua mae'a tofia.
- Ia iai faamaumauga uma e faamaonia ai le ripoti a le foma'i ma ia iai le pepa faamaonia o le fualaau faasaina o loo faaogaina ona o le togafitia o le gasegase.

6.27. E tasi na auina mai lona finagalo ia maitauina le toe iloiloga / talanoaga o le mataupu e manaomia a'o lei faia se faaiuga e tuusaunoa tagata femalagaa'i faavaomalo ua faia. Ae peitai, o le isi tagata na auina mai, na taua manino e faapea o sea tuusaunoaga e le tatau ona aofia ai i totonu o le tulafono.³¹² E leai se mafua'aga mo lea finauga.

MANATU O LE KOMISI

6.28. Ua matauina e le Komisi e faapea o tagata malaga femalagaa'i faavaomalo e faatagaina le au malaga e ave fualaau faasaina ia e le faatagaina i le atunuu e taunuu ai, ae vagana ai o nei vaila'au e o faatasi ma se tusi faamaonia ua tuuina atu e se foma'i poo se ofisa faatagaina i lo latou atunuu na afua mai ai . O ia tuusaunoaga e mafai ona maua i tulafono a Toga ma Niu Sila pe a faatagaina tagata femalagaa'i e faia lea tulaga i mafuaaga faafoma'i, ma nisi o aiaiga. O se manatu lautele na faaalā ma lagolagoina e le Komisi, o le aofia ai lea o se tuusaunoaga i totonu o le fualaau fou o fualaau faasaina ma ni taiāla manino e tuuina atu. Faataitaiga:

- Le tele o fualaau faasaina e mafai onafaaulufale mai I Samoa ma ia lalo atu o le 1 masina e faaoga ai i.e. pemitā mo le 30 aso
- Sa faatauina I luga o le tulafono le fualaau faasaina ma sa uia ala uma e pei ua faamaonia le gasegase o loo maua ai e manaomia ai le fualaau ma ua faamaonia e se foma'i ua mae'a tofia.
- Ia iai faamaumauga uma e faamaonia ai le ripoti a le foma'i ma ia iai le pepa faamaonia o le fualaau faasaina o loo faaogaina ona o le togafitia o le gasegase.

FAUTUAGA 34: E tatau i le alafua fou mo fualaau faasaina ona iai se vaega e patino i tagata faimalaga mai atunuu I fafo ua faamaonia le feaveai ma I tagofia o fualaau faasaina na o le togafitiina o se gasegase. Ae e manaomia ona maumausālī taiāla e faatonutonu ai ma ia aofia ai le;

- Le tele o fualaau faasaina e mafai onafaaulufale mai I Samoa ma ia lalo atu o le 1 masina e faaoga ai i.e. pemitā mo le 30 aso
- Sa faatauina I luga o le tulafono le fualaau faasaina ma sa uia ala uma e pei ua faamaonia le gasegase o loo maua ai e manaomia ai le fualaau ma ua faamaonia e se foma'i ua mae'a tofia.
- Ia iai faamaumauga uma e faamaonia ai le ripoti a le foma'i ma ia iai le pepa faamaonia o le fualaau faasaina o loo faaogaina ona o le togafitia o le gasegase.

³¹² Consultation with Transnational Crimes Unit (Transnational Crimes Unit Office, FiameMataafaFaumuinaMulinuu II Building, Matagialalua, 29 August 2017).

i) *Faaogaina o fualaau faasaina i se itu pulea*

- 6.29. E ese mai le opium, e tele isi vaila'au faasaina e aoga mo togafitiga, mo se fa'ata'ita'iga, suauu cannabis. O fa'atalatalanoaga muamua na fa'aalia e faapea o lo'o i ai talosaga mo vaila'au (cannabis) mo togafitiga.³¹³ Ae ui i lea, I lalo o le Tulafono o Nakoti a Samoa, e le o iai ni aiaiga pe mafai ona talosagaina le suauu o le fualaau faasaina lea o le cannabis (cannabis oil), mo togafitiga faafoma'i. E le o manino mai foi poo ai e na te mafaia ona tuuina atu pepa faamaonia o vailaau (prescriptions) ma le faagasologa mo le tu'uina atu o ia pepa.
- 6.30. O le Tulafono Faatonutonu Nakoti 1967 o loo aiaia ai avanoa mo se kamupani ua laiseneina faamaonia e faaulufale mai ai le mariuana.³¹⁴
- 6.31. A'o fa'atinoina fa'atalatalanoaga amata, sa fa'amaonia ai le mafai e fomai Samoa ona faaogaina fualaau faasaina auā togafitiga, 'ae e faatalosagaina e se fomai sinia. E manaomia foi faamaumauga e lagolagoina ai le faaogaina o fualaau faasaina ina ua uma taumafaiga ma fualaau e masani ai, 'ae e leai se suiga o lē ua gasegase. Ua faia lea tulaga mo le fualaau faasaina o le "oxycodone", o se fualaau o le Vaega E(B) o fualaau faasaina.³¹⁵ A taulimaina e Matagaluega o Soifua Maloloina se talosaga mo nei fualaau faasaina, ona tuuin atu lea o se talosaga i le INCB, le Faalapotopotoga o Malo Tuufatasi o loo latou mātā'ituina ma fuafuaina fualaau faasaina o loo faaogaina mo togafitiga³¹⁶ Afai e faamaonia e le INCB, ona sailia lea e le Matagaluega o Soifua Maloloina se kamupani ua resitalaina mo le faamomoliina o fualaau faasaina mo togafitiga ma faapea foi ona talosagaina e le Matagaluega se laisene mo le tuuina mai o fualaau faasaina. A faamaonia le talosaga a le Matagaluega mo se laisene auā le tuuina mai o fualaau faasaina, ona fua lea o le aofaiga o fualaau e faatauina mai i le faatonuga a le fomai e ana le talosaga. O nei laisene e nao le 3 masina e faatagaina ai ma e mātā'itū lelei i latou e tuuina atu ai nei laisene.³¹⁷
- 6.32. E ūi ona mafai ona faaogaina ma ua iai auala e mafai ai ona faaogaina fualaau faasaina mo togafitiga o gasegase e seāseā faaogaina e le tatou atunuu. E nao le tasi le talosaga faamauina i le tausaga 2015 mo le faaogaina lea o le maruana mo togafitiga. Sa fa'aulu lenei talosaga e se tina ua maua i le kanesa ma ua ia manaomia le suau'u e maua mai le maruana e faaititia ai tiga sa feagai ai ma ia. E iai le talitonuga, o le toatele o tagata latou te silafia lenei auala mo le faaititia o tiga o le tino e afua mai ma'i o le tino, o le tele foi na o talosaga o le'a tuunina atu i le Matagaluega o Soifua Maloloina.³¹⁸

³¹³ Preliminary Consultation with the Ministry of Health (Samoa) (Ministry of Health Complex, Moto'otua, Apia, Samoa, 12 May 2016).

³¹⁴ *Narcotics Regulation 1967* (Samoa) reg 3.

³¹⁵ Preliminary Consultation with the Ministry of Health (Samoa) (Level 2- Ministry of Health Complex, Moto'otua, Apia, Samoa, 12 May 2016).

³¹⁶ The INCB is the independent and quasi-judicial monitoring body for the implementation of the United Nations international drug control conventions set up on 1968 in accordance with the Single Convention on Narcotic Drugs 1961.

³¹⁷ Preliminary Consultation with the Ministry of Health (Samoa) (Level 2- Ministry of Health Complex, Moto'otua, Apia, Samoa, 12 May 2016).

³¹⁸ Preliminary Consultation with the Ministry of Health (Samoa) (Level 2- Ministry of Health Complex, Moto'otua, Apia, Samoa, 12 May 2016).

O nisi faiga-malō

Niu Sila

- 6.33. Mo Niu Sila, e tutusa lava aiaiga e ūia ma alafua e tatau ona mulimulitaia mo le faaogaina o fualaau masani ma fualaau faasaina.³¹⁹
- 6.34. Ua iai foi aiaiga faapitoa ma alafua ua uma ona saunia e le Matagaluega o Soifua Maloloina a Niu Sila mo le faaogaina o fualaau faasaina e i latou ua lē mafai ona tu'ua le tågofia o fuala'au fa'asāina. Ua iai foi taiala e limataitaina ai faalapotopotoga latou te nafa ma le tausia o i latou ua lē mafai ona tu'ua le tågofia o fuala'au.³²⁰
- 6.35. E mafai e soo se fomai ona faaoga ma tuuina atu le faatanaga e faaogaina ai le maruana faapea le opiaga mo le togafitiga o gasegase. E fuafua lava e le fomai po'o se tausima'i faapitoa le faaogaina o fualaau faasaina e togafiti ai ma'i pe'a fai ua talitonu le fomai o le togafiti sili lea. E iai le malosiaga o le fomai e faaogaina ai soo fualaau e gaosi mai i le maruana,³²¹ pe'a fai ua faamalieina aiaiga ma taiala ua uma ona faataatitia e le Matagaluega o Soifua Maloloina.³²²
- 6.36. E mafai ona gaosi e fale talavai i Niu Sila fualaau e faaoga ai le maruana ae moomia le faamaoniga a le Matagaluega e tusa ai ma le vaega 22 o le Tulafono Faatonutonu o le Faaogaseseina o Fualaau Faasaina a Niu Sila 1977³²³ Mo le faaogaina o fualaau e gaosia e faaogaina ai le maruana ae lei fuafuaina mo le togafitiga o ma'i, o nisi nei o aiaiga e tatau ona mataitu e le Matagaluega e tusa ai ma le le vaega 22 o le Tulafono Faatonutonu o le Faaogaseseina o Fualaau Faasaina a Niu Sila 1977;³²⁴
- (a) ua oo le gasegase i le tulaga ua tulata ina oti;
 - (b) iai faamaoniga ua maea ona faataitai isi togafiti ma e leai se suiga i le ma'i;
 - (c) iai faamaoniga ua maea ona iloilo e i latou o loo iai le tomai faapitoa o itu lelei ma itu leaga o le fualaau;
 - (d) o lē o loo talosagaina le faaogaina o le fualaau faasaina o sē ua iai le tomai faapitoa e patino i le ituaiga ma'i, poo le faaululuga o le Komiti o Soifua Maloloina a le Itumalo;
 - (e) ua maea ona sailia finagalo o le augatupulaga talafeagai;

³¹⁹Peter Dunne, *Backgrounder: Medical Cannabis in New Zealand* (21 January 2016) Beehive Government <<https://www.beehive.govt.nz/release/backgrounder-medical-cannabis-new-zealand>>.

³²⁰ Guidelines found here: Ministry of Health (NZ), *Prescribing Controlled Drugs in Addiction Treatment* (2013) <<http://www.health.govt.nz/system/files/documents/publications/prescribing-controlled-drugs-in-addiction-treatment-may14-v5.pdf>>.

³²¹Peter Dunne, *Backgrounder: Medical Cannabis in New Zealand* (21 January 2016) Beehive Government <<https://www.beehive.govt.nz/release/backgrounder-medical-cannabis-new-zealand>>.

³²²Peter Dunne, *Backgrounder: Medical Cannabis in New Zealand* (21 January 2016) Beehive Government <<https://www.beehive.govt.nz/release/backgrounder-medical-cannabis-new-zealand>>.

³²³Peter Dunne, *Backgrounder: Medical Cannabis in New Zealand* (21 January 2016) Beehive Government <<https://www.beehive.govt.nz/release/backgrounder-medical-cannabis-new-zealand>>.

³²⁴ Ministry of Health, *Prescribing cannabis-based products* (8 February 2017) <<http://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicines-control/prescribing-cannabis-based-products#3>>. See also Guidelines found here: Ministry of Health (NZ), *Prescribing Controlled Drugs in Addiction Treatment* (2013) <<http://www.health.govt.nz/system/files/documents/publications/prescribing-controlled-drugs-in-addiction-treatment-may14-v5.pdf>>.

- (f) ia taulimaina se faailoga ua maea le iloiloga e se falesuesue aloaia; ma
- (g) ua faailoa uma aiaiga ma tulaga uma i lē ua gasegase poo le o loo nafa ma le tausaiaina o le ma'i ma ua faapea ona loto e faaoga nei oloa gaosi mai i maruana poo fualaa faasaina.

6.37. O soo se fualaa faasaina e faaogaina mo le togafitiga o ma'i, e manaomia le faamaoniga ma le maliega a le Minisita o le Matagaluega o Soifua Maloloina.³²⁵

Ausetalia

6.38. Na pasia i le tausaga 2016 e le Palemene a Ausetalia suiga i le Tulafono o Nakoti ma Fualaa Faasaina 1967 ina ia faatagaina ai le totō, le atinaeina ma le faaāgagaina o mariuana mo le gaosiina o fualaa auā togafitiga faapea ai suesuega faasaeansi i lalo o le faamalumaluga o se laisene e tasi.³²⁶ Ona o lea tulaga, sa suia le faatulagaina o le maruana i lalo o le tulafono mai le "fualaa faasaina" i le "fualaa o loo faatonuina".³²⁷ O le toe suia o le faatulagaina o le maruana i lalo o le tulafono, e moomia suesuega auiliili ina ia mautinoa e talafeagai ma saogalemu.

6.39. Ao tālia le toefuataiga o tulafono e le Malo o Ausetalia e patino i le maruana e avea ma fualaa e togafiti ai gasegase, ua mae'a ona pasia e le itumalo o Kuinisilani le latou Tulafono o Soifua Maloloina a le Malo 2016 e tuuina atu ai le malosiaga i le Faatonu Sili na te faamaonia ai se ua gasegase e faaogaina le maruana auā togafitiga.³²⁸ E faatoa faatagaina lea tulaga pe'a fai ua mae'a uma togafitiga e leai se suiga pe tūgā foi ni aafiaga o togafitiga faaneionapo. E tatau e le fomai o loo talosaga ona faali faamaoniga ua maea suesuega ma ua mautinoa le ituaiga fualaa e gaosi mai le maruana o le a avea ma vaifofo o le mai.³²⁹ O lenei Tulafono e mautinoa ai le faaogaina ma le tatau o fualaa gaosi mai le maruana e togafiti ai ma'i ae aua nei faaogaina faasoligatulafono.³³⁰

Peretania

6.40. E iai le fulaa ua taua o le Sativex e gaosiina e faaoga ai le maruana e faaoga e latou ua maua i le mai tigaina o le sikola (sclerosis). O le faaogaina o le Sativex e fuafua lea i luga o le fautuaga a le fomai.³³¹ O loo faavasegaina pea le Sativex i le Vaega B o fualaa faasaina

³²⁵ *Misuse of Drugs Regulations 1977* (New Zealand) r 22.

³²⁶ Hon. Sussan Ley MP, 'Medicinal Cannabis to be cultivated through single national scheme' (Media Release, 2 December 2015) <<http://www.health.gov.au/internet/ministers/publishing.nsf/Content/health-mediarel-yr2015-ley144.htm>>.

³²⁷ Jennifer H. Martin and Yvonne A. Bonomo, 'Medicinal Cannabis in Australia: The missing links' (6 June 2016) 204(10) *Medical Journal of Australia*, 371-373 <https://www.mja.com.au/system/files/issues/204_10/10.5694mja16.00234.pdf>.

³²⁸ *Public Health (Medicinal Cannabis) Act 2016* (Queensland) chap 3, pt. 2, ss 34-36. See also, Jennifer H Martin and Yvonne A Bonomo, *Medicinal Cannabis in Australia-the missing links* (August 2016) *The Medical Journal of Australia* <<https://www.mja.com.au/journal/2016/204/10/medicinal-cannabis-australia-missing-links>>.

³²⁹ *Public Health (Medicinal Cannabis) Act 2016* (Queensland) chap 4, pt. 2-3.

³³⁰ Queensland Health, *Public Health (Medicinal Cannabis) Bill 2016* (28 September 2016) Queensland Government <<https://www.health.qld.gov.au/system-governance/legislation/reviews/medicinal-cannabis>>.

³³¹ Medical Marijuana UK, *Legal Access: Where and how to get safe and legal access to medical marijuana around the World* (2017) MMJUK <<http://medicalmarijuana.co.uk/legal/legal-access>>.

ma e tumau pea faasalaga faalesolitulafono mo i latou e ūmia, fa'atauina, lafo atu pe taliaina foi lenei fualaa faasaina e aunoa ma se faamaoniga.³³²

Amerika

- 6.41. E 15 setete o le malo o Amerika ua faatagaina faaletulafono i totonu o ona tuaoi le faaogaina o le maruana e avea ma togafiti o mai.³³³ E 4 setete ua faatagaina faasoloatoa le faaogaina o le maruana mo tagata o loo aumau i totonu o ona tuaoi.³³⁴
- 6.42. Ua fa'atagaina e le setete o Kalefonia le fa'aogaina o le maruana mo le togafitia lea e lē gata o le kanesa ae faapea ma ma'i o le anorexia, spasticity, glaucoma, arthritis, migraines ma nisi o mai e ono fai ai le maruana ma toomaga. ³³⁵

MANATU TUUINA MAI

Na sailia e le Komisi ni finagalo o le atunuu pe tatau ona faa'atulafonoina e Samoa le faaogaina o fualaa faasaina i tulaga pulea, e faaoga ai se alafua poo se taiala o fualaa faasaina faapea ai ma tualumaga talafeagai. (Faataitaiga, e pei o le taiala mo foma'i e faatonuina ai le tuuina atu o fualaa faasaina i tagata faalagolago).

Manatu 1: Fa'atagaina fualaa'au fa'asaina ae ia iai ni taiala manino i lalo o le tulafono

- 6.43. O le tele o finagalo lagolagoina le fa'aaogaina o mariuana mo togafitiga o gasegase fa'apitoa. E.g. togafitiga o le kanesa. Ua afua ona o nisi o taumafaiga i isi atunuu i lenei mataupu. Ua lagolagoina e le Asosi o Talavai o Samoa lenei mataupu ona ua iloa mai i suesuega ma fuainumera mai isi atunuu o le lalolagi, e 200 ma sili atu mataupu o kanesa ua manuia pe faaititia aafiaga ona o le mariuana. E Molimau le Asosi o le taulaiga e tatau ona Faamuamua le soifua maloloina ma le tamaoiga. Na malilie le SROS e faia su'esu'ega ina ia mautinoa le talafeagai ma letatau ona fa'aaoga o le mariuana, ae ia faamauina e le lava tupe ma punaoa e faatino ai le suesuega.
- 6.44. Ae ui i lea, na lāgā afai ae faatagaina o fualaa fa'asaina e avea ma togafiti o nisi o mai, o le a mana'omia loa o taiala manino ma le maumaututū:
- fa'amalamalama tulaga e fa'atagaina ai le fa'aaogaina o fualaa fa'asaina. Faataitaiga, pe'ā fai ua leai lava se togafitiga o le ma'i po'o le fa'ama'i.³³⁶
 - ia fa'atapula'aina ituaiga fualaa'au fa'asaina o lo'o avanoa ia na'o fualaa faasaina ua mae'a su'esu'ega faasaienisi ma ua fa'amaonia ua saogalemu.³³⁷

³³² Medical Marijuana UK, *UK Cannabis Legal Guidelines* <<https://medicalmarijuana.co.uk/legal/uk-medical-cannabis-guidelines/>>.

³³³ Steve Bloom, *CBD Oil Now Legal in 16 States* (10 November 2016) Celebstoner <<http://www.celebstoner.com/news/marijuana-news/2014/03/13/four-states-on-verge-of-passing-cbd-only-laws/>>.

³³⁴ Medical Marijuana UK, *Legal Access: Where and how to get safe and legal access to medical marijuana around the World* (2017) <<http://medicalmarijuana.co.uk/legal/legal-access/>>.

³³⁵ The Medical Board of California, *Marijuana for Medical Purposes* (October 2014) CA.Gov <http://www.mbc.ca.gov/Licensees/Prescribing/Medical_Marijuana.aspx>.

³³⁶ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

³³⁷ Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Ministry of Education, Sports and Culture,

- ia fa'amaonia pulega/ Matagluega (aemaise le MOP) latou te fa'atautaia laisene fa'apitoa e patino i fuala'au fa'asaina mo le togifitiga o ma'i.

6.45. E le gata i lea, na fautuaina foi e tatau ona iai se tino poo se pulega e faatonutonuina, e pei o le MOH, ma mata'ituina talosaga mo fualaau faasaina.

Talaina o Fualaau

6.46. O le tele o manatu fa'aalia o talosaga ai le faia o taiala ma faiga fa'avae (ma ia faamalosia atili i le alafua mo fualaau faasaina) e ta'tai'ina ai galuega a foma'i ma fale talavai vailaau i talavai o loo tuuina atu i le mamalu o le atunuu (e pei o ta'iala o fa'amaoniga) ma le fa'atauina atu o fualaau faasaina, e pei ona faia e Niu Sila.³³⁸ O ia faiga fa'avae e tatau ona aofia ai mataupu e aofia ai;

- O tagata e mafai ona fa'atagaina le faaogaina o fualaau faasaina, fa'ataitaiga o fomai. E faapena foi i le faatonuina o le tuuina atu o talavai, ina ia faatagaina na'o latou ua 'fa'amaonia' e iai fomai faufautua fa'apitoa.³³⁹
- O tulaga e mafai ai ona fa'amaonia ai fualaau faasaina, fa'ataitaiga o le kanesa ua leai se togafiti.
- O taiala mo le fa'atonutonuina o le faaogaina o fualaau faasaina e.g. faamaoti le aofaiga o fualaau faasaina ua faatonuina.
- Faamalosia o taiala ma faiga fa'avae, fa'ataitaiga, o le mata'ituina o foma'i ma fale talavai o lo'o lo'o tu'uina atu talavai ma fa'atauina atu fualaau fa'asaina.³⁴⁰

6.47. E le gata i lea, o nisi o paaga a le Komisi ua faalia so latou finagalo e tatau ona matua mataituina le tuuina atu o talavai ma ia faatuina se Faalapotopotoga tumaoti e mataitu lea tulaga.³⁴¹

Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

³³⁸Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017). Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

³³⁹Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Consultation with the Ministry of Health (Ministry of Health Office, Moto'otua Hospital, 17 August 2017).

³⁴⁰Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

³⁴¹ Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; Consultation of the Mental Health Unit (Mental Health Unit Main Office, Moto'otua Hospital, 22 August 2017); Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

Manatu 2: Fa'atagaina fualaau fa'asaina i se faiga fa'avae

6.48. I le isi itu, o nisi o paaga a le Komisi o lo'o fautuaina le faatonutonuina i se faiga faavae. E tatau i le MOP ma le MOH ona atia'e se faiga fa'avae mo lea tulaga.³⁴²

Manatu 3: Aua ne'i fa'atagaina le fa'aaogaina o fualaau fa'asaina e avea ma se togafiti o gasegase.

6.49. O nisi tagata na tuusaunua mai e le tatau ia Samoa ona faatagaina fualaau faasaina e avea ma togafitiga ona e le oi ai ni taiala ma alafua e lagolagoina ai lea tulaga.³⁴³

6.50. Na matauina e le Ofisa o le Loia Sili o vaega 7, 9 ma le 10 o le Tulafono o Nakoti e aofia ai le fa'aogaina o fualaau faasaina e avea ma togafitiga faafomai. O le tulafono o lo'o iai nei ua fa'atagaina ai foma'i faapitoa e tuuina atu talavai mo fualaau faasaina mo le togafitia o mai.³⁴⁴ O le vaigase, ua iai faamaumauga a le Faalapotopotoga o le Soifua Maloloina a le Lalolagi, ua toatele nisi o tagata gasegase ua latou faaogaina ua fai ma vaisu ma ua le mafai ona taofia le fa'aogaina.³⁴⁵

MANATU O LE KOMISI

6.51. E ui lava o lo'o ma'u i le Tulafono o Nakoti a Samoa le fa'atagaina o le opiaga e pei ona talanoaina i le palakalafa 6.13 o lenei Lipoti, e le o iai ni aiaiga faapitoa mo le faaogaina isi fualaau fa'asaina, e pei o le mariuana, ma le faagasologa talafeagai e aofia ai le faatonuina o talavai mo fualaau faasaina. Ua matauina e le Komisi e ui lava ina leai ni aiaiga i le tulafono, ua iai talosaga mo le faaogaina o fualaau faasaina (e pei o le suau gaosia mai le mariuana) 'ae mo tulaga e seasea tupu. E pei ona fa'aalia mai i uluai fa'atalanoaga, o le faagasologa o talosaga mo le fa'aalufaleina mai o fualaau fa'asaina e umi ma e mana'omia ai le faamaoniga a le INCB. E le'o manino mai i uluai fa'atalatalanoaga pe o le a le fa'avae faaletulafono o lo'o faaogaina e le MOH e faatalosagaina ai fualaau faasaina mai le INCB. Peitai, ua matauina e le Komisi, o le Tulafono Faatonutonu 3, o lo'o faatagaina ai le tuuina atu o laisene mo le faalufaleina mai o fualaau faasaina e faaoga mo togafitiga faafomai.

6.52. Ua matauina e le Komisi le tele o manatu e faatulafono le faaogaina o fualaau faasaina e pei o mariuana mo togafitiga faafomai i se tulaga pulea, ona o lona aoga i le togafitia o ma'i tuga e pei o le kanesa. Ua lagolagoina e se sui mai le Asosi o Talavai lenei fa'amaumauga ona o fuainumera o ma'i kanesa o le lalolagi ua manuia pe faaititia aafiaga ona o le mariuana. Sa faalia foi i finagalo tuuina mai e mana'omia le iloilo o ta'iala mo le togafitia ma le fa'amautuina o ni taiala manino mo nisi o paaga ia tausisia muamua a'o le'i tuuina atu talavai mo fualaau faasaina. O se vaega taua lenei ma e mana'omia ona auiliili ma fai ai suesuega ma na faaalia e le SROS lo latou fiafia e tauaveina nisi o suesuega o fualaau

³⁴² Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

³⁴³ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Consultation with the Ministry of Police (Ministry of Police Main Office, Apia, 28 August 2017).

³⁴⁴ Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

³⁴⁵ Consultation of the Mental Health Unit (Mental Health Unit Main Office, Moto'otua Hospital, 22 August 2017).

faasaina e talafeagai mo le faaogaina i le togafitia o gasegase i totonu o Samoa. O nisi finagalo tuuina mai, e lē lagolagoina le faatagaina o le faaogaina o fualaau faasaina ona o le leai o ni alafua e faatonutonu lelei ai ia mataupu ma ua faapea foi ona tā'ua i lalo o le tulafono i lalo o fuaiupu, 7, 9 ma le 10 o le Tulafono o lo'o iai nei.

- 6.53. Na matauina foi e le Komisi auala o loo faaogaina e Niu Sila, ia avea ma se taiala e limataitaina ai Samoa i tulaga e mafai ai ona faatonutonuina ai le faaogaina o fualaau faasaina (opiaga poo mariuana). O Niu Sila o loo latou fa'amaonia muamua tagata oloo manaomia le fualaau faasaina mo togafitiga ma tagata o loo manaomia ona ua avea ma vaisū fualaau fa'asaina (e pei ona i ai le reistala mo i latou ua fai ma vaisu le opiaga i Samoa) ma tagata gasegase lautele. O loo iai taiala manino i lalo o Tulafono Faatonutonu a Niu Sila mo le tuuina atu o le talavai mo fualaau faasaina e pei ona taua i luga. O talavai uma e fa'alagolago i le faamalieina o foma'i ma tagata o loo iai tomai faapitoa i le talafeagai o le togafitiga o se gasegase e faaoga ai le mariuana.
- 6.54. Afai o le fa'aaogaina fualaau fa'asaina e pei o le mariuana i totonu o Samoa, ua manatu le Komisi e tatau ona fa'amautu taiala ma faiga fa'avae i totonu o le tatou lotoifale e fa'atonutonu lelei ai ia mataupu. O manatu tu'uina mai o loo faamausalī ai le tatau ona iai o taiala ma faiga fa'avae, e tatau ona atina'e e le MOH ma ia mulimulitaia auala o loo faaogaina e Niu Sila. O le a fesoasoani lea i foma'i ma le au talavai mo le fa'atulagaina ma le tu'uina atu o fualaau fa'asaina fa'atagaina mo togafitiga i tulaga faatonu.³⁴⁶ E le gata i lea, o ia taiala ma faiga fa'avae e tatau ona faatulafonoina.
- 6.55. I le iloiloina o le Tulafono o Nakoti a Samoa, ua manatu le Komisi e faapea, o aiaiga o laisene o lo'o i ai nei e faatatau i fualaau fa'asaina, e lē lava. E mafua ona o nei aiaiga e lautele lona faauigaina ma e lē manino. O le fuaiupu 29 o le Tulafono o Nakoti o loo i ai le malosiaga i le Ao o le Malo nate faatuina ai tulafono faatonutonu e mafai ai ona faamalasia le Tulafono a Nakoti. Mo se fa'ata'ita'iga, e mafai ona faatuina se tulafono faatonutonu mo le fa'amoemoe o le fa'amaonia o so'o se nakoti po'o fualaau faasaina e faatonuina e se foma'i. E leai ni tulafono faatonutonu patino i lene tulaga i totonu o Samoa sei vagana ai le tulafono faatonutonu 3 lea e mafai ai e se kamupani ua laiseneina ona faaulufale mai se fualaau faasaina mo togafitiga a foma'i ma suesuega faasaienisi ma le tulafono 20, e faatagaina ai le tuuina atu o fualaau faasaina i soo se tagata po o se manu pe afai ua faamaonia e le Faatonu po'o le Pule Sili o le MOH o ia laisene. Ae ui i lea, o nei tulafono faatonutonu e lautele ma e le talafeagai mo le mataupu o le faaogaina o fualaau faasaina i togafitiga i tulaga faatonuina.
- 6.56. Ina ia ogatusa ma atina'e i Niu Sila faapea le fesoasoani i tagata mama'i, ua manatu le Komisi e tatau ona fa'atulafonoina e tusa ai ma le fuaiupu 29 o le Tulafono o Nakoti le fa'aaogaina o fualaau faasaina (suauu e gaosia mai le mariuana faapea ma isi). Ua matauina e le Komisi mai ana faatalatalanoaga o loo faatinoina lea tulaga i totonu o Samoa i le taimi nei ma ua faamoemoe le MOH o le'ā tele talosaga faapenei i le lumanai. O le mea lea e manaomia ai ona fa'atulafonoina i tulafono ma faatu ta'iala manino. E tusa ai ma fautuaga ua tu'uina mai e nisi o paaga, o tulafono faatonutonu e tatau ona faatulaga ai:

³⁴⁶ Further discussion on 'dispensing and administering drugs' at Chapter 6 (V. Other Enforcement Matters).

- Tagata e mafai ona fa'amaonia le faaogaina o fualaau faasaina e pei o fomai taualoa. E faapena foi i le faatonuina o le tuuina atu o talavai mo fualaau faasaina ia iai ni 'tulaga o fa'amaoniga' pe a fai o vaila'au e na o le fa'amaonia e ni foma'i faufautua.³⁴⁷
- O tulaga e mafai ai ona fa'amaonia ai fualaau faasaina o lona uiga o le kanesa o le kanesa.
- Ituaiga o vailaau fa'asaina e mafai ona fa'atapula'aina i nisi o ituaiga o su'esu'ega faasaienisi ina ia saogalemu;
- Fa'ata'ita'iga fa'atonutonu e.g. faamaoti le aofaiga o fualaau faasaina ua faatonuina ma le taimi faatulagaina mo le faaogaina;
- Faailoa pulega (lelei MOP) e taulimaina laisene masani e tagofia / tufatufaina atu (e pei o Fa'ata'ita'i Laisene Fa'ata'ita'i).
- Faamalositia eg. mata'ituina o foma'i o lo'o fa'amaonia fa'apea fo'i ma falema'i o lo'o tu'uina atu nei fualaau.³⁴⁸

6.57. I le fuafuaina pe ua fa'amaonia e le foma'i le tu'uina atu o se fualaau faasaina (e aofia ai le mariuana ma isi), e fautuaina e le Komisi le fa'afetaui ma le fa'aaogaina taiala e pei ona faaogaina e Niu Sila:³⁴⁹

- Ua oo i se tulaga ogaoga po'o ua lamatia le ola;
- O fa'amaoniga ua uma ona faia togafitiga fa'apitoa talafeagai ma ua masani ai ae leai lava se suiga maumaututū;
- Fa'amaoniga ua mae'a ona iloiloaina e fomai tomai faapitoa;
- Talosaga mai se foma'i tomai faapitoa talafeagai i le Fomai Sili o se Komiti Fa'afaoe Soifua Maloloina;
- Talosaga a se tagata ma'i ina ua mae'a ona faatalatalanoaina ma le augatupulaga talafeagai;
- Tu'uina atu o se Tusi Faamaonia o Su'esu'ega mai i se fale suesue ua fa'amaonia, ina ia iloa ai Vailaau o loo gaosi ai; ma
- O le tagata gasegase po'o le tausi ma'i ua tu'uina atu le fa'atagaga/ fa'amaoniga.

6.58. Ua manatu foi le Komisi e tataua ona faavaeina se Komiti Faatino talafeagai i lalo o le MOH e faafaoe ai le tulafono faatonutonu. O le tuufaatasiga o le Komiti Faatino ma galuega tauave e tataua ona fuafuaina e le MOH. O a latou galuega e tataua ona aofia ai mea nei:

- Iloilo talosaga mai foma'i talafeagai e fai ma sui o le ma'i.
- Fa'atino nisi su'esu'ega ma sailiiliga e tusa ai ma le natura o le talosaga ma fa'atalanoaga ma fomai tomai faapitoa talafeagai.
- Tuuina atu fautuaga i le Ofisa Sili o Pulega pe ua faamaonia le talosaga pe leai foi
- Faia ni isi galuega e ono talafeagai mo le fa'amoemoe o le talosaga

³⁴⁷Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017.

³⁴⁸Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

³⁴⁹Peter Dunne, Backgrounder: Medical Cannabis in New Zealand (21 January 2016) Beehive Government <<https://www.beehive.govt.nz/release/backgrounder-medical-cannabis-new-zealand>>. Ministry of Health, Prescribing cannabis-based products (8 February 2017) <<http://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicines-control/prescribing-cannabis-based-products#3>>.

FAUTUAGA 35: Ina ia ogatusa ma faiga masani aemaise atina'e i atunuu e pei o Niu Sila, o le fa'aaogaina o fualaau (vaila'au ma vailaau fa'asaina) e tatau ona fa'atulafonoina e tusa ai ma le vaega 29 o le Tulafono o Nakoti. O Tulafono Faatonutonu e tatau ona faatulaga lelei ai mea nei:

- Tagata e mafai ona fa'amaonia talavai mo fualaau faasaina ft. o fomai faapitoa ua uma ona faamaonia. E faapena foi i le faatonuina o talavai o fualaau faasainao loo i ai "aiaiga faapitoa mo le talaina o fualaau faasaina" ua faatonuina e nisi faufautua faafomai.
- O tulaga faapitoa e mafai ai ona fa'amaonia ai le faaogaina o fualaau faasaina ft. kanesa ua leai se vaifofo.
- Faatapulaaina o ituaiga fualaau fa'asaina e tuuina atu nao fualaau faasaina ua maea ai suesuega faasaeanisi ua lelei mo se mai.
- Fa'ata'ita'iga fa'atonutonu e.g. faamaoti le aofaiga o fualaau faasaina ua faatonuina ma le taimi faatulagaina mo le faaogaina;
- Faamautinoa pulega (Matagaluega o Leoleo) latou te mataituina ma taulimaina laisene mo i latou e tagofia ma tufatufaina atu fualaau faasaina (Laisene mo Fale Talavai).
 - Faamalosi e.g. mata'ituina o foma'i o lo'o fa'amaonia talavai ma falema'i o lo'o tu'uina atu fualaau faasaina.

FAUTUAGA 36: Afai o loo sailia pe o talafeagai le tuuina atu e se foma'i fualaai faasaina i se tagata ma'i, ua fautuaina e le Komisi e fetuuna'i ma fa'aaoga taiala nei e pei ona faaogaina e le Malo o Niu Sila:

- Ua oo i se tulaga ogaoga po'o ua lamatia le ola;
- O fa'amaoniga ua uma ona faia togafitiga fa'apitoa talafeagai ma ua masani ai ae leai lava se suiga maumaututū;
- Fa'amaoniga ua mae'a ona iloiloaina e fomai tomai faapitoa;
- Talosaga mai se foma'i tomai faapitoa talafeagai i le Fomai Sili o se Komiti Fa'afue Soifua Maloloina;
- Talosaga a se tagata ma'i ina ua mae'a ona faatalatalanoaina ma le augatupulaga talafeagai;
- Tu'uina atu o se Tusi Faamaonia o Su'esu'ega mai i se fale suesue ua fa'amaonia, ina ia iloa ai Vailaau o loo gaosi ai; ma
- O le tagata gasegase po'o le tausi ma'i ua tu'uina atu le fa'atagaga/ fa'amaoniga.

FAUTUAGA 37: Ua manatu foi le Komisi e tatau ona faavaeina se Komiti Faatino talafeagai i lalo o le MOH e faafue ai le tulafono faatonutonu. O le tuufaatasiga o le Komiti Faatino ma galuega tauave e tatau ona fuafuaina e le MOH. O a latou galuega e tatau ona aofia ai mea nei:

- Iloilo talosaga mai foma'i talafeagai e fai ma sui o le ma'i
- Fa'atino nisi su'esu'ega ma sailiiliga e tusa ai ma le natura o le talosaga ma fa'atalanoaga ma fomai tomai faapitoa talafeagai
- Tuuina atu fautuaga i le Ofisa Sili o Pulega pe ua faamaonia le talosaga pe leai foi
- Faia nisi galuega e ono talafeagai mo le fa'amoemoe o le talosaga

7. VAEGA 6: FA'AMAMALUINA

O loo iloiloaina e lenei Vaega poo gafatia e pulega o loo faamamaluina lenei tulafono a latou matafaioi. O loo auiliili atu ai aiaiga faapitoa e faasino i malosiaga e famamaluina le tulafono i loo taua i le Tulafono o Nakoti a Samoa. O lo'o va'ava'ai fo'i le mataupu i isi mataupu e aofia ai

su'esu'ega, mata'ituina, aiaiga fa'amaoniga, isi mataupu fa'amalosia e pei o va'a va'aia, fa'apea fo'i isi mataupu e aafia ai le fa'amalosia i totonu o Samoa.

I. Aiaiga Fa'apitoa mo le fa'amalosia

a) Tusi su'ega ma sailiga e aunoa ma se tusi saisai

- 7.1. Fuaiupu 14 o le Tulafono o Nakoti e tuuina atu ai i le Faamasinoga le malosiaga e tuuina atu tusi saisai e faataga ai ofisa e ulu atu ma sueina so o se fale, vaalele, vaa, taavale, taavale, nofoaga po o nofoaga, po o se tagata e faoa ma taofia so o se nakoti po o so o se faamatalaga molimau o se solitulafono. O le leoleo po o le tagata asiasi o lo o faatinoina ia tusi poloaiga e tatau ona i ai faatasi ma ia i le taimi o le faatinoga ma gaosia pe a mana'omia.³⁵⁰
- 7.2. I le maea ai o faatalatalanoaga muamua, na faavaeina ai o tusi saisai, e mafai ona tuuina atu e le Faamasinoga Faaitumalo ma le Faamasinoga Mauaialuga e tusa ai ma le fuaiupu 14 o le Tulafono o Nakoti ma aiaiga talafeagai o le Tulafono o Tualumaga Tau Soligatulafono³⁵¹ O tusi sutesue e mafai ona tuuina atu i soo se taimi poo taimi, i totonu o le 1 masina mai le aso o le tusi saisai e ulufale ai ma sailia se falema'i poo tagata ua masalomia ua faia se solitulafono i lalo o le Tulafono o Nakoti a Samoa.³⁵²
- 7.3. E i ai foi tulaga e mafai ai e leoleo ona faia sailiga e aunoa ma se tusi poloaiga (vaega 14A). Na faaalua ai o le sailiga e aunoa ma se tusi faapoloaiga e le na o le MOP e faia ae na faia e le ofisa o le tiute i lalo o le Tulafono o le Ofisa o Tiute 2014. O le fuaiupu 14A (5) o le Tulafono o Nakoti Samoa ua faamautuina e faapea e mafai e le leoleo ona faia se sutesuega e aunoa ma se tusi poloaiga pe a o ia i ai mafuaaga talafeagai e talitonu ai ua faia e se tagata se soligatulafono i lalo o le Tulafono.³⁵³ Peitai, o le fa'amatalaina o 'mafuaaga tatau' e le manino. O lenei mea ua mafua ai fesili pe oa 'mafuaaga tatau' e aofia ai ma luitau e tusa ai ma le aoga ma le talafeagai o saililiga e aunoa ma se tusi faapoloaiga na faia e le ofisa e faamalosi tulafono. enforcement officers.

Faatusatusaga ma isi atunu'u

Toga

- 7.4. O le atunuu o Toga, e mafai e se faamasino ona tu'uina atu se tusi saisai e faataga ai se leoleo ma alii/tamaitai o le ofisa o tiute e faatino ai su'esu'ega e tusa ai ma le Tulafono.³⁵⁴ E fa'apea foi le tulaga mo sailiga e aunoa ma tusi saisai ao lona eseesega e nao nofoaga ua faapitoa mo le vaega o tiute e gata ai sutesuega a alii/tamaitai o le ofisa o tiute e pei o uafu ma malae vaalele.³⁵⁵

Niu Sila

- 7.5. Pe a tu'uina atu tusi saisai i Niu Sila, e mafai e le fa'amasinoga o le filemu, fa'ai'uga a le nu'u, resitala po'o le sui resitala ona tu'uina atu se tusi su'ega e mafai ai e leoleo tulafono

³⁵⁰Tulafono o Nakoti 1967 (Samoa) ss 14(2), 14A(4).

³⁵¹ See *Criminal Procedure Act 2016* (Samoa) s 190.

³⁵²Tulafono o Nakoti 1967 (Samoa) s 14(1).

³⁵³Tulafono o Nakoti 1967 (Samoa) s 14A (2).

³⁵⁴*Illicit Drugs Control Act 2003* (Tonga) s 21.

³⁵⁵*Illicit Drugs Control Act 2003* (Tonga) s 23(1).

ona su'eina su'ega.³⁵⁶ Su'e su'ega e mafai ona fa'amaonia i luga o le sili atu ma le tasi le taimi i le vaitaimi o lona fa'amaonia ma e o'o atu i le tagata talosaga e talosagaina le umi o le tusi poloaiga (i le noatia ma le fai fuafua i le faamalieina o le tagata na tu'uina atu).³⁵⁷ E le gata i lea, o se tusi su'ega o le a masani ona aoga mo le tusa ma le 2 vaiaso ma e le silia le masina.³⁵⁸

- 7.6. E tusa ai ma sailiga e aunoa ma se tusi saisai, o le tulafono a Niu Sila ua tãua o le Search and Surveillance Act 2012, e mafai ai e leoleo ona ulufale i so'o nofoaga po'o se taavale e aunoa ma se tusi saisai; ma sãili ma pueina se tagata ua masalomia e le leoleo le solitulafono.³⁵⁹ O le faaogaina o le malosiaga e ulufale atu ai e aunoa ma se tusi saisai e faia ina ia aloese mai i le sola o le tagata solitulafono pe faaleagaina faamaumauga molimau. O nisi o tulaga e mafai ai ona faatino se suesuega e aunoa ma se tusi saisai e se leoleo e manaomia ni mafua'aga talafeagai.³⁶⁰
- a) masalomia ua soli e se tagata se tulafono e mafai ona faasalaina i le nofosala i le falepuipui ma e mafai ona molia e aunoa ma se tusi saisai; ma
 - e) mautinoa o lo'o iai le tagata; ma
 - i) ia mautinoa o le lã ulufale atu o le'ã tula'i mai ai vaega e lua nei:
 - i) o le a sola le tagata ina ia aloese mai le pueina faapagota;
 - ii) faaleagaina, nanaina, fesuai pe faaleaogaina foi fa'amatalaga poo se fa'amaoniga e faasino i le soligatulafono

Ausetalia

a) Setete o New South Wales

- 7.7. I NSW, o se talosaga mo se tusi saisai e tataua ona faatulaga mai mafuaaga a leoleo ua alai ona talitonu o le a latou maua fa'amaoniga i se nofoaga. E tataua i leoleo ona faamalieina le Faamasino i le tu'uina atu lea (fa'amasinoga amiotonu, se faamasino poo se faamasino) o mafuaaga talafeagai e talitonu ai e fesoota'i le solitulafono ma le su'esu'ega ma e ono o'o atu ai i le pueina faapagota. O le soligatulafono e mafai ona aofia ai, umi o se laau malosi, fualaa faasaina, gaioi po'o soligatulafono e aafia ai tamaiti. E tataua e le fa'amasino o lo'o tu'uina atu le tusi saisai ona faamaumau mafuaaga na fa'atagaina ai le tu'uina atu o le tusi saisai. E 3 aso o se tusi saisai seivagana ua fa'aopopoina e le Faamasino. E tataua i leoleo ona tu'uina atu se lipoti i le fa'amasinoga i totonu o le 10 aso talu ona fa'amaonia le tusi saisai.³⁶¹
- 7.8. O NSW e i ai foi le aia tataua a leoleo e su'e ai se tagata e aunoa ma se tusi saisai. Ina ia faia lenei mea, e tataua i leoleo ona i ai mafuaaga talafeagai e talitonu ai o le tagata o lo'o fesiligia o lo'o ia umiaina se tasi o mea nei:³⁶²

³⁵⁶ Search and Surveillance Act 2012 (New Zealand) s 6.

³⁵⁷ Search and Surveillance Act 2012 (New Zealand) s 98(5).

³⁵⁸ Search and Surveillance Act 2012 (New Zealand) s 103.

³⁵⁹ Search and Surveillance Act 2012 (New Zealand) s 8.

³⁶⁰ Search and Surveillance Act 2012 (New Zealand) s 8(2).

³⁶¹ See Law Enforcement (Powers & Responsibilities) Act 2002, pt. 5, Crime Commission Act 2012 (NSW) Div. 3, and Crimes Act 1914 (Cth) s 3E.

³⁶² See George Sten & Co, "What rights do you have in NSW when police have a search warrant?" <<https://criminal-lawyer.com.au/police-search-warrants-nsw/>>. Accessed 19 December 2017.

- O se auupega matautia; po’o
- Fualaau faasaina; po’o
- Meatotino na mauaina faasolitulafono; po’o
- O se mea faitino e fai ai se solitulafono, po’o le fa’amanu’alia o ia lava, po’o se isi.

e) Vitoria

7.9. O le tulaga i Vitoria e talitutusa ma Niu Sila i lalo o le Tulafono o Vailaau Oona ma Fualaau Faasaina 1981, e mafai i se faamasino ona tuuina atu se tusi saisai e faataga ai se leoleo i soo se taimi i le ao po o le po ona ulufale atu i fanua poo fale ma saili i nei fanua poo nofoaga , fa’apea fo’i ma le faoa ma fa’aumatia so’o se vailaau o le fa’atuatuaaina o lo’o maua i totonu o sea nofoaga po’o fale. O tusi saisai e pei o Niu Sila e aoga foi mo le masina.³⁶³

MANATU NA TUUINA MAI

Sa taumafai le Komisi e sailia pe le alagatatau ona faamaioio ma faamaoti i totonu o le Faava’a ua fausia mo fualaau faasaina le iai le faamaotiina mai o se tusi poloaiga e tuuina atu i le aufaigaluega a le Ofisa o Tiute e latou te faamalosia ai le sailia pe o le su’eina lea o fualaau faasaina e ono faaooina mai. E fesiligia foi le manaomiaga o le faatautaia o aoaoga pupuu unaina ai le faalauiloaga o tusi poloaiga ma auala e faatinoina ai, faatasi ai ma le faaioioina o mafuaaga talafeagai o le faatinoina o se Suesue e aunoa mase tusi poloaiga.

Aiaiga faapitoa mo le aufaigaluega a le Ofisa o Tiute e faatautaia suesuega e aunoa ma se tusi poloaiga.

7.10. O finagalo sa faaooina mai e le toatele o lo’o faamanino mai ai, le tatau le ona iai ni mafuaaga talafeagai ma aiaiga e mafai ai ona faatinoina se iloiloga e le aufaigaluega a le Ofisa o Tiute, ma se malosiaaga e tuuina atu iai e faatino ai lea tulaga i le iai o le tusi poloaiga pe aunoa foi mase tusi poloaiga.³⁶⁴ O nisi o malosiaaga e tuuina atu i le Aufaigaluega a le Ofisa o Tiute e ao lava ona faatapulaaina i totonu o le Ofisa.³⁶⁵

7.11. Faamanino mai e le Matagaluega o Tupe Maua, o le faamatuu mai o lea malosiaaga faatasi ai ma le faamanoina o aiaiga talafeagai o le a mafai ai ona tuuina atu le faatagana i le aufaigaluega a le Ofisa o Tiute e faamalosia ai le Tulafono ma e ono foia ai faafitauli o lo’o aliaie mai pea e ala lea i fualaau faasaina faa lē tulāfono. O lo’o taua e tatau foi ona atagia mai i totonu o le Tulafono Customs Act 2014 nei malosiaaga. Faamanino mai foi e le

³⁶³ *Drugs Poisons and Controlled Substances Act 1981* (Victoria) s 81(3).

³⁶⁴ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Ministry for Revenue, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Police, Written Submresission to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

³⁶⁵ Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

Matagaluega o Leoleo e tatau lava ona tuuina atu le malosiaga i le aufaigaluega a le Ofisa o Tiute e latou te faatinoina ai suesuega mo i latou o lo’o masalomia i fualaau faasaina faatasi ai ma faamomoli ma uta auina mai i totonu o le Atunuu. Afai ae faamaonia pe latou te mauaina foi ni fualaau faasaina, e tatau ona logoina loa alii mamalu o le malo ina ia pueina ma taofia faaletulafono.

- 7.12. I lona eseese, e tasi le sui sa faaooina mai sona finagalo e faatatau i le faamaninoina o nei aiaiga i le tulafono.³⁶⁶ I lona talitonuga, o Samoa o se Atunuu laititi, e leo iai se moomiaga tele e faaofiina atu ai nei aiaiga ma tuutuuga i le tulafono, e tatau i le Alii po’o le tamaitai Ofisa o le Tiute ona logoina le Matagaluega o Leoleo pe afai o iai se moomiaga e faatinoina ai se suesuega e tusa ma le tusi poloaiga pe o le leai foi o se tusi poloaiga.³⁶⁷

Aoaoga ma polokalama e faatinoina mo le alualu i luma o le faalauiloaina o aiaiga ma taualumaga o tusi poloaiga.

- 7.13. O nisi o talosaga sa faaooina mai o lo’o fa’amanino mai ai le ao pea ona faatautaia o ni aoaoga pupuu e faalauiloa ai le auga ma le taua o tusi poloaiga ma ona aiaiga ma taualumaga eseese.³⁶⁸ O alii mamalu lava ia o le malo e tatau lava ona faatinoina a lakou aoaoga e le gata i mataupu e faatatau i fualaau faasaina faaletulafono ae faapea foi isi soligatulafono.³⁶⁹ E tali tutusa lava aiaiga poo taualumaga lava ia o le mauaina o tusi poloaiga e faatinoina ai se suesuega mo fualaau faasaina faapea nisi o mataupu po’o tualaga e ono solia ai le tulafono.³⁷⁰ O nisi o aoaoga e faatautaia e faamalamalamaina ai ai le aoga ma le taua o le faatinoina o suesuega ma e ono le faatinoina ai se suesuega faapitoa e faatautaia e aunoa mani mafuaaga tatau.³⁷¹ Na taua foi, e tusa ai male toaititia o le number o Alii mamalu o le malo i Samoa, o lea e taua tele ai le galuega a Alii ma Faipule o Nuu ma Afioaga i le felagolagomai lea i le faatautaia o suesuega pe a o’o ina faatinoina se osofaiga. O le ala foi lea e tatau lava ona nofo malamalama ai Alii ma Faipule o Afioaga i aiaiga ma taualumaga uma o le faatinoina o nei suesuega.³⁷²

³⁶⁶Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

³⁶⁷Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

³⁶⁸Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

³⁶⁹Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

³⁷⁰Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

³⁷¹Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

³⁷²Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

7.14. E ui i lea, na tãua e le Matagaluega o Leoleo ma le TCU, i le faatinoina lava ia o suesuega e faaaogaina ai se tusi poloaiga ua nofo malamalama ai i le tulafono aemaise lona faatinoga, ona o lo'o i totonu o le taiala mo aoaoga a le Matagaluega o Leoleo mo i latou e fou mai faapea foi le faatinoina o galuega i aso taitasi.³⁷³

Taimi talafeagai mo susuega e faaaogaina ai Tusi Poloaiga.

7.15. I le mataupu e faatatau i le taimi talafeagai mo suesuega e faaaogaina ai tusi poloaiga, o se tasi o manatu faaalua e lagolagoina ai le umi o lo'o faamaioio i totonu o le Tulafono i lona Vaega 14.³⁷⁴ E talafeagai le tasi le masina pe i lalo ifo e faatinoina ai suesuega. Ae peitai e mafai ona toe talosaga le Matagaluega o Leoleo e faaopoopoina le taimi ua tuuina mai mo se suesuega. Aemaise i tulaga o ni mataupu o lo'o moomia tele ai ni faamatalaga molimau faapea ni faamaumauga talafeagai, o le auga lena e manaomia ai e le malu o le malo ia le faaopoopoga o le taimi e faatautaia ai lea suesuega. E tatau lava ona iai se taimi faaopoopo mo le tusi poloaiga e faatagaina ai le talosaga ua tuuina atu o lo'o faamanino atu ai le mafuaaga e ala ai ona moomia se faatanaga mo se taimi faaopoopo mo suesuega.³⁷⁵

7.16. E tusa ai ma le finagalo faalia o se tasi o sui sa faaooina mai, o lo'o faamanino mai ai pe le alagatau ona tuuina atu faaletulafono le 3 masina e faatinoina ai suesue e faaaogaina ai Tusi Poloaiga nai lo le 1 le masina o lo'o iai nei.³⁷⁶ E foia ai le toe talosaga mo se taimi faaopoopo.

Mafuaaga talafeagai e faatinoina ai se suesuega e aunoa ma se Tusi Poloaiga e faalia.

7.17. E le gata i lea, e iai nisi o finagalo faalia e faatatau i le faamatalaina o le mafuaaga tatau e tatau ona faamanino i totonu o le tulafono e faatatau i suesuega e fia faatinoina e aunoa ma se Tusi Poloaiga.³⁷⁷ O se tasi o finagalo faalia o lo'o tusia mai ai le fesiligia lea e le mamalu ole Atunuu o suesuega e faatinoina e le malu o le malo e aunoa ma se Tusi Poloaiga pe e iai se mafauuaga talafeagai.³⁷⁸ E le mafai foi e malu o le malo ona faamautinoa pe moni tuuaiga mo so'o se tasi lava ua solia le tulafono.³⁷⁹

7.18. Sa fesiligia foi e nisi o vaega mai le Faamasinoga le Vaega 14A (Suesuega e aunoa ma se Tusi Poloaiga) ona e iai le talitonuga, o lenei Vaega e faaaogaina lea i mafuaaga talafeagai/tatau pe masalomia pe faamaonia. Ae peitai, e leo mafai e le tulafono ona faamaioio ma fuaina le taimi talafeagai e faatinoina ai se suesuega e faaaogaina ai Tusi Poloaiga ae o a foi ituaiga suesuega e faaaogaina ai ma talosagaina ai le tatau ona iai o tusi

³⁷³Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

³⁷⁴ Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

³⁷⁵ Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

³⁷⁶Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

³⁷⁷ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

³⁷⁸ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

³⁷⁹ Consultation with the Samoa Victim Support Group (Samoa Victim Support Group Headquarters, Beach Road, Apia, 14 September 2017).

poloaiga, aemaise i mataupu o lo’o moomia vave le fia faatinoina ose suesuega.³⁸⁰ O le mea lea e alagatatau ai ona faatumauina pea o lenei aiaiga ae ia faamanino ma auiliili le faaaogaina talafeagai. E ono mafai ai ona foia le faatinoina o suesuega e lē ai male tulafono e faatinoina ei latou o lo’o faamalosia:³⁸¹

- o aso e le tatalaina ai le faamasinoga, Aso Sa, ma Aso Malolo
- ia mautinoa o lo’o umia ma e lei faaleaga ina pe leiloa foi faamaumauga ma faamatalaga molimau e faatatau i le mataupu talanoaina
- ia mautinoa e le’o mafai ona sola ese le ua masalomia i se soligatulafono

7.19. Na saunoa foi le Afioga i le Faamasino Sili i le taua o le malu puipuia o malu o le malo o le a faatinoina suesuega o lo’o moomia.³⁸²

MANATU O LE KOMISI

a) Tusi Poloaiga

7.20. E iai le naunautaiga o le Komisi e ao pea ona faatumauina aiaiga o le Tusi Poloaiga o lo’o iai i le taimi nei. ³⁸³ O lo’o manino matafai o le Ofisa o Tiute i lalo o le Tulafono Custom Act 2014 e faatatau i le sailia ma le suesueina lea o Uafu ma Malaevaalele. O le ala lea e le lagolagoina ai le auililigaina o aiaiga nei e ala i malosiaga e tuuina atu i le afaigaluega a le Ofisa o Tiute e faatinoina ai ni suesuega e faaaogaina ai Tusi Poloaiga pe aunoa foi ma se tusi poloaiga.

7.21. Ua maitauina e le Komisi nisi o finagalo faalia e lagolagoina ai fonotaga a Alii ma Faipule o Nuu ma Afioga ina faatinoina male tatau le faatautaia o suesuega e faaaogaina ai Tusi Poloaiga i totonu o Afioga. O le auga lena ma le faamoemoe o le faatinoina o polokalame faalauiloa ina ia mafai ona faalatele le tomai male iloa o Alii ma Faipule i le aoga ma le taua o le Tusi Poloaiga mo suesuega.

7.22. Ua maitauina foi e le Komisi, aoaoga o lo’o faatautaia e le Matagaluega o Leoleo e faatatau i faatautaia lea o suesuega e faaaogaina ai Tusi Poloaiga. E iai le naunautaiga o le Komisi e ao pea ona faaauau ma faatumau lenei aoaoga aua malu o le malo ina ia mafai ona latou malamalama ma iloa le tulafono faatasi ai ma auala talafeagai foia ai le faatinoina o suesuega e aunoa ma se mafuaaga tatau.

7.23. I le faatusatusa agai i tulafaono a isi atunuu pei o Tonga, Niu Sila ma Vitoria, e maitauina ai le ao pea ona faatumauina le 1 masina mo le faatautaia o suesuega e faaaogaina ai Tusi Poloaiga. Aepeitai e tatau lava ona silasila ma le totoa iai le faamasinoga pe alagatatau ona toe faaopoopoina le taimi talosagaina e faamaeaina ai sueusega ina ia mafai ona faatinoina se faaiuga talafeagai. Ei le faamasinoga e iloiloina talosaga e tuuina atu mo aso faaopopo i soo se tulaga e faatatau i le faamasinoga. O soo se faatanaga e tuuina atu

³⁸⁰Consultation with members of the Samoa’s Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); CLEC Hotspot (Individual).

³⁸¹Consultation with members of the Samoa’s Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

³⁸²Consultation with members of the Samoa’s Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

³⁸³See *Customs Act 2014* (Samoa) s 196.

mo aso faaopoopo ia le silia lea ma le 30 aso ina ia foia ai le tuai o faaiuga fai faapea foi le faaaogaina le tatau o le malosiaga tuuina atu i malu o le malo mai le faatautaia o suesuega le talafeagai.

e) Suesueg/Iloiloga e aunoa mase Tusi Poloaiiga.

- 7.24. E tusa ai male Vaega 14A i lalo o le tulafono, e faatatau i Suesuega/Iloiloga e aunoa mase Tusi Poloaiiga, e manatu le Komisi e tatau ona faamanino ma faamaioio i totonu o le faavaa o fualaa faasaina. E mafai ai ona foia le faatinoina o suesuega e aunoa mase Tusi Poloaiiga. I le o gatasi ai ma nisi o pepa o faamatalaga tuuina mai, o nisi o tulaga o lo'o faamanino mai;
- o aso e le tatalaina ai le faamasinoga, Aso Sa, ma Aso Malolo
 - ia mautinoa o lo'o umia ma e lei faaleaga ina pe leiloa foi faamaumauga ma faamatalaga molimau e faatatau i le mataupu talanoaina
 - ia mautinoa e le'o mafai ona sola ese le ua masalomia i se soligatulafono
- 7.25. I lalo o le tulafono a Niu Sila, o lo'o faamanino mai ai le mafai lea ona faatinoina se suesuega e aunoa ma se mafuaaga tatau e mafai ona faaaogaina o se taiala. Faataitaiga. Pe afai lea e manatu le malu o le malo o lo'o iai mafuaaga talafeagai;
- a) E masalomia o se tagata na ia faatinoina se soliga tulafono e ono nofo sala ai i le falepuipui, e mafai ona pueina ma lokaina e aunoa ma se Tusi Poloaiiga.
 - b) E iai le talitonuga o lea tagata sa iai i le taimi tonu sa faatino ai le soligatulafono
 - c) E iai le talitonuga afai ae le faatinoina faavave le ulufale faamalosi e faatinoina se suesuega e ono oo atu ai i nisi o tulaga e pei;
 - i. O lea a tuua e lea tagata le nofoaga e aloese mai ai i le pueina male lokaina
 - ii. E ono faaleagaina, natia, suia faamaumauga ma faamatalaga maumaututu e faatatau i le tagata sa faatino ina le soligatulafono.

FAUTUAGA 38: E ao pea ona faatumauina aiaiga o lo'o iai i le taimi nei mo Tusi Poloaiiga. O lo'o manino tiute ma matafaioi o le afaigaluega a le Ofisa o Tiute o lo'o atagia mai lalo o le Tulafono Customs Act 2014 e faatatau lea i suesuega e patino i Uafu ma Malaevaalele.

FAUTUAGA 39: E tatau i le Matagaluega o Leoleo ma le Ofisa o Tiute ona faatinoina polokalame faalauiloa e faailoa ma faalateleina ai le malamalama o Alii ma Faipule i tua i Nu'u ma Afioaga e faatatau i le faatinoina o suesuega e faaaogaina ai Tusi Poloaiiga ma faataunuuna i auala talafeagai ma faatino i faiga lelei.

FAUTUAGA 40: E fa'aaaupea o aoaoga pupuu e faatautaia e le Matagaluega o Leoleo mo malu o le malo e faatinoina suesuega e faa'aaogaina ai tusi poloaiiga. Ina ia nofo malamalama ma mautinoa i le faagasologa o le faatautaia o suesuega e foia ai suesuega e faatino e lē tusa ai ma le tulāfono.

FAUTUAGA 41: I le ō gatasi ai ma tulafono a Toga, Niusila ma Niusauelese, o le 1 le masina e tuuina atu mo suesuega e fa'aaogaina ai le Tusi Poloaiiga e faatumau pea. Ae peitai afai ae manaomia se taimi faaopoopo e faatinoina ai suesuega ina ia mafai ona manino ma tonu faaiuga fai, e ao lea ona faatinoina ma tuuina mai se faatanaga mai le Faamasinoga. O so'o se taimi e faaopoopoina ma talia aloaia mai e le Faamasinona e tatau ona i totonu o le 1 le masine, e foia ai le faatuai faatasi ai ma le faa'aaoga faa lē tautau o le malosiaga e tuuina atu i alii o le malo e faatinoina ai suesuega le talafeagai.

FAUTUAGA 42: I tulaga e faatatau i suesuega e faatautaia e aunoa ma se Tusi Poloaiga, e ao ona faamanino i totonu o le Faavaa mo Fualaau faasaina i se tulaga ma auala talafeagai ma e foia ai le faatinoina o suesuega e faatinoina ma le lē tatau. O nisi o tulaga e ono faaaogaina e faamaioio ma faamanino ai le faatinoina aiaiga o suesuega e aunoa ma se Tusi Poloaiga e iai;

- Aso e le tatalaina ai le Fa'amasinoga e pei o le Aso Sa po'o Aso malolo
- Ina ia mautinoa e mauaina mai faamaumauga ma faamatalaga e le'i faaleagaina pe toesea foi.
- Ma ia mautinoa e lei sola ese mai le ua tuuaia i le nofoaga o le a faia iai le suesuega

E mafai ona fa'aaogaina le Tulafono o le Malo o Niusila e fai ma taiala.

i) Faoa faamalosi male faatafunaga o laau faasaina.

7.26. I le vaega 6(4) o le tulafono, o lo'o faamalosi ai le mafai ai lea ona aveesea faamalosi pe faaleagaina e le alii/tamaitai Ofisa ua tofia ia laau faasaina po'o ni fatu laau na mauaina o lo'o umia e se tasi ua masalomia, sei vagana ai o umia se laisene e faatagaina ai le umia o nei laau faasaina i lalo le Vaega 11 o le Tualofono o Nakoti.³⁸⁴ I aiaiga lava ia o lo'o faamanino ma taua i totonu o le tulafono e faatatau i le faaleagaina o laau faasaina, e le'o aofia ai isi auala ma ā'upega faale solitulafono. E le'o mafai ona faamanino mai auala e ono faatamaia ai nei ā'upega ma fualaa faasaina.

7.27. I le iloiloga a le Komisi na maitauina ai i lalo o le Tulafono mo Fualaau faasaina (Drugs Act 1967) o lo'o atagia ai le tele o le malosiaga e tuuina atu iai latou e faatautaia suesuega e ala i le osofaiga, asiasiga, faoa faamalosi ma faatafunaina ma faaleagaina laau ma fualaau faasaina pe a faatusatusa atu i le malosiaga o lo'o tuuina atu iai latou e faatautaia lenei galuega i totonu ole tulafono (Narcotics) I le maitau iai e o gatasi aiaiga o lo'o i totonu o le Tulafono mo Fualaau Faasaina (Drugs Act 1967)³⁸⁵ ma tulafono a le malo o Tonga ma Niusila.³⁸⁶

7.28. E tali tutusa aiaiga e faatatau i le faoa faamalosi ma le faatafunaina/faaleagaina o laau ma fualaau faasaina. I aiaiga lava ia a le malo o Toga o lo'o aofia ai le tafieseaa lea e le gata i fualaau faasaina, vailaau fa'apea ā'upega faa soli tulafono, e le'o faapito na o laau faasaina. O lo'o manino i le tulafono a Toga, faatonuga ma auala e faaleagaina pe susunuina ai, pe o le a lava le faatonuga ua tuuina mai le Faamasinoga, pe tuuina atu foi i le Matagaluega o le Soifua Maloloina mo le faaaogaina e o gatasi ai ma suesuega faa saienisi po'o suesuega faafomai,³⁸⁷ faatasi ai ma le Matagaluega o leoleo i manaoga mo aoaoga.³⁸⁸

³⁸⁴Tulafono o Nakoti 1967 (Samoa) s 6(4).

³⁸⁵Drugs Act 1967 (Samoa) s 20. Note that the *Drugs Act 1967* regulates the sale of drugs that are considered legal such as medicines, disinfectants, anaesthetic, and cosmetics among others and does not cover illegal drugs which is the focus of this Review. There are also powers contained in the *Customs Act 2014* for customs officers to seize goods which include illegal drugs— see section 172.

³⁸⁶ Email from the Office of the Attorney General to the Samoa Law Reform Commission (preliminary consultations), 1 May 2017.

³⁸⁷*Illicit Drugs Control Act 2003* (Tonga) s 32(2) (b).

³⁸⁸*Illicit Drugs Control Act 2003* (Tonga) s 32(2) (a).

MANATU NA TUUINA MAI

Sa sailia e le Komisi se pepa o faamatalaga pe le'o talanoaina ai le Vaega 6(4) o le tulafono ma faamanino mai ai le aveesea faamalosi male faatafunaina/faaleagaina o laau faasaina faapea foi nisi o vilaaau mea matautia faalesolitulafono faapea laau (pe a faatusa ia Toga ma Niusila). Sa sailia foi ma iloilo pepa o faamatalaga tuuina mai pe lo talanoaina mai ai le Faavaa mo Fualaau faasaina, i le malosiaga e tuuina atu iai latou e faatautai suesuega, osofaiga, asiasiga ma faoa faamalosi ma faatafunaina/faaleagaina o laau faasaina pe le alaga tutusa ma Toga ma Niusila.

- 7.29. O le tele o finagalo sa tuuina mai, e latou te lagolagoina auala po'o faiga o lo'o faaogaina e le Malo o Toga, ina ia mafai ona faamanino i totonu o le tulafono.³⁸⁹ E iai le talitonuga, o le faatulafonoina o ia auala e faaogaina mo osofaiga e ono aloese mai ai le faaoga faale tatau o le malosiaga e tuuina atu iai latou e faatinoina galuega e ala le faaleagaina/faatafunaina ma lafoaia laau faasaina e leo i lalo o le tulafono.³⁹⁰ E alagatau ona tofia se sui e tuuina atu iai le faatanaga³⁹¹ ma e talafeagai ona ia faatinoina lenei galuega ma le manino ma le mae'ae'a.³⁹²
- 7.30. O lo'o faamamafa mai foi e le tele o Paaga a le Komisi le tatau lea ona faaopoopoina i lalo o laau faasaina ia isi vaega e pei ona iai vilaaau, metotia matauia faalesolitulafono.³⁹³ O le faaleagaina ma le faatamaiaina o nei laau ma aupega/metotia matautia e tatau ona faatinoina i ni auala e saogalemu.³⁹⁴ O aiaiga o lo'o i totonu o le Tulafono mo Fualaau

³⁸⁹Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Ministry for Revenue, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

³⁹⁰Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

³⁹¹Consultation with the Ministry of Prime Minister and Cabinet (Ministry of Prime Minister and Cabinet Conference Room, Level 4-Fiame Mataafa Faumuina Mulinu II, Matagalalua, 7 August 2017);

³⁹²Ministry for Revenue, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017.

³⁹³Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

³⁹⁴Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

faasaina 1967 (Drugs Act 1967) faatasi ai ma le tulafono a le malo o Toga ma Niusila o lo’o fautuaina le faaogaina lea o se taiala i le faatinoina o galuega.³⁹⁵

- 7.31. E lagolagoina e nisi o finagalo ia le tuuina atu lea o le malosiaga iai latou na tofia e faatinoina galuega e ala i le suesuega, osofaiga, ave faamalosi ma faatafunaina o laau faasaina, ina ia o gatasi ai ma le tulafono a le malo o Toga ma Niusila³⁹⁶ e ono mafai ai ona faamalosia le tulafono i ni tulaga lelei ma le talafeagai.

MANATU O LE KOMISI

- 7.32. Ua maituaina e le Komisi pepa o faamatalaga tuuina mai e faatatau i aiaiga o le aveese faamalosi ma faaleagain pe faatafunaina foi fualaa faasaina e ao ona faalatele ma faamanino. I le tulafono a le malo o Toga ma Niusila o lo’o auiliili mai ai auala e faaleagaina ma aveesea faamalosi laau ma aupega e malu o le malo po’o i latou ua tofia faapitoa ma tuuina iai le faatanaga e faatinoina leni galuega. I nisi o tulafono o lo’o faatonuina mai ai auala e ono faaogaina e aveesea mai ai ma faaleagaina laau faasaina ae le faatapulaaina lea laau faasaina i totonu o Samoa. O lea e fautuaina ai e le Komisi le alagataua lea ona faamanino ma faamaioio i totonu o le Faavaa mo Fualaa faasaina ia auala ma metotia e faaogaina e faatino ai galuega e faatatau i mataupu e pei o le aveesea faamalosi ma faaleagaina lea o laau ma aupega matausia faasaina.

- 7.33. I le faatusatusaina ai o malosiaga e tuuina atu iai latou ua tofia e faatautaia galuega e ala i le aveesea faamalosi pe faaleagaina foi laau faasaina o lo’o i totonu ole Tulafono mo Fualaa Faasaina 1967 (Drugs Act 1967) o lo’o aofia ai le tele o le malosiaga mo i latou nei pe a faatusa i le malosiaga e tuuina atu o lo’o faatinoina suesuega, osofaiga, ave faamalosi ma faaleagaina laau faasaina i lalo o le tulafono (Tulafono o Nakoti). E o gatasi ia aiaiga o lo’o i totonu o le tulafono Drugs Act 1967 ma tulafono a le malo o Toga ma Niusila. E iai le talitonuga o le Komisi e tusa ai ma le o gatasi ma le faalateleina o leni mataupu, e tatau ona iloiloina malosiaga e tuuina atu iai latou e faatinoina leni galuega, ina ia o gatasi aiaiga o lo’o atagai mai le Tulafono (Drugs Act 1967) ma aiaiga o lo’o i totonu o le Faavaa o Fualaa faasaina.

FAUTUAGA 43: I le Vaega 6(4) o le tulafono (Tulafono o Nakoti) e tatau ona faalateleina i totonu o le Faavaa ua fausia mo Fualaa faasaina, ina ia faamanino mai ai isi o aupega matautia ma le matuia faatasi ai ma vaillau ina ia mafai ai ona faaopoopo ai i laau faasaina ma e ono aveesea faamalosi ma faaleagaina. O aiaiga e tatau ona faamanino mai auala e faaogaina mo le faatamaia o nei laau faasaina po’o aupega matuia, i le ma ia mafai ona faamanino mai pe o le

³⁹⁵Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

³⁹⁶Ministry for Revenue, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017;

Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

a le umi ao afea foi e tatau ona faatino ai lea galuega. Ina ia mautinoa e leai ni tulaga e faia faasolitulafono e faatinoina i le aveesea ma faatafunaina ia laau ma aupeaga faasaina.

FAUTUAGA 44: O aiaiga o lo'o i lalo o le Tulafaono (Drugs Act 1967) e faatatau i maloisaga e tuuina atu iai latou o le a faatinoina galuega e pei o, osofaiga, asiasiga, aveesea poo le faoa faamalosi mai o fualaau faasaina, pe le ono fetuunai ma tuuina atu i totonu o le Faavaa ua fausia mo Fualaau faasaina ina ia laugatasia ma o gatasi ai ma le tulafono.

o) Mo i latou e faatinoina tiute i lalo o le tulafono

- 7.34. I le Vaega 28 o le tulafono o lo'o faatagaina ai le sui ua tofia e tauaaveina tiute faalemalo I tulaga tau soligatulafono ina ia faatinoina galuega e tusa ai pe faamoemoe mo le tulafono (Tulafono o Nakoti)
- 7.35. O aiaiga i le tulafono a le malo Niusila, o lo'o tali tutusa lava ma Samoa.³⁹⁷ I lalo lava ia o le tulafono a Niusila, o lo'o vavaeeseina ai aiaiga talafeagai mo i latou o lo'o avea ma leoleo fa'asavili.³⁹⁸ I aiaiga foi a le malo o toga o lo'o atagai mai ai e iai vaega e tali tutusa ai ma Niusila, ae o lona eseesea o le puipuiga e ofoina atu lea mo i latou o lo'o avea ma leoleo nanā faapea foi i latou o lo'o maua mai ai faamaumau/faamatalaga maumaututu.³⁹⁹

MANATU NA TUUINA MAI

- 7.36. E ui lava e leo mafai ona taua i le Pepa o Mataupu Talanoaina a le Komisi ia nisi o mataupu ua talanoaina i luga, e ao lava ona faamaonia le iloiloaina. O aiaiga lava ia a le malo o Toga e faatatau iai latou o lo'o fa'atinoina tiute ma matafaioi i lalo o le tulafono (Illicit Drugs Control Act 2003) e le gata ina ofoina o puipuiga maumaututu mo leoleo nana ae faapea foi i latou o lo'o maua mai ai faamaumauga/faamatalaga maumaututu.
- 7.37. I faatalanoaga sa faatino, sa maitauina ai e iai nisi o finagalo, o nei aiaiga e le gata ina puipuia mai ai malu o le malo ae faapea foi iai latou sa mafai ona tuuina mai ai faamatalaga ma faamaumauga i fualaau faasaina i malu o le malo. I fingalo sa tuuina mai, e alagatatau lava ona puipuia mai i latou e maua mai ai faamaumauga ma faamatagala i lalo o le tulafono. E iai le talitonuga o nisi o nei tagata latou te iloa faiga faasoligatulafono i laau ma fualaau faasaina, ae faigata ona latou lipotiina ona o le fefefe mo lo latou saogalemu.

MANATU O LE KOMISI

- 7.38. I le manatu lava ia o le Komisi i aiaiga o lo'o i lalo o le tulafono (Tulafono o Nakoti) o lo'o talafeagai lea i le puipuiga o i latou o lo'o faatinoina tiute ma matafaioi o lo'o tuuina mai totonu o le tulafono, e ta aofai ai ma malu o le malo. E iai le talitonu e alaga tatau ona faalateleina mai nei aiaiga mo i latou o lo'o faapea ona mauaina mai ai faamaumauga ma faamatalaga e faatatau i faiga faasolitulafono, ina ia o gatasi ai ma le malo o Toga. O le iai o nei aiaiga i totonu o le tulafono o le a mafai ai ei latou o lo'o faamalosia le tulafono ona faatinoina moliaga e faatatau i fualaau faasaina ma soligatulafono i totonu o Samoa, ma o

³⁹⁷Misuse of Drugs Act 1975 (New Zealand) s 34.

³⁹⁸Misuse of Drugs Act 1975 (New Zealand) s 34A (3).

³⁹⁹Illicit of Drugs Control Act 2003 (Tonga) s 28.

le a siitia ai foi le tulaga o le faatinoina o lipoti tuuina mai mo fualaau faasaina i totonu o Nuu ma Afioaga.

FAUTUAGA 45: O aiaiga e ala i le puipuiga o i latou o lo’o faatinoina tiute ma matafaifoi i lalo o le tulafono, e aofia ai malu o le malo e alagatatau ona faalauaitete atu mo i latou o lo’o mauaina mai ai faamatalaga ma faamaumauga maumaututu e ala i ia ituaiga soligatulafono. O le a mafai ai ei latou e faamalosia tulafono ma uunaia ai i latou i tua i Nuu ma Afioaga e lipotiina mai tulaga e faatatau i laau, fualaau faasaina.

u) Faamatuu

- 7.39. I le Vaega 25 o le tulafono (Tulafono o Nakoti) o lo’o atagia mai ai aiaiga e ono faamatuu atu i mataupu faatatau i se soligatulafono, pe afai ua faamaonia le nofosala ai o lea tagata i se soligatulafono. Peitai e fesiligia le faaaogaina ai lea o le Vaega 25 o le tulafono (Tulafono o Nakoti) mo fualaau faasaina pe o faalautete atu i oloa faapea meatotino. O nisi o mafuaaga e ala ai ona iai fenuniaiga i le Vaega 25 o le le o gatasi lea o le faaupuina. Faataitaiga, o le ulutala o lea Vaega o le tulafono, o lo’o faaupuina ‘faamatuuina o oloa’ ae i ona aiaiga o lo’o faamatalaina ma faatatau i mataupu. I le faatalanoaga sa faatalanoaina ai le Ofisa o le Loia Sili, ma faamanino mai ai o le mataupu e faatatau nao fualaau faasaina e lē aofia ai isi oloa, aupega ma meatotino (e pei o taavale ma vaaafi).
- 7.40. O le isi mafuaaga mo le fenuniaiga o le aiaiga o le faamatuu atu o loo faamatalaina i isi Tulafono a Samoa e aofia ai oloa ma meatotino. Mo se fa’ata’ita’iga, o le Tulafono o Malosiaga o Leoleo 2007 e mafai ai e leoleo ona ulu atu, saili ma faoa mea e maua e faasino i se solitulafono. O le Tulafono o Tupe Maua Mai i Soligatulafono 2007 e aofia ai foi aiaiga e faasino i le faamatuuina atu o so’o se tupe maua mai le faia o se solitulafono (e aofia ai tupe maua, tupe ma meatotino). E le gata i lea, o lo’o i ai foi ni mataupu tau vailaau fa’asaina na faoa ai fana ma e le manino mai fa’atalanoaga muamua pe na faia lenei mea e tusa ai ma le Tulafono o Nakoti po o le Tulafono o Malosiaga o Leoleo 2007.⁴⁰⁰

Faatusatusaina o tulaga tau Pulega faa-faamasinoga.

Toga

- 7.41. I le malo o Toga lava latou, o le faamatuuina atu o mataupu, oloa faatasi ai ma meatotino.⁴⁰¹

Niu Sila

- 7.42. I aiaiga a le malo o Niu Sila, o lo’o faamatala auiliili mai ai le uiga tonu ma le mafuaaga e ala ai ona faamatuu. Faataitaiga, e ono mafai e le faamasinoga i le malo o Niu Sila ona tuuina mai se faatonuga ina ia faamatuu ese ai tupe na maua mai i le faatauina o fualaau faasaina.⁴⁰² E ono mafai foi ona tuuina mai se faatonuga mai le Faamasinoga ina ia faamatuu ese mai ma meatotino a le sa solia le tulafono e pei o, taavale, vaalele po’o se vaaafi po’o le a lava le ituaiga vaa e pulea e le ua solia le tulafono e tatau ona faamatuu ese mai.⁴⁰³

⁴⁰⁰*Police Powers Act 2007* (Samoa) s 23.

⁴⁰¹*Illicit Drugs Control Act 2003* (Tonga) s 33.

⁴⁰²*Misuse of Drugs Act 1975* (New Zealand) s 32(3).

⁴⁰³*Misuse of Drugs Act 1975* (New Zealand) s 32(4).

New South Wales

7.43. I Niusauelese, o lo’o atagia mai ai e ono mafai e le faamasinoga ona tuuina atu ni faamatalaga ese mai nai lo laau faasaina po’o fualaau faasaina e faamatuu mai ai ma faatafunaina pe lafoaia foi.⁴⁰⁴ E o’o foi i tulaga tau seleni, o ni faamaumauga, o laau malosi e patino i le ua solia le tulafono e ona tatau ona faamatuu ese mai.⁴⁰⁵ O le malu o le malo o ia lea e nate aveesea faamalosi mai so’o se mea e patino tonu i le ua molia, ma e aoga mo suesuega e tatau ona faamatuu mai.⁴⁰⁶

MANATU NA TUUINA MAI

Sa tausailia e le Komisi nisi o manatu tuuina mai pe le o talanoaina ai le tatau lea ona faamanino ma faamalamalama atili aiaiga o le faamatuu.

7.44. O le tele o manatu ma finagalo faalia, o lo’o lagolagoina ai le alagatau lea ona iai se vaega e faamanino mai ai i lalo o le tulafono ia tulaga e tatau ona faamatuu.⁴⁰⁷ Faalia e sui o le faamasinoga, o aiaiga e faasino i mea e ono faamatuu ese mai e ao lea ona faamalamalama ma faamanino atili. I tulaga lava ia o mea e ao ona faamatuu ese mai, e ao lea ona faamanino mai i totonu o lea Vaega, ma ia maioio ai mea tonu e tatau ona faamatuu ese mai. E lagolagoina e le Matagaluega o Leoleo lenei vaega, e nofo malamala iai le Matagaluega, aemaise lava taimi e faatino ai osofaiaga e le gata i aupega, ae faapea foi meatotino o lo’o faaogaina e gaosi ai fualaau faasaina, pe faaogaina foi mo fefaatauaiga o fualaau faasaina.

7.45. Faalia e Alii ma Faipule mai Savaii faapea foi Upolu, o tupe maua mai i fualaau faasaina, e tatau lea ona faamatuu eses, e lē alagatau ona taua oni tupe mama.

MANATU O LE KOMISI

7.46. E iai le finagalo o le Komisi e tatau ona faamaioio tulaga ma aiaiga uma e faatatau i mea e faamatuu ese mai i totonu o le faavaa mo fualaau faasaina. I le o gatasi ai ma le Fautuaga 9, ia iloiloia tulaga ma aiaiga o mea e tatau ona faamatuu ese, e aofia ai oloa ma fanua. E tali tutusa lea ma le manatu lautele i vaega e mafai ona faamatuu ese atu. O isi aiaiga mai isi Tulafono e aofia ai le Tulafono o le Malosiaga Faaleoleo 2007 ma le Tulafono o

⁴⁰⁴*Drug Misuse and Trafficking Act 1985* (New South Wales) s 35.

⁴⁰⁵*Drug Misuse and Trafficking Act 1985* (New South Wales) s 36ZC(1).

⁴⁰⁶*Drug Misuse and Trafficking Act 1985* (New South Wales) s 36ZC (3).

⁴⁰⁷Consultation with members of the Samoa’s Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Ministry for Revenue, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

Soligatulafono 2007, e tatau ona faaogaina ina ia o gatasi ma fuatutusa. E mafai ona faaogaina tulafono o Toga, Niu Sila ma Niusauuelese ma faataitaiga.

FAUTUAGA 46: Ia iloiloina tulaga ma aiaiga o mea e tatau ona faamatuu ese, e aofia ai oloa ma fanua. E tali tutusa lea ma le manatu lautele i vaega e mafai ona faamatuu ese atu. O isi aiaiga mai isi Tulafono e aofia ai le Tulafono o le Malosiaga Faaleoleo 2007 ma le Tulafono o Soligatulafono 2007, e tatau ona faaogaina ina ia o gatasi ma fuatutusa. E mafai ona faaogaina tulafono o Toga, Niu Sila ma Niusauuelese ma faataitaiga.

II. Suesueina o Fualaa faasaina

a) *Suesuega faatino mo le faamasinoga faatasi ai ma moliaga,*

7.47. I Samoa, o suesuega e faatatau i fualaa faasaina e faatoa mafai ona faatino pe afai o le ua molia e le nofosala i le soligatulafono tau i fualaa faasaina.⁴⁰⁸ O le mea lea e tatau ai i le itu o tagi ona faamaoti ma iai ni faamaoniaga o mea moni lava vailaa faasaina sa mauaina, ma o le Matagaluega o Leoleo latou te feagai ma le faatupeina o nei suesuega. O uluai faatalatalanoaga na faatinoina e le Komisi i le tausaga 2016 ma le 2017, na faaalua ai na amatalia suesuega a le SROS mo fualaa faasaina (aisa & mariuana) i le tausaga 2013. O isi ituaiga fualaa faasaina faapea nisi o vailaa e le'o faatinoina iai ni suesuega. E lē faatinoina e le SROS ia suesuega faapaiolosi (faataitaiga: suesuega mo feauvai) mo i latou o lo'o masalomia le tagofia o fualaa faasaina. Mo suesuega e faatatau i mariuana, e faatinoina e fua i luga o mea e gaosi e aofia ai suauu ma laulaa. Mo fualaa faasaina e iai le aisa, o masini meafaigaluega e pei o mitivai ma paipa e ono faaogaina mo suesuega e faailoa ai pe o fualaa faasaina sa faaogaina e 90% na mauaina ma faamaonia.⁴⁰⁹

7.48. O nisi o mataupu na fa'aalia i le taimi o faatalatalanoaga amata e aofia ai:

- Na faalia e le Ofisa Suesue (SROS) le faafitau o lo' faatupulaia pea e ala lea i le lē lava o alagaoa faatasi ai ma le faatupeina o le aoaoina o le afaigaluega e faatinoina suesuega.
- Na taua foi e le Matagaluega o Leoleo (MOP), o le faagasologa o le faatautaiga o suesuega e faatatau i fualaa faasaina, e taugata tele pe afai o lea suesuega e lē talafeagai ma o lo'o manino ma iloagofie i faataitaiga.

e) *Su'esu'ega mo fualaa faasaina i totonu o Fale Faigaluega.*

7.49. I Samoa, o suesuega e faatatau i fualaa faasaina e faatoa mafai ona faatino pe afai o le ua molia e le nofosala i le soligatulafono tau i fualaa faasaina.⁴¹⁰ O le mea lea e tatau ai i le itu o tagi ona faamaoti ma iai ni faamaoniaga o mea moni lava vailaa faasaina sa mauaina, ma o le Matagaluega o Leoleo latou te feagai ma le faatupeina o nei suesuega. O uluai faatalatalanoaga na faatinoina e le Komisi i le tausaga 2016 ma le 2017, na faaalua ai na amatalia suesuega a le SROS mo fualaa faasaina (aisa & mariuana) i le tausaga 2013. O isi ituaiga fualaa faasaina faapea nisi o vailaa e le'o faatinoina iai ni suesuega. E lē

⁴⁰⁸Consultation of Samoa Research Organization (Samoa Research Organization Main Office, Vailima, 30 August 2017).

⁴⁰⁹Consultation of Samoa Research Organization (Samoa Research Organization Main Office, Vailima, 30 August 2017).

⁴¹⁰Consultation of Samoa Research Organization (Samoa Research Organization Main Office, Vailima, 30 August 2017).

faatinoina e le SROS ia suesuega faapaiolosi (faataitaiga: suesuega mo feauvai) mo i latou o lo'o masalomia le tagofia o fualaau faasaina. Mo suesuega e faatatau i mariuana, e faatinoina e fua i luga o mea e gaosi e aofia ai suauu ma laulaau. Mo fualaau faasaina e iai le aisa, o masini meafaigaluega e pei o mitivai ma paipa e ono faaaogaina mo suesuega e faailoa ai pe o fualaau faasaina sa faaaogaina e 90% na mauaina ma faamaonia.⁴¹¹

7.50. I le taimi nei, e le'o iai ni suesuega mo fualaau faasaina o faatinoina i totonu o Fale faigaluega. E taua le iloiloina o lenei mataupu, pe o a ni aafiaga leaga i luga o le tagata faigaluega e ono aafia ai le faatinoina o o latou tiute ma matafaioi i totonu o Fale faigaluega pe ono lamatia ai le saogalemu o isi.⁴¹² O nisi o mafuaaga na laga i faatalatalanoaga sa faatinoina e faatatau i suesuega tau i fualaau faasaina i totonu o Fale faigaluega e aofia ai;

- O le mafai lea ona faatinoina se suesuega mo fualaau faasaina ao tau sailia se galuega e foia ai le faafaigaluegaina o i latou o lo'o tagofia fualaau faasaina.
- Le faatinoina lea o suesuega ma faataitaiga mo fualaau faasaina pe afai o masalomia. E ao ona faamanino ma faamioio mai totonu o faiga faavae a so'o se Kamupani mafuaaga tata e ono faatinoina ai nei suesuega, e pei o foliga vaaia/faalia o le tagata faigaluega, o faamatalaga ma amioga faatino; faatasi ai;
- Faatinoina suesuega faatinoina faasamasasamanoa mo i latou o lo'o galulue i galuega faaeteetegata ae saogalemu

Faatusatusaga ma isi Atunuu

Niu Sila

7.51. E maualuga atu le faatinoina o suesuega i le Malo o Niu Sila, e aofia uma ai suesuega faapaiolosi e faaaogaina ai feau lata, manava, laulu, faua po'o le afu. O nisi o nei suesuega e faatinoina e nisi o faalapotopotoga eseese e aofia ai fale faigaluega, o faalapotopotoga e faatautaia taaloga, fa'apea ia faalapotopotoga e faatinoina suesuega o fualaau faasaina fa'atasi ai ma tulaga fa'a faamasinoga i le logoina lea o faaiuga e faatatau i mataupu faatatau i puipuiga.⁴¹³

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I Niusauele, e na'o i latou ua masalomia e tu'uina atu mo su'esuega po'o au'ili'iliga pe afai o le aofaiga e le itiiti ifo nai lo le aofaiga o fualaau faasaina o lo'o feaveai e fa'atau atu, pe o le o lo'o masalomia o lo'o faasino iai mo le vailaau fa'asaina pe afai o le fa'amatalaga o le vailaau o lo'o finau. Mo se fa'ata'ita'iga, o le tele o fa'ata'ita'iga o le cannabis e sili atu i le 33 gm, ao le methamphetamine e sili atu i le 3 kalama.⁴¹⁴ Ae ui i lea, mo le tele o mea e itiiti ifo nai lo le tapula'a po'o le fa'amaoniga e le o finauina, ona faatoa mafai lea ona su'eina e ala i auala fa'aaoga. O le auala tulaga ese na faia e su'eina masalomia o laau faasaina (e pei o le mariuana) e aofia ai ia mataupu e tatau ona fa'apitoaina e se tagata poto faapitoa po'o se isi tagata

⁴¹¹Consultation of Samoa Research Organization (Samoa Research Organization Main Office, Vailima, 30 August 2017).

⁴¹² National Safety Council, "The importance of workplace drug testing" (2014)

<<http://www.nsc.org/RxDrugOverdoseDocuments/RxKit/EMP-Importance-of-Workplace-Drug-Testing.pdf>>.

⁴¹³New Zealand Drug Foundation, *Effective Drug Testing* (March 2017) New Zealand Drug Foundation

<<https://www.drugfoundation.org.nz/drug-information/drug-testing>>.

⁴¹⁴*Drug Misuse and Trafficking Act 1985* (New South Wales) sch 1.

agavaa⁴¹⁵ pe a'oa'oina ua tofia ("tagata faatagaina") e le Faatonu Sili. ⁴¹⁶ E mafai ona aofia ai, mo se fa'ata'ita'iga, tagata leoleo na a'oa'oina faapitoa. Mulimuli ane, o le tu'uina atu o tusi faamaonia e fa'amaonia e sainia e 'tagata filifilia' lea e iloa ai ma fuatia ai se mea totino e pei o uluai fa'amatalaga molimau e fa'aaogaina mo fa'amoemoega o le faamasinoga.⁴¹⁷

MANATU NA TUUINA MAI

Na sailia e le Komisi finagalo sa faaalua i luga o pepa o faamatalaga sa tuuina mai, i nisi o faiga e ono siitia ai ma faaleleia atili ai suesuega o fualaau faasaina i totonu o Samoa, pe e le alagataua ia Samoa ona mulimuli i auala o lo'o fa'aaogaina e Niusauelese ma Niu Sila. E le gata i su'esu'ega i totonu o Sāmoa ina ia faalauteleina ina ia mafai ona iai faatasi ma su'esu'ega faapaiolosi ma e tataua ona iai se fa'amaonia o suesuega mo fualaau fa'ata'ita'i i totonu o fale faigaluega mo nisi o galuega fapitoa.

O nisi o punaoa e mana'omia mo le faaleleia atili ai o su'esu'ega

- 7.52. O nisi o finagalo faaalua na faailoa mai ai le taua tele o le i ai o se nofoaga talafeagai mo su'esu'ega po'o se faiga fa'apitoa e faatino ai suesuega ina ia fa'amaonia lelei ai fualaau faasaina.⁴¹⁸ Na tuuina mai se fautuaga mai leFaalapopotoga Tausimai a Samoa pe le alagataua ona faatuina lenei Ofisa Suesue i totonu o le Matagaluega o Leoleo.
- 7.53. E le gata i lea, o lo'o atagia mai foi i nisi o finagalo na faaalua, le mana'omia ai o tagata faigaluega e agavaa ma a'oa'oina e fa'atinoina nei su'esu'ega.⁴¹⁹ I le taimi o faatalatalanoaga, e tofa tagata tomai faapitoa agavaa a le Ofisa Suesue (SROS) e mafai ona latou iloiloina le mariuana, ae toalua e feagai male suesueina ma le iloiloina o le aisa (methamphetamine) ma nisi o fualaau faasaina.
- 7.54. O meafaigaluega e fa'aaogaina mo su'esu'ega o fualaau faasaina po o nakoti i le tino o lē ua molia, faataitaiga fāua, ma ia iai ma setaavale e fesoasoani i le mata'ituina o le faatinoina o su'esu'ega aemaise le fa'atautaia o su'esu'eina o fualaau fa'asaina o le a fesoasaoani tele lea i ai latou o lo'o faamalosi tulafono.⁴²⁰
- 7.55. E mana'omia tele foi le lava o se vaega tupe e e fa'atau ai masini aimaise alagaoa e pei o vailaau o lo'o fa'aaogaina e le Ofisa o Tiutee su'eina ai fualaau fa'asaina e ono aveesea faamalosi mai i Uafu.⁴²¹ Na taua foi e nisi o sui o le Faamasinoga e tataua i le Ofisa Suesue (SROS) ma le Matagaluega o le Soifua Maloloina (MOH) ona fa'atupeina ia mea faigaluega

⁴¹⁵Drug Misuse and Trafficking Amendment (Drug Exhibits) Act 2016 (New South Wales) s 12.

⁴¹⁶Drug Misuse and Trafficking Amendment (Drug Exhibits) Act 2016 (New South Wales) s 12.

⁴¹⁷Drugs Misuse and Trafficking Act 1985 (New South Wales) s 43(3)-(6).

⁴¹⁸Consultation of the Mental Health Unit (Mental Health Unit Main Office, Moto'otua Hospital, 22 August 2017).

⁴¹⁹Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁴²⁰Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FiameMataafaFaumuinaMulinuu II Building, Matagalalua, 29 August 2017).

⁴²¹Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FiameMataafaFaumuinaMulinuu II Building, Matagalalua, 29 August 2017).

e fa'aaogaina e faatino ai nei su'esu'ega ona o la latou galuega e faifa'atasi ma fa'amaopoopo.⁴²² Mo le fa'aitiitia le tau, o nisi o finagalo na tu'uina mai o lo'o fautuina ai le tatau lea ona iai se vaega e totogiina e le tagata solitulafono e saofagā ai i le tau o le su'ega aemaise lava i mataupu o lo'o molia e le ua tuuaiga le fa'ata'ita'iga.⁴²³ Ae ui i lea, o nisi o finagalo e lē lagolagoina lea tulaga ona e lē talafeagai ma o le a avea ma mea e faigata ai ma le gafatia e lēua molia.⁴²⁴

Aiaiga/Faiga mo Su'esu'ega o Fualaau Faasaina

7.56. Na matauina e le SROS i faatalatalanoaga sa faatinoina le leai lea o ni faiga maumaututu ua fa'ata'atitia. O le tele o su'esu'ega e fa'atino e fa'alagolago lea i fesili po'o fa'amatalaga tuuina mai i le faamasinoga. Mo se fa'ata'ita'iga, e mafai e le faamasinoga ona talosagaina se puipuiga maumaututu mo fa'ata'ita'iga sa faatinoina. Ae ui i lea, o lo'o iai se fa'avaa ua maea ona fausia a le SROS, o lo'o i ai se tusi fa'atonutonu e aofia ai pepa ma fa'ata'ita'iga e fa'atatau i su'esu'ega, e aofia ai foi ma igoa aemaise fa'amaumauga o puipuiga malu e.g. e tatau i leoleo ona saini pe a latou taulimaina ia se faamaumauga o fa'amatalaga e fa'atatau i metotia o su'ega ma auala sa faatinoina ai. O lo'o mulimuli le SROS i metotia ma faiga o lo'o fa'aaogaina e le Ofisa o Malo Aafaatasi mo Fualaau faasaina ma Soligatulafono.

7.57. I se tasi o finagalo fa'aalia sa tuuina mai, o lo'o faamanino mai ai le alagatatau lea ona fa'alelei ia auala ma metotia e fa'aaogaina mo suesuega, e tusa lava pe o le a le mea na tupu.⁴²⁵ E ao pea ona fa'aaogaia ai suesuega e faaoga ai faua, feau vai, faatasi ai ma suesuega o le toto. O le i ai o metotia eseese e fa'aaogaina mo su'esu'ega o le a mafai ai ona fesoasoani i le Ofisa Suesue (SROS) fa'apea foi le MHU, ina ia mafai ona iloa pe o lo'o a'afia i latou nei fualaau faasaina. O le auga o lena metotia ona o le toatele o i latou e tuuina atu i le MHU e le'o mafai ona latou tautino sa latou fa'aaogaina fualaau faasaina. o nisi e le mafai ona talanoa ona e le'o sagatonu le mafaufau , ao le to'atele oi latou o le mafaufau fa'apitoa po'o le fa'a'ole'ole i le taimi na tuuina atu ai.⁴²⁶

Faataitai i le faatinoga o galuega a Ausetalia ma Niu Sila e faaititia ai le tau o suesueina o fualaau faasaina.

7.58. O le Ofisa Suesue (SROS) fa'atasi ai ma le Matagaluega o Leoleo (MOP) sa latou tuuina atu fualaau fa'asaina i fafo mo le su'esu'ega. O le fai sina umi ma e matua taugata lava le auina atu o fualaau faasaina i Niu Sila e faatino ai suesuega. O lea sa mafai ai ona fa'atuina le fale Suesue mo Nakoti e faatino ai suesuega mo fualaau fa'asaina. I le tau amata mai, sa faatinoina e le Ofisa Suesue (SROS) na'o suesuega lava e faasino i mariuana, fa'atasi ai ma le aisa pe afai ae mauaina (methamphetamine) O le i'uga, na fa'atulagaina le Laboratory Nakoti mo su'esu'ega fualaau. I le amataga o lona atina'e, na faia e le SROS su'esu'ega mo mariuana ma i luga o le mauaina o le methamphetamine, o le Ofisa Suesue (SROS) Ofisa o le Loia Sili (OAG) fa'atasi ai male Matagaluega o Leoleo (MOP) na galulue e faatulaga saienitisi mai Samoa nei e auina atu i fafo e mo aoga ina ia taliu ai ua lava le tomali male

⁴²²Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

⁴²³ Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

⁴²⁴Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁴²⁵ Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

⁴²⁶Consultation of the Mental Health Unit (Mental Health Unit Main Office, Moto'otua Hospital, 22 August 2017).

agavaa i le fa'atinoina o su'esu'ega mo nei fualaau faasaina. O le Ofisa Suesue (SROS) e faatinoina su'esu'ega ma o lo'o galulue agai i le fa'atuina o se polokalama e mafai ai ona latou su'eina fa'amatalaga e mafai ona tu'u ai le mamafa i luga o faasalaga e fuafua i le aofa'i o fualaau oona i le faiga o su'ega fualaau. O lo o fa'atinoina foi e le Ofisa Suesue (SROS) ni su'esu'ega fa'atusatusa e fa'atusatusa ai nisi o faafitauli e alia'e.

- 7.59. E mafai foi e le Ofisa Suesue (SROS) ona fa'atinoina suesuega e Suesue ai le mama o oloa. Mo le mariuana (cannabis), e pau le tulaga e le mafai e le Ofisa Suesue (SROS) ona iloiloiloina, o se lala laau e aunoa ma ni lau o laau. E tatau ona fa'atinoina e se saienisi faapitoa mo laau/ po'o se isi e iai se poto faapitoa, e pei foi o le ESR i Niu Sila. E mafai e le Ofisa Suesue (SROS) ona fa'atinoina su'esu'ega e fa'aaogaina ai fatu ma suauu. O fa'asao fa'atasi ai ma nofoaga o lo'o tuuina aiai vaila'au e mafai lea ona fa'atinoina ai suesuega a le Ofisa Suesue (SROS). E ui i lea e le'i mafai ona fa'ataunuuina nisi o nei vaega e faatinoina ai suesuega a le SROS mo fa'ata'ita'iga.
- 7.60. E le gata i lea, e pau lava le taimi na tu'uina atu ai e le Ofisa Suesue (SROS) ia fualaau faasaina i atunuu i fafo mo le su'e su'eina, pe a le malilie le Matagaluega o Leoleo (MOP) i le sailiiliga. Ona o lea tulaga, ei luga lava o le Matagaluega o Leoleo (MOP) le mamafa o le taugata o le totoigiina suesuega. Ua iai le suiga ma ua fa'alaitiitia ai i le 50% o mataupu e tuuina atu i Niu Sila mo suesuega talu lava ona faatuina le ofisa Suesue (SROS). O le faagasologa e talafeagai foi i le taimi e mafai ona faamautinoa ai i totonu o le 3-7 aso. E ono iai fa'afitauli e ono tulai mai e pei o le fa'atuai aemaise lava i mataupu e pei o le tuuina mai lea e le Matagaluega o Leoleo (MOP) mo le fa'ata'ita'igai le Aso Faraile mo le faamasinoga i le Aso Gafua. E le mafai ona faatinoina lenei galuega e aunoa ma le totoigiina o se pili faanatinati.
- 7.61. E tusa lava pe le o gatasi ma mataupu o talanoaina i luga, i le tele o finagalo faalia ma manatu sa tuuina mai o lo'o atagia mai ai le mafuli o finagalo ina ia fa'aaogaina e Samoa faiga ia tali tutusa ai ma Ausetalia fa'apea foi Niu Sila aua le fa'aitiitia o tau e faatinoina ai su'esu'ega.⁴²⁷ Ae ui i lea, na fa'amanino mai foi le atugaluga iluitau tele e feagai ma suesuega e fia faautaitaia e ala lea i le taugata o le fa'atupega, tagata faigaluega o lo'o iai le tomai ma le agavaa e fa'atino ai nei tiute fa'atasi ai tomai faapea punaoa e faautaitaia ai sueseuga o le a fai lea ma luitau tele. Afai ae fa'aaogaina e Samoa se faiga e tali tutusa ma Ausetalia po'o Niu Sila, e onomana'omia le iai o ni tagata fa'apitoa e iai le poto male malamalama faapitoa e faatinoina lenei galuega. E le gata i lea, o e mana'omia le iai o se vaega tupe ua fa'amautuu mai e fa'amautinoa ai o lo'o iainofoaga ma punaoa e fa'atinoina ai lenei galuega i totonu o Samoa.⁴²⁸

⁴²⁷Consultation with the Ministry of Police (Ministry of Police Building, Apia, 28 August 2017); Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FiameMataafaFaumuinaMulinuu II Building, Matagalalua, Samoa, 29 August 2017).

⁴²⁸Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

7.62. O nisi o finagalo sa fa'aalia, ona o le tulaga o tupe e fa'aalu i le faatautai o suesuega, o lo'ofautuaina ai pe le alagatau ma talafeagai mo le taimi nei e fa'atinoina ai se iloilogae iloilo ai se fua fa'atautu e iloa ai le aoga ma le lelei.⁴²⁹

'Tofiaina' o se sui e gafa ma le su'esu'eina ma fa'amaonia laau faasaina ma fualaau faasaina

7.63. E tusa ai male fa'atinoina o suesuega fa'apea se faamaoniga o laau ma fualaau faasaina, i manatu fa'aalia na tuuina mai o lo'o fautuaina ai le tatau lea ona iai se tasi e tofia ma fa'atagaina e faatinoina lenei galuega e aofia ai ma i latou ua tofia mai i le Matagaluega o Faatoaga ma Faigafaiva ma le Ofisa Suesue (SROS).⁴³⁰

7.64. Na fa'aalia i nisi o finagalo sa fa'aaoina mai, oi latou ua tofia ma faatagaina e fa'atinoina tiute e fa'atautu i le suesueina ma le faamaonia o laau fa'atasi ai ma fualaau faasaina e tatau ona tutusa ma le tagata ua filifilia i lalo o le Tulafono o le Faaagaina o Fualaau Faasaina ma Felauaiga i le 1985 a Niusauelese.⁴³¹ E mafai ona tofia se malu o le malo ua iai le tomai faapitoa ma le agavaa, ma ua finagalo le AliiKomesina o Leoleo e mafia e le sui ua fa'atuina ona tauave tiute e pei o le su'esu'eina ma le fa'amaonia o laau ma fualaau faasaina.⁴³² O nisi o sui e toalua sa tuuina mai o la finagalo e fa'ailoa mai, pe o ai lava ua tofia i lalo o le tulafono e ave ma tagata ofisa e fa'atinoina galuega ua taua, e tatau ona a'oa'oina, iai le poto masani ma ia iai le agavaa e fa'atino ai le galuega.⁴³³

O su'esu'ega e ono toe fa'aopopoina ina ia mafai ona aofia ai le ma iloiloga ma suesuega e fa'atinoina ai tulaga manaomia mai i le tagata ua molia.

7.65. O le tele o finagalo ma manatu sa tuuina mai i le Komisi, e sailia ai pe alagatau ona faatinoina e Samoa suesuega o e fa'aagaina ai nisi o vaega o manaomia mai i le tagata soifua ina ia fa'amausali ai suesuega o lo'o fa'atinoina.⁴³⁴ Na fa'aalia e le Faamasinoga e faapea, o nei su'esu'ega e ono iai lona lelei mo Samoa, ina ia faamautinoa ai le letoe tagofia lea e i latou o lo'o faatinoina polokalama faapitoa e toefuataina ai o latou olaga mai le umia ma fa'aagaina fualaau ma laau faasaina. I totonu o Niu Sila, e le'o fa'amatuu mai pe o

⁴²⁹ Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

⁴³⁰ Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁴³¹ Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017;

⁴³² Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁴³³ Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁴³⁴ Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Consultation with the Ministry of Police, (Ministry of Police Main Office, Beach Road, Apia, 28 August 2017); Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

fa'amautinoa tonu se taimi e fa'atinoina ai nei suesuega.⁴³⁵ Ae e ao ona aofia ai suesuega e fa'aaogaina ai nisi o vaega e manaomia mai le tagata soifua, e ono mafia ai ona fesoa soani i le faailoaina o fualaau faasaina i totonu o le tino e pei ona fa'atinoina i Niu Sila, pe o se vaega o le fa'atinoina o suesuega po'ole fale suesue.⁴³⁶ E iai le talitonuga, afai ae fa'atinoina e Samoa suesuega e fa'aaogaina ai faua ma feau vai, o le a fa'aleleia le fa'atinoina o su'esu'ega ona ua mafia ona aoina mai nisi o fa'amaoniga ma o le a iai foi se tulaga o le a sefe mai ai se vaega tupe mo le totogiiga o fale suesue. O le a mafai foi ona faatautaia ia mataupu eseese e tuuina atu i luma o le fa'amasinoga ae lei aveesea fa'amalosi nisi o galuega po'o tualaga e lei fa'amaeaina suesuega.⁴³⁷

7.66. Na fa'aalia foi e le Faamasinoga nisi o lu'itau e pei o le lava o le agavaa ma le tomai fa'atasi ai ma alagaoa e fa'atino ai suesuega. A fai o lo'o iai le naunautaiga ina ia fa'atino lenei galuega, e ao ona tu'uina atu nisi mo le au saienisi e latou te fa'atinoina nei suesuega, pe sailia mai foi nisi e lava le tomai ma le iloa mai atunuu i fafo e nate fa'atinoina ni a'oa'oga mo tagata Samoa ua tofia mo lenei galuega. Na talanoaina foi tulaga tau i le fa'atupeina, ae na fa'alia e se tasi o finagalo e alaga tatau ile Ofisa Suesue (SROS) fa'apea le Matagaluega o le Soifua Maloloina (MOH) ona galulue fa'atasi e tu'u faatasia a latou punaoa ina ia mafai ai ona fa'atupeina ai lea galuega.⁴³⁸

7.67. Na faaalia e le Ofisa Suesue (SROS), o suesuega o lo'o fa'atinoina i le taimi nei o lo'o fa'aaogaina ai oloa ua mae'a. O le isi laasaga o le su'esu'ega e aoina mai le tino o le tagata soifua. Na talosagaina foi e le ADC lenei mataupu. I suesuega e fa'aaogaina ai nisi o fa'amaumauga e fa'aaogaina ai le tino o le tagata, o lo'o fa'aaauu pea ona fa'atalanoaina ma faatinoina iai su'esu'ega a le Institute of Science Environment and Science (ESR) ile Niu Sila. O le faafitauli tele lava o le o le fa'atupeina. Ua maea ona ioeina e le ESR le fesoasoani mai. O lea ua ia le faamoemoega o le SROS e fa'atinoina lenei galuega ae le'i maea le tausaga 2017. Ua maea foi ona fa'atalanoaina pe le alagatau ona auina atu nisi o saienitisi i atunuu i fafo mo aoaoga, ina ia faalatele le tomai male iloa i le faatinoina o suesuega, pe le mafai foi ona talosaga ia le ESR mo se tasi e auina mai e fa'atinoina aoaoga pupuu mo Samoa.

Fa'amalosi le fa'atinoina o suesuega mo fualaau faasaina po'o sle siakiina i totonu o fale faigaluega mo nisi galuega

7.68. O le to'atele oi latou safa'atalanoaina iai fa'atalatalanoaga na lagolagoina le fa'amaonia ma fa'amalosi le fa'atinoina o suesuega mo fualaau po'o siaki e fa'atinoina i fale faigaluega mo nisi ofisa fa'apitoa e tusa ai ma le fa'atupeina fa'atasi ai ma le iai o alagaoa ua fa'aavanoaina mo lea tulaga.⁴³⁹ E matua taua lava lenei galuega e le gata i auaunaga fa'afuase'i ma o le a

⁴³⁵Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

⁴³⁶Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁴³⁷Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

⁴³⁸Consultation with the Samoa Victim Support Group (Samoa Victim Support Group Headquarters, Apia, 14 September 2017).

⁴³⁹Consultation with the Ministry of Prime Minister and Cabinet (Ministry of Prime Minister and Cabinet Conference Room, Level 4-Fiame Mataafa Faumuina Mulinu II, Matagalalua, 7 August 2017);

fa'amanuiaina foi i latou o e lo'o fa'afaigaluegaina tagata.⁴⁴⁰ Na fa'amamafa mai e le Matagaluega o Faamasinoga, o le tasi lea o vaega taua o lo'o taulai iai le silasila a le Afioga i le Palemia. E ina ia mafai ai ona fa'atinoina i totonu o Matagaluega uma a le Malo.⁴⁴¹ O le fa'atinoina o le siakiina fa'apea le mataituina o lenei vaega i taimi uma, o la mafai ai onamalalalama le toatele itulafono ma o le a tausia ai foi le saogalemu o tagata uma.⁴⁴²

- 7.69. O fale faigaluega e aofia ai le Matagaluega o Leoleo (MOP), Fuimu (Fire & Emergency Services Authority (FESA)), TCU, Ofisa o Tiute, Immigration ma Quarantine, SROS, MOH, Samoa Returnees Charitable Trust (SRCT), faletalavai ma isi fa'alapotopotoga uma o lo'o fa'aaogaina fualaau. O se tasi o finagalo o lo'o atagia mai ai afai ae fa'atagaina e Samoa le faaaoaga o fualaau faasaina aemaise i nisi o tulaga fa'apitoa, fa'ataitaiga o le fa'aaogaina lea o fualaau mariuana, e iai le talitonuga e tatau ai ona mataituina nei vaega (e masani ona feagai ma le saogalemu ma masini mamafa) ina ia fa'atinoina le suesuega mo fualaau fa'asaina.⁴⁴³ I le taimi nei, o lo'o galue le Matagaluega o Leoleo (MOP) ma le SROS i leni galuega.
- 7.70. Na lagolagoina e Alii ma Faipule o Upolu ma Savaii le tatau lea ona fa'atinoina o ni su'esu'ega i totonu o Fale faigaluega e faatatau i fualaau faasaina. I o latou finagalo na fa'aalia, e e le tatau ona faatapulaa i galuega faapitoa. O suesuega ma iloiloga e tatau ona fa'atinoina mo tagata faigaluega uma ina ia mafai ai iloaina i latou o lo'o fa'aaogaina fualaau fa'asaina, aua e iai le masalosologa o lo'o iai ituaiga tagata e tagofia flaa faasaina i totonu o fale faigaluega. Ae le gata i lea, mo pagota uma ua mafaiona fa'asa'olotoina i totonu o le nuu ma alalafaga e tatau foi ona su'esu'eina i taimi uma mo fualaau faasaina e fa'amausali ai le tagofia o nei fualaai pe leai.
- 7.71. E tasi le finagalo na tu'uina mai o lo'o fautuaina ai afai ae faatinoina suesuega fa'apaiolosi, e tatau ona faamaiomio ma fa'aanino auala talafeagai ma le malu puipua e faatinoina ai nei suesuega ina ia mautinoa o faamaumauga ma vaega moomia o suesuega o lo'o aoina sa iai se maliega e faatinoina ai, ma ia iai ni tulafono e limataitaiina ai le faatinoina o le aoina o nei faamaumauga ma ia faamanino ai tulaga uma e pei o le; (o ai e aoina, o a fea e aoina ai, pe o a tulaga ma aiaiga).⁴⁴⁴

MANATU O LE KOMISI

- 7.72. Mo le fa'aleleia o manaoga o su'esu'ega i totonu o Samoa, ua maitauina e le Komisi manatu ma fingalo sa faaoina mai, le tatau lea ona i ai vaega nei;

Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017

⁴⁴⁰Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

⁴⁴¹Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

⁴⁴²Consultation with the Ministry of Education, Sports and Culture (Education, Sports and Culture Headquarters, Malifa, 8 August 2017).

⁴⁴³Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

⁴⁴⁴ Individual Finagalo tuuina mai to Samoa Law Reform Commission, *Continuing Legal Education Hotspot Seminar on the Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 July 2017.

- nofoaga lelei ma le mautu e faatinoina ai su'esu'ega,
- mana'omia ona iai se tasi e agavaa ma ua a'oa'oina lelei e faatinoina su'esu'ega,
- le faatinoina o a'oa'oga mo le aufaigaluega a le Ofisa Suesue (SROS) ma isi lala talafeagai (Matagaluega o Leoleo, Matagaluega o le Soifua Maloloina ma le Ofisa o Tiute)
- mana'omia le tuufaatasia o faaputugatupe mapunaoae mafai ai ona fa'atauina ai meafaigaluega talafeagai o lo'o moomia.

7.73. Ua maitauina e le Komisi e ao ona faaleleia o metotia o lo'o faaaogaina mo suesuega, aemaise lava suesuega faapaiolosi, e maitauina foi le taugata o le faatupeina o lenei metotia mo suesuega. E ao lava i le Ofisas Suesue (SROS), Matagaluega o Leoleo (MOP) ma le Matagaluega o le Soifua Maloloina (MOH) ona tuufaatasia a latou punaoa ma le faatupeina fa'atasi pe a faai e fina faatino ni suesuega fa'apitoa i totonu o Samoa. E le gata i lea, o le talanoaga faifai pea i le va o le SROS ma le ESR e tatau ona fa'amalosia ma lagolagoina e ala i lea i le fa'atupega, ina ia mautinoa ai le a'oa'oina lelei o saienitisi i totonu o Samoa e latou te faatinona suesuega faapaiolosi e fa'aitiitia ai le tau o lo'o faaalu i le tuuina atu i atunuu mamao.

7.74. Ua maitauina e le Komisi, o suesuega e faatinoina e le Ofisa Suesue (SROS) e faatapulaa ma e le aofia ai nisi suesuega o lo'o faatinoina e Niu Sila (point of testing contact) ma Niusaelese (metotia faaalu). E iai le talitonuga o le auala poo le metotia o lo'o faaaogaina e Niusaelese, e tele sona aoga mo Samoa e ono fa'aititia ai le tau o su'esu'ega faapitoa i le tele o mataupu. E iai le talitonuga o lo'o i ai foi le a'afiaga tau le faatupeina faatasi ai ma punaoa faaaogaina mo lenei metotia. O le mea lea, e matua lagolago ai e le Komisi letatau lea ona iai ni vaega tupe e faatasi ai ma punaoa e faagaga aua le auina atu o sui taitoatasimo ni aoaoga pupuu ina ia mafai ona tapue le tomai ma le iloa i ai auala ma metotia o lo'o fa'aaogaina na faaaogaina e Niusaelese. I le isi itu, o sui ua tofia mai le Matagaluega o Faatoaga ma Faigafaiva e mafai ona fa'aaogaina e fai ma sui po'o se leoleo e mafai ona tuuina atu mo aoaoga aua lesuesu'eina ma le fa'amaonia o laau faasaina ma fualaa faasaina. I le taimi nei, e fautuaina e le Komisi e faapea, o suesuega uma mo faamasinoga laiti e e mafai ona fa'atinoina e le Ofisa Suesue (SROS) mo isi metotia o le su'ega.

7.75. E tusa ai ma manatu ma finagalo tusitusia, ua manatu le Komisi e ao ona faatulafonoina suesuega ma / poo le siakiina o le aufaigaluega i totonu o nisi o Matagaluega ma Faaapotopotoga a le Malo, e pei o le Matagaluega o Leoleo, Fuimu, TCU, Ofisas o Tiute, Ofisa o Femalagaiga, Quarantine, Ofisa Suesue, ma le Matagaluega o le Soifua Maloloina, e tele le aoga e taofia ai le faaaogaina o fualaa faasaina ma le tausaiina o tagata solitulafono. Ae ui i lea, e tatau ona maitauina le faatapulaaina o punaoa. O pisinisi talafeagai ma matata e tatau ona iai ni taiala mo le faamautinoaina o le faatinoina o su'esu'ega ma / po'o le su'esu'eina o tagata faigaluega e tatau ona fa'atino lelei.

FAUTUAGA 47: Ina ia fa'aleleia su'esu'ega o fualaa fa'asaina i totonu o Samoa, e tatau ona silasila i mafuaaga ua taua i lalo e aofia ai utiuti o punaoa e fa'aaogaina faatasi ai ma le faatupeina:

- nofoaga lelei ma le mautu e faatinoina ai su'esu'ega,
- mana'omia ona iai se tasi e agavaa ma ua a'oa'oina lelei e faatinoina su'esu'ega,

- le faatinoina o a'oa'oga mo le afaigaluega a le Ofisa Suesue (SROS) ma isi lala talafeagai (Matagaluega o Leoleo, Matagaluega o le Soifua Maloloina ma le Ofisa o Tiute)
- mana'omia le tuufaatasia o faaputugatupe mapunaoae mafai ai ona fa'atauina ai meafaigaluega talafeagai o lo'o moomia.

FAUTUAGA 48: O su'esu'ega fa'apitoa faapaiolisi e tatau ona tilotilo ma iloiloina mo Samoa. E tatau i le Ofisa Suesue (SROS), Matagaluega o Leoleo (MOP) ma le Matagaluega o le Soifua Maloloina (MOH) ona galulue faatasi e tuufaatasia a latou punaoa fa'atasi ai ma le faatupeina ina ia fa'aleleia su'esu'ega faapaiolisi.

FAUTUAGA 49: O metotia e fa'aaogaina mo su'ega e tali tutusa ma NSW e tatau ona iloiloina. I le taimi nei, e mafai e le SROS ona faia fa'ata'ita'iga e iloilo ai le aoga o lenei metotia. E le gata i lea, e mafai ona aoaoina ma fa'aaogaina le sui ua tofia mai Matagaluega o Faatoaga ma Faigafaiva (MAF) e avea ma tagata suesue mo le fa'amoemoega o le su'eina ma le fa'amaonia o laau ma fualaa faasaina e pei o Niusaelese. I le isi itu, e mafai foi ona a'oa'oina leoleo mo le fa'amoemoe lava lenei e tasi. E alagataua ona iai se vaega tupe fa'aagana aua le fa'atupega o le fa'atulagaina o lenei metotia/auala e fa'amaonia ma fa'atino ai suesuega.

FAUTUAGA 50: O su'esu'ega fa'apitoa ma siaki e tatau ona fa'atinoina mo nisi o pisinisi ma nisi o Matagaluega ma Faalapotopotoga faapito (FESA, MOP, MOH, SRCT, Ofisa o Tiute, SROS, EPC, Immigration ma Quarantine) ma matauina ai fa'afitauli e ala lea punaoa e faaogaina. O nisi o pisinisi ma Matagaluega/Faalapotopotoga ua tatau ona i ai ni a latou taiala mo le faatautaia ma le faamautinoaina o le faatinoina o suesuega mo tagata faigaluega ina ia faatinoina ma le lelei.

i) Fale suesue ua filifilia ma famaonia

- 7.76. E leai se aiaiga patino e uiga i fale suesue e faatinoina ai su'esu'ega ma iloiloa i lalo o le Tulafono a Nakoti Samoa. Na faavaeina i le 2013 se fale suesue a nakotio se vaega o le Fuafuaga a le Vaega o Tulafono ma le Amiotonu a le Malo e su'e fualaa mo faamaoniga i moliaga.⁴⁴⁵ Ua maitauina e le Komisi, o le Tulafono o Malosiaga o Leoleo 2007 o lo'o atagia ai e mafai e le Minisita ona talia ma faamaonia se fale suesue i totonu o Samoa e avea o se nofoaga faamaonia mo su'ega faataitai mo mea faataitai.⁴⁴⁶ I le ma le isi, i totonu lava o le Tulafono o Malosiaga o Leoleo 2007 e aofia ai foi aiaiga e faatatau i faiga ma taualumaga mo le su'esu'eina ma le auiliiliina o fualaa faasaina i lalo o le Tulafono o Nakoti a Samoa.⁴⁴⁷ Na fesiligia e le Komisi pe iai se mana'oga e toe fa'aaogaina ai aiaiga o le fale suesue o lo'o i totonu o le Tulafono o Malosiaga o Leoleo 2007 i totonu o le Tulafono o Nakoti, o lo'o atagia mai ai le taimi nei.
- 7.77. E mo Niu Sila faapea foi ma Toga o lo faamanino mai o lo'o iai aiaiga e faatatau i le taliaina ma le faamaoniga o fale faapitoa mo su'esu'ega aua le fa'amaonia o suesuega, au'ili'ili,

⁴⁴⁵Preliminary Consultations with the Scientific Research Organization of Samoa (Vailima, Samoa, 22 June 2016). See also Samoa Law and Justice Sector, *Narcotics Testing Laboratory* (13 August 2013) <http://www.samoaljs.ws/english/index.php?option=com_content&view=article&id=174:narcotics-testing-laboratory&catid=59:current-projects&Itemid=95>.

⁴⁴⁶*Drugs Act 1967* (Samoa) s 27.

⁴⁴⁷*Drugs Act 1967* (Samoa) pt 5.

teuina ma le fa'aleagaina o fualaau fa'asaina faapea male fa'amaonia.⁴⁴⁸ I Niu Sila ma Toga, o le Minisita o Soifua Maloloina o ia lea e nafa ma le faatautaia o fa'asilasilaga i le Kaseti, e fa'amaonia ai so'o se fale suesue mo faamoemoega e o gatasi ma a latou tulafono.⁴⁴⁹

MANATU NA TUUINA MAI

Na sailia ai e le Komisi i manatu ma finagalo sa tuuina mai, pe alagatatau ona fa'amautu se faavaa fou e atagia mai ai le faatulagana o fale su'esu'e mo suesuega fa'ata'ita'iga (e pei o le Ofisa Suesue (SROS)? Afai o lea;

(a) pe tatau ona faamanino e le Tulafono pe faapefea ona faamaonia se su'esu'ega e o gatasi ma ea ua uma ona taua i lalo o le Tulafono o Malosiaga o Leoleo 2007?

(e) pe alagatatau le faamatuu o pemitā mo suesuega, iloiloga, teuina ma le fa'aleagaina o fualaau fa'asaina ma fa'amalolosi? (28)

Falesuesue ua faamaonia

7.78. O le tele o finagalo ma manatu sa tuuina mai, o lo'o taua ai e tatau i le Tulafono o le Nakoti Samoa ona fa'ailoa mai ma fa'amanino pe faapefea ona fa'amaonia fale e faatinoina ai su'esu'ega, faatasi ai ma aiaiga o le tuuina atu lea o le pemitā e faatagaina ai suesu'ega e ao ona faatino, o iloiloga, o le teuina ma faaleagaina fa'amalosi o fualaau faasaina.⁴⁵⁰ E iai le talitonuga, o le tuuina o lenei vaega ma aiaiga i totonu o le tulafono, o le a fa'aititiia ai faafitauli aliaie mai e pei o le tuai ona faatino o suesuega faatasi ai ma le taugata o le faatupeina.⁴⁵¹ Mo se fa'ata'ita'iga, na laga e le Matagaluega o Tupe Maua, e umi lava ona talia se tali mo suesuega sa faatinoina e le Ofisa Suesue (SROS) i nisi taimi. O se fa'afitauli sili lenei e faalavelaveina ai ni moliaga e molia ai se tasi ua solia le tulafono, o le o le umi o le taimi o talia se lipoti o taunuuga o a latou suesuega. E iai le taimi e le mafai ai ona fa'ailoa mai e le Ofisa Suesue le taimi tonu e ono maua ina ai faaiuga o a latou suesuega. Na taua e le Matagaluega o Leoleo (MOP) o aiaiga mo lenei aafiaga o lo'o i totonu o le Tulafono o Malosiaga o Leoleo 2007 ma e tatau ona tagofia ma faaaogaina.

MANATU O LE KOMISI

7.79. O le tulafono lava ia a Samoa mo le Nakoti ua le toe aoga ma e leo iai se vaega o e sipela mai ai le tatau lea ona amata pe va'aia fale su'esu'e i totonu o Samoa. Ae ui i lea, i fa'atinoga lava ia o lo'o faatino ai galuega i le taimi nei o le falesuesue faa Nakoti o lo o iai i Vailima o lo'o nafa lea ma le faatinoina o suesuega o fualaau fa'asaina. I Niu Sila ma Toga o lo'o iai aiaiga e faatatau i su'esu'ega ma le fa'amaonia o fale suesue e faatinoina ai suesuega,

⁴⁴⁸*Misuse of Drugs Act 1975 (New Zealand) s 5A; Illicit Drugs Control 2003 (Tonga) s 8.*

⁴⁴⁹*Misuse of Drugs Act 1975 (New Zealand) s 5A(1); Illicit Drugs Control 2003 (Tonga) s 8.*

⁴⁵⁰Ministry of Education, Sports and Culture, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁴⁵¹Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

au'ili'ili, teuina ma le fa'aleagaina o fualaau fa'asaina faatasi ai ma le fa'amaonia. O le tulaga foi lea o lo'o i lalo o le Tulafono o Malosiaga o Leoleo 2007 a Samoa mo suesuega fa'apitoa. I le o gatasi ai ma finagalo ma manatu faalia sa tuuina mai, ua manatu le Komisi e tatau ona isi se faavaa e fausia mo fualaau faasaina, ae ia atagai mai ai aiaiga o lo'o i lalo o le Tulafono o Malosiaga o Leoleo 2007 lea e le gata ina faatuina pe filifilia ai fale suesue ae o loo faatulaga mai ai nisi o aiaiga talafeagai. E tatau i le tulafono ona fa'ailoaina le Fale suesues Nakoti o loo iai nei i Vailima o le fale suesue ua filifilia mo faamoemoega uma e faatatau i su'esu'ega o fualaau faasaina.

FAUTUAGA 51: O le faavaa fou mo fualaau fa'asaina e tatau ona atagia mai ai aiaiga o lo'o i lalo o le Tulafono o Malosiaga o Leoleo 2007 e faatatau i le filifilia o fale mo suesuega o fualaau faasaina (e pei o le Fale Suesue i Vailima) lea o le a le gata ina fa'atuina pe va'aia fale suesue mo su'esu'ega ae ia faamanino ma faamaioio mai ai nisi o aiaiga talafeagai.

III. Mataituina

a) *Mataituina malosiaga e tuuina atu i leoleo.*

- 7.80. I lalo o le Tulafono o Malosiaga o Leoleo 2007 o lo'o auiliili mai ai le mataituina o malosiaga o leoleo a Samoa nei e mafai ona faatagaina i latou e faia ni su'esu'ega poo ni osofaiga i lalo o le faatonuga ma le faatanaga tuuina mai i le Faamasinoga.⁴⁵² E mafai ona tu'uina atu le tusi saisai e fa'atagaina ai leoleo e aoina fa'amatalaga ma faamaumauga e fa'amaonia e fesoasoani ia a latou suesuega e faatatau ise soligatulafono na faatinoina male mautinoa, e alagatau ona tu'uina atu i lalo o lenei Tulafono.⁴⁵³
- 7.81. E tali tutusa malosiaga e tuuina atu i leoleo a Toga faapea ma leoleo i Samoa i le matatituina o le faagaioiga o suesuega.⁴⁵⁴ O metotia lava ia e faatatau i le vaavaaia o i latou sa faatauina ma faaagaina fualaau faasaina e le'o i totonu o le tulafono a Samoa, ae o lo'o fa'aaogaina e leoleo o le malo o Toga. E fa'aaogaina lea pe a maua se tasi o umia fualaau fa'asaina ma fa'atagaina e faatinoina suesuega ma ia mata'ituina o ofisa e faamalosalia tulafono e maua ai fa'amaoniga e faasaga i le fa'atulagaina o le fa'atauina o fualaau faasaina.⁴⁵⁵ O ituaiga o gaioiga e mafai ona faia i le taimi o le faatauina ma le faaagaina o fualaau faasaina e aofia ai;⁴⁵⁶

⁴⁵² *Police Powers Act 2007* (Samoa), Long title and s 4.

⁴⁵³ *Police Powers Act 2007* (Samoa) s 3A.

⁴⁵⁴ *Illicit Drug Control Act 2003* (Tonga) ss 9-10.

⁴⁵⁵ The controlled delivery technique has been proved effective in some countries in identifying and bringing to justice principals, organizers and financiers of the illegal drug traffic. The controlled delivery technique is compatible with the requirements of the *Single Convention on Narcotic Drugs 1961*, but its application depends on the particular legal and administrative provisions in the countries concerned. The technique merits wider use, and does not involve any element of entrapment. It has been used most effectively when illegal drugs are discovered in unaccompanied freight consignments or in the post. Controlled deliveries involving a courier present special difficulties and should be treated with caution. In a controlled delivery, security of information is of paramount importance as is the appropriate knowledge and co-operation of the law enforcement authorities. Such co-operation is essential between the country in which the initial detection of drugs has occurred, transit countries and the country of final destination. A number of important detections have been made as a result of speedy international co-operation of this type between law enforcement authorities. See, Cutting PD, *The technique of controlled delivery as a weapon in dealing with illicit traffic in narcotic drugs and psychotropic* (1983) National Centre for Biotechnical Information <<https://www.ncbi.nlm.nih.gov/pubmed/6563921>>.

⁴⁵⁶ *Illicit Drug Control Act 2003* (Tonga) s 11.

- (a) faatagaina so’o se vaa po o se taavale e ulufale ai, tuua pe malaga atu i Toga;
- (b) faatagaina le faaooina atu o so o se vailaau faasaina, vailaau faatonuina po o meafaigaluega ua faatonuina, i totonu po oi luga o le vaalele po o le taavale; po o meatotino ua masalomia e aafia tuusao pe leai foi i so o se soligatulafono i lalo o lenei Tulafono;
- (c) faaaogāina o le malosi e pei ona talafeagai ai i tulaga aliae mai e ulufale ai ma sueina le vaa po o le taavale;
- (d) le tuuina o se masini e siaki ai i luga o le vaa po o le taavale; po’o
- (e) fa’atagaina so’o se tagata o ia lea o lo’o umiaina, puipua po’o le pulea ole vailaau fa’asaina, vaila’au fa’asolosolo po’o mea fa’apipi’iina e ulufale ai, fa’ailoga po’o le ui atu i Toga.

e) Mataituina o tagata solitulafono ma i latou ua toe tipoti mai;

7.82. E tusa ai ma le mataituina o i latou ua molia i faiga soligatulafono, o lo’o galulue vavalalata ma le faamasinoga e vaavaaia i latou ua faatagaina le tuuina atu i tua i nuu ma afioaga latou te mataituina ma. Mo se fa’ata’ita’iga, o le ADC e ala i ana polokalame fa’aleleia e fa’amaonia ai le fa’amaoni o tagata solitulafono i galuega o le a tuuina iai e nuu ma afioaga e faatinoina e tulia ai a latou faasalaga a’e o le a mataituina e faafeagaiga po’o se matai mai le nu’u o lea ua solitulafono laasaga uma pe o iai se suiga ma alualu i luma amioga lelei e fa’amautinoa ai o lo’o ia tausisia tuutuuga uma o lona faasalaga.

7.83. Mo i latou uma sa molia i le tagofia o fualaau faasaina ma ua maea ona tuli o latou faasalaga ma ua tatalaina ma toe foi atu i o latou alalafaga e le mata’ituina. O le leai o se faiga e faatinoina e mataituina ai i latou sa solitulafono ma ua maea ona tuli o latou faasalagao se tasi lea o mataupu na fa’aalia ma talanoaina i le faatalatalanoaga sa faatinoina. O le tulaga foi lea o lo’o a’afia ai i latou ua toe tipoti mai i Samoa ona o soligatulafono e pei o le tagofia o fualaau faasaina i atunuu i fafo. I le taimi nei, o le resitalaina o tagata e tipoti mai i samoa e le SRCT e le’o faamaloisa o o’o faatinoina i se tulaga po’o se faiga saoloto. O i latou sa tipotia mai i Samoa nei, e le’oi resitalaina ma e le’o mafai foi ona mataituina.

i) Faamalosisia matafaioi ma tiute o I Matagaluega/Faalapotpotoga ma le va i fafo;

7.84. E tusa lava pe leai se vaega faapitoa e mata’ituina le fa’aaogaina o fualaau faasaina i totonu o Samoa, e iai le talitonuga o lo’o galulue vavalalata leoleo ma le Ofisa o Tiute ma ma fa’alapotopotoga fa’avaomalo e mataituina gaoioiga fa’asoligatulafono. Mo se fa’ata’ita’iga, o le Pacific Transnational Crime Coordination Centre (PTCCC) e fesoasoani i le Matagaluega o Leoleo ma nisi o Ofisa, i le tu’uina atu lea o fa’amatalaga i tulaga uma o fualaau faasaina o lo’o feaveaina fa’ava-o-malo. I Samoa o lo’o iai le Vaega faapitoa (TCU) lea e fa’aaogaina mo feso’ota’iga fa’ava-o-malo e puipua ai mai le feaveaiga fa’asolitulafono fa’avaomalo o fualaau ma vailaau faatasi ai ma aupega matautia. E le gata i lea, o lo’o galue fo’i le Ofisa o le Ofisa o Tiute ma ofisa mai fafo e fesoasoani i le puleaina ma le mataituina o oloa faasolitulafono e fa’aaoina mai i Samoa e aofia ai ma fualaau faasaina.

o) Mataituina ma Fa’aleleia polokalame fa’atautaia e le Matagaluega o Leoleo

7.85. E pei ona taua i luga, o lo’o galulue vavalalata leoleo Samoa ma le TCU faapea le PTCCC e mata’ituina galuega fa’atulafonoina mo fualaau faasaina i totonu o Samoa. E ese mai i

osofaiga a leoleo ma fa'amatalaga na maua mai i tagata o lo'o lipotia tala fa'atatau i fualaau faasaina, e le'o iai ni polokalama faapitoa a le Matagaluega o Leoleo (MOP) ni e faatatau i le mataituina o fualaau faasaina i totonu o Samoa. E faalagolago le Matagaluega o Leoleo (MOP) i tagata lautele mo faamatalaga ma le lipotiina maia o mataupu tau le tagofia o fualaau faasaina ma le totoina o laau faasaina.⁴⁵⁷

- 7.86. I Niu Sila, e galulue faatasi nisi o faalapotopotoga e pei o Leoleo, Soifua Maloloina, Ofisa o Tiute e mataituina tulaga uma tau fualaau faasaina. Mo se faataitaga, e galulue faatasi fomai ma leoleo ma isi o faalapotopotoga e le gata o totonu o Niu Sila atoa e lipotiina le faaoga le tatau ai o fualaau faasaina.⁴⁵⁸ E mataituina foi e Leoleo le faatauina ai lea o fualaau faasaina e faaogaina ai le initaneti pe o totonu foi o le lotoifale.⁴⁵⁹

FINAGALO TUUINA MAI

Na sailia e le Komisi i finagalo ma manatu faalia na tuuina mai, pe faamata e tatau ona tuuina i totonu o le faavaa mo fualaau faasaina ia auala e mataituina i latou o lo'o faaogaina mea; oa mea e mana'omia e le Matagaluega o Leoleo (MOP) e fa'atautaia ai mata'ituina o solitulafono ma i latou ua molia i soligatulafono.

Malosiaga mata'ituina

- 7.87. O le tele o finagalo ma manatu faalia o lo'o lagolagoina le tatau lea ona faamanino i totonu o le Tulafono o Nakoti malosiaiga e le'o mafai ona fa'aaogaina e leoleo i le taimi nei i tulaga o fualaau faasaina (e pei o le mata'ituina o le va'aia o fualaau faasaina) ina ia o gatasi ma Toga.⁴⁶⁰ O le a avea lea ma auala e fesoasoanai ai i leoleo e feagai ma suesuega e faatatau i fualaau faasaina ma soligatulafono.⁴⁶¹ E tasi le finagalo o lo'o faamanino mai ai afai ua maea ona taua i totonu o le Tulafono o Malosiaga o Leoleo 2007, nei malosiaiga, e le'o manaomia ona toe talanoaina le tatau ona toe talanoaina.⁴⁶²

Mata'ituina o tagata solitulafono ma i latou ua toe fa'afai mai mai atunuu i fafo;

⁴⁵⁷ Consultation with the Ministry of Police (Ministry of Police Main Office, Apia, 28 August 2017).

⁴⁵⁸ Ministry of Health, 'Drug Abuse containment' *Ministry of Health Manatu Hauora* <<http://www.health.govt.nz/our-work/regulation-health-and-disability-system/medicines-control/drug-abuse-containment>>.

⁴⁵⁹ Kristy Lawrence, 'Police are monitoring online sites for illegal activity' (25 October 2015) *Stuff* <<http://www.stuff.co.nz/manawatu-standard/news/73192815/police-are-monitoring-online-sites-for-illegal-activity>>; New Zealand Police, *Illicit Drug Strategy to 2010* <https://www.police.govt.nz/resources/2009/NZ_Police_Illicit_Drug_Strategy_2009.pdf>; New Zealand Police, *Prevention First-National Operating Strategy 2011-2015* (2011). <<http://www.police.govt.nz/sites/default/files/publications/prevention-first-strategy-2011-2015.pdf>>.

⁴⁶⁰ Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁴⁶¹ Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁴⁶² Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

- 7.88. Faalia e Alii & Faipule mai Savaii atoa ma Upolu, o le matafaioi a Nuu ma Afioaga o le maitauina ma vaavaaia i latou sa molia i ni solitulafono. O le Matagaluega o Faamasinoga faatasi ai male faamasinoga ua mae'a ona galulue faatasi ma nu'u e mata'ituina tagata solitulafono ua tatala i tua e tuli ai a latou faasalaga i totonu o faalapotopotoga po'o nuu ma afioaga.
- 7.89. I le feso'otaiga ma i latou sa aveeseina faamalosi mai i se atunuu, ua faaalia e le SRCT ua maea ona faatonuina i latou nei e tatau ona latou resitala. Ae ui i lea, ona o le utiuti o malosiaga e fa'amalosia ai ma aia tatau a tagata soifua, o le taumafaiga ina ia resitalaina i latou nei e leo iai se tulaga faamalieloto. Na faaalia e le SRCT, o le tulaga tau le faamalosia o le resitalaina oi latou ua toe faafoi mai i Samoa nei, ua maea ona faatalanoaina e sui o le komiti faatino. Na laga foi e sui mai le Faamasinoga pe alagatau ona faatinoina ei latu o lo'o faamalosia tulafono, le resitala o fa'amaumauga o i latou sa tipotiina mai. Na fa'aalia e le SRCT o lo'o tau sailia pea pe talafeagai le fa'atulagaina o ni sui o la latou galuega fatino lenei o le mataituina oi latou nei i totonu o nu'u ma alalafaga. O le i ai o lenei vaega e faatinoina lipoti o le a avea ma auala o le a sili atu ai le lelei faamaumauga o le a aoina. Na faamanino mai foi e le Matagaluega o le Palemia ma le Kapeneta (MPMC) o lo'o i ai faiga faavae ua maea ona fausia mo i latou ua toe faafoi mai pe aveesea atu foi ma Samoa, o lo'o manino ai le faatautaia e le Kapeneta le soalaupuleina o faafitauli e aliae mai faatasai ai mlae faatinoina o le mataituina o le aveeseina faamalosi o nisi ma Samoa.

Faamalosia auala tatau ma le talafeagai e faaogaina mo le mataituina;

- 7.90. Ina ia lagolagoina i latou o lo'o faamalosia tulafono e pei o le Matagaluega o Leoleo ma le Ofisa o Titute, o nisi o fuafuaga tuuina mai i manatu ma finagalo faalia:
- i)** Fa'avaeina se Vaega e tutoatasi e iloiloina mataupu faatatau i soligatulafono tau fualaau faasaina ma fa'ailoa nisi o punaoa o lo'o avanoa.
 - ii)** Faalauteleina o le tomai ma le agavaa o i latou o lo'o faamalosia tulafono, siitia le tomai ma le iloa o le aufaigaluega i auala ma metotia e faaogaina i faafitauli aliae mai ona o fualaau faasaina.
 - iii)** Faatupeina ma punaoa. Ole tele o punaoa e mana'omia mo le faatinoina o galuega po'o suesuega e pei o mea pueata e fesoasoani i le pueina o ata ma faamaumauga i nofoaga o lo'o tupu ai se faalavelave, o le isi o auala o feso'ota'iga e pei o telefoni feavea'i ma nisi o masini e aoga mo le mata'ituina o nei faafitauli.
 - iv)** Galulue fa'atasi ma nu'u ma afioaga e faatatau i le mataituina oi latou sa molia i soligatulafono pe a fa'asa'oloto mai le falepuipui. Na fautuaina e alagatau ona faatinoina se faiga faapaaga i le va o le Malo faapea nuu ma afioaga e mataituina ai i latou nei sa nofo sala i le fale puipui. Na faailoa mai e le Matagaluega o Leoleo (MOP) o le ata faataitai o le Taiala mo le Puipuia o Soligatulafono o lo'o atagia mai ai le galulue faatasi ai o tagata lautele, matagaluega, faalapotopotoga tumaoti, ekalesia, Fono a Nuu, o faalapotopotoga a tupulaga talavou, aoga Aso Sa i le taumafaiga e tetee i solitulafono i totonu o Samoa.
 - v)** Na fautuaina foi o le i ai o le fa'auluina o togafitiga o fuataga o le a avea ma mea taua e fesoasoani tele ai i le taofia o le fa'asalaga.
 - vi)** Fa'aleleia lipoti ma faamaumauga e aoina. O le i ai o se Vaega e faamautu iai faamatalaga ma faamaumauga o i latou o lo'o tagofia fualaau faasaina e tele se aoga mo Samoa ma o le a fesoasoani tele i le galuega faatino a le Matagaluega o Leoleo (MOP). Na faalia mai e le Matagaluega o Leoleo (MOP) o le taimi nei o lo'o iai le

Auafamau lea e mafai ai e le Lala o Tulafono ma le Amiotonu ona fesootea ma mafai ona mata'ituina lelei ia faamatalaga.

MANATU O LE KOMISI

a) *Malosiaga faapitoa mo leoleo*

7.91. O le fa'atinoga ma le vaavaaia o i latou e tagofia fualaau faasaina e faatinoina lea e i latou o lo'o faamalosia le tulafono, ina ia mafai ona aoina mai faamaumauga ma faamatalaga maumaututu i soligatulafono faatatau i fualaau faasaina. I le Tulafono o Malosiaga o Leoleo 2007 o lo'o iai aiaiga o lenei ua faamanino mai aim o lea vaega, le e manatu le Komisi e tatau ona toe tuuina i lalo o le faavaa mo fualaau faasaina ina o laugatasia ai. Peitai, o le tulafono i totonu o Samoa e le o lagolagoina ai nisi o malosiaga faapitoa e mataituina ma aoina ai faamaumauga e faatusa ia Toga. I le o gatasi ai ma le tele o finagalo faalia, e manatu le Komisi e tatau ona iai se aiaiga maoti i lalo o le faavaa mo fualaau faasaina e faasino i le feaveaiina o fualaau faasaina. O sea aiaiga e tatau ona i ai ni tulaga pe a fa'aaogaina sea metotia faapea foi gaoioiga e mafai ona faia mo faamoemoega o le fa'atagaina o le tu'uina atu o fualaau faasaina. E mafai ona faaaogaina le tulafono a Toga e fai ma ta'iala. E le gata i lea, o ta'iala i auala e faatino ai malosiaga e tatau ona fausia ma atiae e fesoasoani ai i leoleo e fa'atino a latou tiute ma matafai.

e) *Mataituina i latou ua molia i solitulafono*

7.92. E tusa ai ma le mataituina o i latou ua molia i solitulafono, o le faamasinoga ma matagaluega talafeagai o lo'o i ai se mafutaga vavalalata ma nu'u ma afioaga, o le mafai ona fesoasoani i le vaavaaia lea o i latou nei pe afai ua tuuina atu i tua i nuu ma afioaga e tuli ai o latou faasalaga. O tulafono talafeagai e aofia ai le Tulafono (Community Justice Act 2008) ma le Tulafono (Young Offenders Act 2007) ua uma faamanino ai le taua o tiute ma matafai a Nuu ma Afioaga e faatatau i le mataituina o tagata solitulafono o lo'o faatinoina polokalame e toefuatai ai o latou olaga mai le ADC. E ui i lea, mo i latou sa solitulafono na ua maea ona tuli o latou faasalaga ma ua tatala foi e toe foi i Nuu ma Afioaga, e le'o mafai ona mataituina.

i) *Mata'ituina o i latou e aveesea mai i atunuu i fafo.*

7.93. E le'o mataituina i latou e aveesea mai i atunuu i fafo ona e le'o faamalosia le resitalaina. O lo'o iai le popolega i le tele o finagalo faalia i aafiaga o lenei tulaga i totonu o Nuu ma Afioaga. Ua faalia foi e le faamasinoga lo latou naunau e faataua le mataituina o i latou nei ua aveesea mai i atunuu i fafo, ina ia mautinoa le saogalemu o le sosaiete. Ua maea ona tapenaina e le malo se taiala e lima taitaina ai le mataituina o i latou nei, ae lei faamalosia/faamamaluina. E manatu le Komisi e tatau ona faamalosia lenei taiala ma ia faamuamua. A maea ona faamalosia lenei taiala ona faia lea o ni aoaoga mo le aufaigaluega, o polokalame e faalauaitete ai le silafia o le mamalu lautele. E aofia i lenei taumafaiga le auiliiliina o matafai a Nuu ma Afioaga i le mataituina o i latou e aveese mai i atunuu i fafo.

o) *Galulue felagolagomai e mataitu*

7.94. O se tasi o faafitauli tele mo faalapotopotoga o lo'o faamalosia nei alafua o le lava o le punaoa ma tupe e faatino ai le galuega. O lo'o iai le Vaega a le Matagaluega o Leoleo e patino i le suesueina o soligatulafono e aofia ai fualaau faasaina. O lo'o fesoasoani tele foi nisi o faalapotopotoga e aofia ai le TCU ma le PTCCC i faamaumauga tuuina atu e le gata i

totonu o le atunuu a’o tua atu i le Pasefika. O nei fesoasoani e aoga tele i galuega faatino a le Matagaluega o Leoleo. E tali tutusa galuega faatino a le Matagaluega o Leoleo ma Ofisa o o Tiute e galulue soosootauai ai ma faalapopotoga mai fafo e taofia le auina faasolitulafono o fualaau faasaina i totonu o Samoa. E fautuaina e le Komisi le faatauaina e le tatou atunuu, le iai o se Vaega faapitoa ua lava le punaoa ma iai agavaa ma tomai faapitoa o le afaigaluega e faatino ai suesuega o mataupu e aafia ai fualaau faasaina. O le a faamautino ai le mafai lea ona tali atu i soo se mataupu tau fualaau faasaina e pei ona taua i le Vaega 1. I le ma lea e taua le lava tapena ma ia unaia i latou o lo’o feagai ma suesuega aua le faalateleina o tomai ma agavaa.

u) Mataituina o Polokalame

- 7.95. E tatau ona atinaeina ma faaleleia polokalame mo le mataituina o mataupu tau i fualaau faasaina i totonu o Samoa. E ese le taua le auai o Nuu ma Afioaga faapea ma Matagaluega a le malo i le feafaasoaaina o finagalo ma lagona i mataupu tau soligatulafono. O polokalame foi o lo’o faatinoina i Niu Sila ma Ausetalia e mafai ona faaogaina ma fetuunai pe a lava le punaoa ma le tupe e faatinoina ai.

FAUTUAGA 52: O se aiaiga faapitoa e faasino i le kilivaina o fualaau faasaina i lalo o aiaiga fou mo fualaau ma vailaau fa’asaina ma ia aofia ai ma le malosiaga e suesue ma mātā’itu nanā ai. E tatau i aiaiga ona i ai ni tulaga pe a fa’aaogaina metotia fa’apea foi ma gaoioiga e mafai ona faia i le taimi. E mafai ona fa’aaoga le tulafono a Toga e fai ma ta’iala.

FAUTUAGA 53: O le mataituina o tagata solitulafono o lo’o tuli faasalaga e ala i le faatinoina o galuega mo le afioaga e pei ona fa’atonuina e le faamasinoga e tatau ona fa’amalosia atili. E le gata i lea, e tatau foi ona faalateleina lenei tulaga e aofia ai pagota ua fa’asa’olotoina pe a mae’a ona tuli lo latou taimi i le falepuipui. E tatau i le SPCS ona galulue soosootauau ma nuu ma afioaga e ausia lenei sini.

FAUTUAGA 54: O le Faiga Fa’avae fou a le MPMC e tatau ona fa’amuumua ma fa’amalosia. O le taimi lava e taamilo ai le Faiga Faavae, e tatau ona o faatasi ma aoga mo le afaigaluega, ma polokalame faalauiloa mo le atinaeina o le nuu. E tatau ona iai se taulai faapitoa i a latou matafaioi i le mataituina lelei o le au faafoi mai atunuu i fafo o loo aumau i totonu poo nu’u/afioaga.

FAUTUAGA 55: E tatau ona iai se vaega tumaoti o Fualaau faasauina e iai punaoa talafeagai ma tagata faigaluega a’oa’oina i totonu o le MOP e fa’atautaia ai mataupu tau fualaau faasaina.

FAUTUAGA 56: E tatau ona atina’e polokalame mata’ituina e mautinoa ai le lava o taumafaiga e mataituina ai le tagofiaina o vailaau fa’asaina i totonu o Samoa. Polokalame na fa’atinoina i Niu Sila ma Ausetalia e mafai ona fa’aaogaina ma fetuunai ma matauina le maua o puna’oa ma le fa’atupega.

IV. Fa’amatalaga/Fa’amaumauga mo mataupu eseese

a) Aiaiga o faamatalaga/faamaumauga maumaututu ma pepa o faamatalaga tusitusia

- 7.96. E le’o ia se aiaiga i lalo o le tulafono o Nakoti e patino lea i faamaumauga ma faamatalaga e maua mai i soligatulafono. O lo’o faatinoina e le Ofisa Suesue (SROS) suesuega e faamautinoa ai ni fualaau faasaina e tuuina atu e leoleo po’o le Ofisa o Tiute i le taimi nei

e fai ma faamatalaga ma faamaumauga maumaututu mo e faaaogaina e le faamasinoga.⁴⁶³ E le'o iai foi i totonu o le tulafono o le Nakoti ni aiaiga e faatatau lea i pepa o faamatalaga tusitusia mo mataupu tau soligatulafono.

- 7.97. I le ma lea, o le tulafono Drugs Act 1967 o lo'o aofia ai aiaiga o faamaumauga ma faamatalaga maumaututu e mafai ai ona tuuina atu le faatanaga i se tasi e nate faatinoina suesuega ma tapenaina o tusi faamaonia o faamatalaga molimau ma le maumaututu mo tualumaga o le faamasinoga.⁴⁶⁴ O lenei tulafono e aofia ai nisi o faamatalaga e uiga i pepa o faamatalaga tusitusia e faatatau i faaitaiga e faaaogaina ai fualaa faasaina e faatinoina ai suesuega, mo se fa'aitaiga pe fa'aapefea ona faamaufailogaina, feaveaiina/felauaiga po'o le afiina.⁴⁶⁵ O nei faiga e tele lona taua i le faasaina ma le puipuia o faamatalaga ma faamaumauga o molimau ina ia mautinoa e le ono fa'aleagaina.
- 7.98. I Niu Sila o lo'o iai aiaiga mautu aua le feagai ai ma fa'amatalaga/faamaumauga maumaututu o soligatulafono o fualaa faasaina. I so'o se tualumaga, o se tusi faamaonia ua maea ona sainia e se tagata Suesue faapitoa ⁴⁶⁶ o lo'o auiliili mai ai suesuega sa faatinoina mo fualaa faasaina, laau faasaina ma ia tatau ona lava tapena faamatalaga/faamaumauga maumaututu seia fa'amaonia. ⁴⁶⁷ I le ma le isi, o tusi faamaonia e tatau ona fa'aaogaina o se tasi o faamaumauga mautu. ⁴⁶⁸ O lo'o fa'aaogaina e Toga ma Niusaelese ia aiaiga tutusa ma Niu Sila.⁴⁶⁹

e) Suiga/faaseseina o fa'amatalaga/faamaumauga mautu.

- 7.99. O le tulafono o Nakoti i totonu o Samoa e le'o talanoaina ai soligatulafono e a'afia ai suiga/faaseseina o faamaumauga molimau. Aepeitai i totonu o le Tulafono (Police Service Regulation 2010) o lo'o atagia mai ai o so'o se tasi e taofia ona o le taumafai e fa'aseseina pe suia foi faamatalaga ma faamaumauga pe taumafai foi e fa'aleagaina ripoti o molimau po'o pepa aloaia, e mautinoa le faasalaina i lenei soligatulafono.⁴⁷⁰ I le faitauina ina ia o gatasi ai ma le Vaega 50 o le tulafono (Police Service Act 2009). O le Tulafono (Crime Act 2013) o lo'o iai aiaiga e faatatau iai latou sa molia i nei soligatulafono i le faaseseina lea o faamatalaga ma fa'amaumauga o molimau o soligatulafono.⁴⁷¹ O lenei soligatulafono e

⁴⁶³ Preliminary Consultations with the Scientific Research Organization of Samoa (Vailima, Samoa, 22 June 2016). See also Samoa Law and Justice Sector, *Narcotics Testing Laboratory* (13 August 2013).

⁴⁶⁴ *Drugs Act 1967* (Samoa) pt 6.

⁴⁶⁵ *Drugs Act 1967* (Samoa) pt 6.

⁴⁶⁶ This is defined to mean any person who is designated by the Minister by notice in the *Gazette* as the analyst in charge of an approved laboratory; or any person who works in an approved laboratory and who is authorized, by the analyst in charge of that laboratory, to act as an analyst for the purposes of this Act, either generally or in any particular case: *Misuse of Drugs Act 1975* (New Zealand) s 31(1).

⁴⁶⁷ *Misuse of Drugs Act 1975* (New Zealand) s 31(2).

⁴⁶⁸ *Misuse of Drugs Act 1975* (New Zealand) s 31(3). The legislation stipulates that at least 7 days before the hearing at which the certificate is tendered, a copy of that certificate is served on the defendant and the defendant is at the same time informed in writing of whether the prosecution intends to call upon the analyst as a witness.

⁴⁶⁹ *Drug Misuse and Trafficking Act 1985* (New South Wales) ss 42, 43.

⁴⁷⁰ *Police Service Regulations 2010* (Samoa), regs. 31(1)(i) and 31(1)(n).

⁴⁷¹ *Tulafono o Nakoti 1967* (Samoa) s. 37: Accessory after the fact- An accessory after the fact to an offence is a person who, knowing or believing any person to have been a party to an offence: (a) harbours or otherwise assists that person; or (b) tampers or otherwise interferes directly or indirectly with any evidence against him or her, – for the purpose of enabling that person to avoid arrest or conviction or escape from arrest.

na’o i latou ua faamaonia mafuaaga na alai ona ia faaseseina pe faaleagaina. E le gata i lea o lo’o manino i lalo o le Tulafono (Tax Information Exchange Act 2012) o se tasi e nate aveesea, suia, faaleagaina pe faatamaia faamatalaga ma faamaumauga maumaututu, o le a faasalaina ma nofosala i le tulafono.

- 7.100. E anoanoai mataupu sa talanoaina i luma o le faamasinoga i tausaga ua mavae, e fa’atatau i faamatalaga ma faamaumauga ua suia, pe faaleagaina foi. Mo se faataitaiga, ia Setema 2016, sa fofogaina ai le toe tolopoina lea o le mataupu e faasaga i se sa avea muamua ma leoleo, ona o moliaga e faatatau i laau malosi, ona ua aveesea e se tasi le laau malosi sa fai ma molimau maumaututu o lenei mataupu i le faamasinoga. O le isi mataupu e fa’atatau lea i le sa avea ma Ofisa Sili o Pulega o le National Prosecution, lea sa iai tuuaiga sa iai suiga na faatinoina i faamaumauga molimau e faatatau i moliaga sa molia ai i soligatulafono tau taavale.⁴⁷²
- 7.101. O le faasalavei ma le faalavelave i faamaumauga ma faamatalaga molimau e faatatau i mataupu eseese, o se solitulafono lea i le malo o Toga. O le mea lea, o so’o se tasi lava e taumafai e faaseseina, faaogaina, faaleagaina pe aveesea faamalosi nei faamatalaga/faamaumauga molimau ma le faamoemoe e faaseseina ai faaiuga fai a le faamasinoga, o le faatinoina o lenei soligatulafono e ono nofosala ai i le falepuipui e le silia ma le 10 tausaga o le faasalaga.⁴⁷³

FINAGALO TUUINA MAI

Na sailia e le Komisi pe alagatatau ona tuuina i totonu o le faavaa o fualaau faasaina ia aiaiga o faamaumauga/faamatalaga molimau o soligatulafono, ae pe o a foi ni luitau o feagai ai. E fesiligia foi le faavaa o fualaau faasaina pe alagatatau ona iai ni aiaiga e faatino ai faamatalaga tusitusia o soligatulafono e faatatau i le suina ma le faaseseina fa’amaumauga/faamatalaga molimau o soligatulafono.

- 7.102. E lagolagoina e le toatele o finagalo ma manatu faalia na tuuina mai le tataua lea ona tuuina i totonu o le faavaa o fualaau faasaina ia le vaega o faamaumauga/faamatalaga molimau e faatatau lea i fualaau faasaina, e fa’aaogaina ai le tulafono (Drugs Act 1967) e fai ma taiala.⁴⁷⁴ O lenei vaega e aofia ai le faiga o lo’o faatino ai i le taimi nei faatasi ai ma le fesootaiga ma faamatalaga tusitusia mo faamasinoga. O le iai o lenei vaega i totonu o le tulafono o le a fesoasoani lea iai latou o lo’o faamalosi tulafono e pei o Leoleo ma le Ofisa o Tiute i le aoina mai lea o faamaumauga/faamatalaga molimau mo faamasinoga. E le gata i lea, o le iai o nei aiaiga o le a foia ai faafitauli ma luitau o lo’o feagai ma nei Matagaluega o lo’o feagai ma mataupu faatatau i fualaau faasaina. Faataitaiga:

⁴⁷² See Radio NZ, “Inquiry to look into evidence tampering in Samoa”, (online ed.) 27 February 2017, <<http://www.radionz.co.nz/international/pacific-news/325398/inquiry-to-look-into-evidence-tampering-in-samoa>>. Accessed 19 December 2017.

⁴⁷³ *Illicit Control of Drugs Act 2003* (Tonga) s. 37.

⁴⁷⁴ Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017; Consultation with the Ministry of Prime Minister and Cabinet (Ministry of Prime Minister and Cabinet Conference Room, FiameMataafaFaumuinaMulinuu II, Matagalalua, 7 August 2017); Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

- O le tuai ona faatinoina o suesuega ma le faatautaia o faaiuga e taotaomia ai le faatinoina o moliaga;
- O le leai ose taiala e lima taitaina ai le aoina mai lea o faamatalaga tusitusia e faatonutonuina ai pe o ai tonu e patino iai le suesueina ma le iloiloina o nei faamatalaga;⁴⁷⁵
- Feteenaiga i le va o le Matagaluega o Leoleo ma le Matagaluega o Tupe Maua i moliga o lo'o tuufaatasia i lalo o le tulafono o Nakoti faapea le Tulafono (Custom Acto 2014);⁴⁷⁶ ma
- O le faatuatuaina lea ma le faamaoniaina o faamatalaga/faamaumauga molimau e tuuina atu i le faamasinoga.⁴⁷⁷

7.103. E iai le talitonuga o le toatele o paaga e faatatau i fa'amatalaga/faamaumauga molimau ua suia/faaseseina, faaleagaina pe aveeseina e se tasi, e tatau lava ona faatulafonoina e faamautinoa ai o lo'o iai se faiga e faatino iai latou o lo'o ua molia ona o lea tulaga.⁴⁷⁸ O le auga ma le faamoemoe ina ia foia ai faiga le tonu ma le sao faapea foi le faaleleia o le faatinoina o moliaga.

MANATU O LE KOMISI

7.104. O le taua o le iai o nei aiaiga e faatatau i faamatalaga/faamaumauga molimau faatasi ai ma faamatalaga tusitusia, e faigofie ai ona faauluina se moliaga, ma tuuina atu faasalaga mo mataupu faatatau i fualaau faasaina o lo'o tuuina atu i luma o le faamasinoga.

7.105. O aiaiga e faatatau i faamatalaga tusitusia, e tele lona taua ina ia faatumauina ma malu puipuia ao pasia ma feaveai i totonu o Ofisa. O le mea e taua tele, o le faamautinoa lea e lei suina/faaseseina faamatalaga ma faamaumauga molimau. E manatu le Komisi e alagatau ona tuuina atu i totonu o le favaa o fualaau faasaina ia aiaiga o faamatalaga tusitusia maumaututu ina ia o gatasi ai ma le tulafono (Drugs Act 1967). O le a mautinoa ai le manino ma le laugatasia o taiala e fa'aaogaina e Matagaluega ua aloaia mo le faatinoina ma le umia ina o faamatalaga/faamaumauga molimau mo mataupu eseese tau solitulafono.

⁴⁷⁵Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; providing a chain of custody provision is necessary to 'lay a foundation' for the evidence in question, by showing the absence of alteration, substitution, or change of condition of the drugs detected and confiscated. Such provision(s) would also create some certainty of the procedure involved. This is because there have been instances where there are different opinions especially with police as from which set point should which ministry have custody. MOP provided that there is currently an evidence exhibit room that will hopefully solve the problem regarding evidence.

⁴⁷⁶Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

⁴⁷⁷Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017; It is important to obtain proper certification to confirm that the drugs seized are in fact illicit drugs prohibited under the Act, in order to prove their case beyond reasonable doubt. SROS is yet to be a level 3 laboratory and the Courts can only accept level 3 laboratory testing regarding evidence.

⁴⁷⁸Consultation with the Ministry of Police (Ministry of Police Building, Apia, 28 August 2017); Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017); Consultation with the Ministry of Health (Ministry of Health Headquarters, Moto'otua Hospital, 17 August 2017).

7.106. E iai le naunautaiga o le Komisi ina ia faamanino i totonu o le faavaa o fualaau faasaina ia aiaaiga e faatatau i suia/faaseseina, faaleagaina o faamatalaga/faamaumauga molimau ona e tele le taua o le iai o nei faamaumauga/faamatalaga maumaututu e faatinoina ai faaiuga ma faasalaga fai a le faamasinoga i soo se mataupu. Ua maitauina e le Komisi o aiaaiga o lo’o i totonu o le tulafono (Police Service Regulation 2010) e faatatau i se tasi e faalavelave pe faasalavei i faamatalaga/faamaumauga o molimau o so’o se ituaiga e faapea foi le tulafono (Police Services Act 2009) e tatau ona faaaogaina ma tuufaatasia ina ia manino ma ia laugatasia ai. O nisi o aiaaiga o lo’o taua i totonu o nisi o tulafono e pei o le (tax information exchange act 2012) faapea foi le tulafono (Crime Act 2013) e tatau lea ona faaaogaina ina ia mafai ona ona laugatasia uma ai. E mafai ona faaaogaina le tulafono a Toga e fai ma taiala.

FAUTUAGA 57: O le alafua mo fualaau fa’asaina e tatau ona i ai aiaiga e fa’atatau i mataupu e patino i faamaumauga ma faamatalaga molimau. E tatau foi ona i ai se faagasologa o aiaiga mo le puipuia ma le pulea o le pāsia o faamaumauga ma faamatalaga mai le tasi Matagaluega/Faalpotopotoga i le isi. O aiaiga i lalo o le Tulafono o Fualaau Faasaina 1967 e mafai ona fa’aaogaina e fai ma ta’iala ina ia alagātutusa ma manino.

FAUTUAGA 58: O le Solitulafono o le faaleagaina pe sui faamaumaua ma faamatalaga e tatau foi ona aofia i lalo o le alafua mo fualaau faasaina. O tulafono oi ai nei e pei o le Tulafono o le Matagaluega o Leoleo 2010 ma le Tulafono o Galuega Tau Leoleo 2008 e tatau ona ona fa’aaogaina e fai ma ta’iala ina ia alagātutusa ma manino.

i) Taimi faatapulaaina mo le tuuina mai faamaumauga aloaia mo moliaga.

7.107. E le’o iai ni aiaiga o se taimi faatulagaina e e tuuina mai ain i faamaumauga aloaia mo moliaga e faatatau i fualaau faasaina o taua i totonu o le tulafono o Nakoti. Aepeitai i totonu o le tulafono (The Criminal Procedure Act 2016) o lo’o faamatalaina ai o faamaumauga aloaia mo moliaga e tatau ona tuuina mai i totonu o le 21 aso faigaluega.⁴⁷⁹ E le’o taua mai foi se taimi faatapulaaina mai le taimi i le va o le soligatulafono ua maea ona faatio ma moliaga ua tuuina mai. I le tulafono (Customs Act 2014) o lo’o faamatalaina ai, o so’o se faamatalaga faasoligatulafono e faasaga i e tulafono (Custom Act 2014) e tatau ona faatautaia i totonu o le 7 tausga talu mai le aso male tausaga na faatinoina ai le soligatulafono.⁴⁸⁰

7.108. O lo’o faamnaino mai totonu o le tulafono (NZ Misues of Drugs Act 1975) aiaiga ma tuutuuga e faatinoina ai le tuuina atu lea o faamaumauga aloaia e faatatau i fualaau faasaina e aofia ai le tagofiaina, galueaina po’o le fesoasoani lea i faiga soligatulafono e le o gatasi ma tulafono a nisi o atunuu.⁴⁸¹ O tuutuuga e mafai ona faaooina atu pepa aloaia mo moliaga i soo se taimi ma e faatapulaaina e tusa ai ma sesi soligatulafono e faasaga i lenei tulafono ma e tatau ona faamaeaina i totonu o le 4 tausaga talu mai le aso sa molia ai i se soligatulafono.⁴⁸² E le gata i lea, afai ae iai se tasi ua molia ona o se soligatulafono e

⁴⁷⁹Criminal Procedure Act 2016 (Samoa), s 17(3).

⁴⁸⁰Customs Act 2014 (Samoa) s 263(3).

⁴⁸¹Misuse of Drugs Act 1975 (New Zealand) ss 6, 9-10.

⁴⁸²Misuse of Drugs Act 1975 (New Zealand) s 28.

faasaga i tulafono a nisi malo, e le mafai ona tuuina atu faamatalaga aloaia mo moliaga sei vagana ua iai se malieaga ale Loia Sili.⁴⁸³ A’o lei tuuina atu se finagalo faalia o le Loia Sili e faatatau i lenei mataupu, e ao i le Loia Sili ona faatinoina se suesuega e sailia ai le tonu ma le sao pe afai e silasila atu le Loia Sili e talafeagai.

FINAGALO TUUINA MAI

Na sailia e le Komisi i finagalo ma manatu faalia sa tuuina mai pe alagatatau ona tuuina i totonu o le Faavaa o fualaau faasaina ia aiaiga e faatulagaina ai se taimi faatapulaaina mo le faatoaiina o faamatalaga aloaia mo moliaga i le va o le ua solia le tulafono faapea moliaga ua tuuina iai, ina ia tali tutusa ma Niu Sila

7.109. I le tele o finagalo ma manatu faalia sa tuuina mai, e ao ona faamanino le taimi faatapulaaina (5 tausaga) e faooina mai a talosaga o faamatalaga o moliaga na molia ai ma le faasalaga ua tuuina iai.⁴⁸⁴ O le iai o se taimi faatulagaina o le a mafai ai ona manino ma laugatasia o taimi faatulagaia mo le faooina atu ai o faamatalaga aloaia mo so’o se soligatulafono. Ae peitai, na taua o se faiga faamalosi pe afai ae faamanino ma faamaioio se taimi faatulagaina, ae ao ona ave le faamuamua i le tuuina atu lea o se taimi faatulagaina mo le Ofisa Suesue e faatino ai ma Iloilo ai oloa ua molia.

7.110. O nisi o finagalo faalia o lo’o faalia ai, e le talafeagai le iai o le taimi faatapulaaina ona o lo’o maitauina le le lava lea o leoleo e faatinoina moliaga ua faooina atu, o le mafuaaga lena e fetuutuunai ai i totonu o Samoa.⁴⁸⁵

MANATU O LE KOMISI

7.111. O le tele o finagalo ma manatu faalia sa tuuina mai, o lo’o faamamafa mai ai le ao lea ona tuuina i totonu o le faavaa o fualaau faasaina ia se taimi faatulagaina mo le tuuina atu o faamatalaga aloaia e faatatau i moliaga sa faatinoina faatasi ai ma faasalaga sa tuuina iai ina ia o gatasi ma Niu Sila. O le iai o le taimi faatulagaina o le a mafai ai ona manino ma laugataia i auala ma taiala e faatinoina. I le tulafono o Nakoti e le’o faailoa mai ai ni aiaiga mo taimi e tuuina mai ai faamaumauga aloaia mo moliaga. Ae peitai, o nisi o tulafono e iai le Criminal Procedure Act 2016 e 21 aso ma le Custom Act 2014 e 7 aso e tuuina mai e faatinoina ai ma tuuina atu faamaumauga molia o soligatulafono.

7.112. O le tulafono a Niu Sila, o lo’o taua ai aiaiga e faaaogaina mo faamaumauga aloaia o moliaga e faatatau i fualaau faasaina o lo’o faamatalaina ai le taimi faatapulaaina e tusa lea ma le 4 tausaga. Ua maitauina e le Komisi i le o gatasi ai ma ia laugatasia i auala e faatinoina ini soligatulafaono faatatau i fualaau faasaina, e tatau ona tuuina i totonu o le faavaa o fualaau faasaina ia se taimi faatulagaina, ma ia o gatasi ai ma le tulafono (Customs Act 2015). E

⁴⁸³*Misuse of Drugs Act 1975* (New Zealand) s 28A.

⁴⁸⁴Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with Ministry for Revenue (Ministry for Revenue (Customs) Office, Matautu, 15 August 2017).

⁴⁸⁵Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

mafai ona faaaogaina le tulafono a Niu Sila e fai ma taiala aemaise lava i tulaga e tatau ona iloiloina i le faatinoina po’o le fa’aoagaina o faamaumauga aloaiga mo moliaga.

FAUTUAGA 59: E tatau ona iai se aiaiga e fa’atatau i se taimi fa’atapula’a mo le tuuina atu o se pepa o moliaga ma e tatau ona aofia i lalo o alafaua mo fualaau faasaina. Mo mataupu faanatinati, o ia aiaiga e tatau ona faatulaga ai se taimi faatapulaa mo le faatoaiina o se pepa o totogi. E tatau ona iai se taimi fa’atulaga talafeagai e fua i luga o le tulafono e feso’otai e pei o le Tulafono o le Ofisa o Tiute 2015. O le tulafono a Niu Sila e mafai ona fa’aaoga e ave ma taiala e fa’atatau i aiaiga o sea aiaiga.

V. Nisi o Mataupu e ao ona faamalosi

7.113. O nisi o mataupu e faatatau i le faamalosiaga sa taua i le pepa o faamatalaga sa tuuina atu mo le faatalanoaina e aofia ai;

a) *Sailia o i latou ua molia*

7.114. Sailia o se ua masalomia o lo’o ia umia fualaau faasaina i totonu ma fafo o le lotoifale sa faailo amai le Ofisa o Tiute o se tasi lea o mataupu e taua tele ma e tatau ona mataituina ma ia faalateleina. I lalo o le tulafono (Customs Act 2014) e mafai e le leoleo po’o se sui mai le Ofisa o Tiute ona faatinoina se suesuega iai latou ua molia pe masalomia o lo’o o latou natia po’o se faamatalaga e faatatau i nisi o aupega faasolitulafono o lo’o ia umia o lo’o taua i totonu o le tulafono (Customs Act 2014). I le tulafono o lo’o iai le taimi nei, e leo aofia ai le sailiga o totonu o le tino.⁴⁸⁶

7.115. Faaalia e le SPCS o lo’o faatinoina suesuega eseese i totonu o le falepuipui ina ia mautinoa o i latou ua taofia pe ua iai i totonu o le toese e latou te leo umia pe natia foi ni fualaau faasaina. O ituaiga suesuega e faatinoina e aofia ai le suesueina lea o sela faapea foi le sueina o vaega o tino o tagata. O le taiala mo suesuega o tagata o lo’o faamanino mai le tusi taiala a le SPCS e mo vaega fou ina ia malamalama ma iloa.

e) *Talavai mo fualaau faasaina*

7.116. Faaalia e nisi o paaga a le Komisi, o le mataituina e le komiti tutoatasi po’o se vaega fualaau faasaina o lo’o tuuina atu i le Matagaluega o le Soifua Maloloina mo suesuega, faapea foi nisi o faalapotopotoga ua faatagaina e latou e tuuina atu iai fualaau faasaina mo suesuega e tatau ona ave iai le faamuamua. Na tuuina mai le manatu o le Matagaluega o Leoleo (MOP) e alagatatau lava ona faatinoina ma fausia se faiga faavae mo le faatautaia o nei tulaga uma. O lea faiga faavae o le a faamanino mai ai;⁴⁸⁷

⁴⁸⁶Ministry for Revenue also provided that it is currently working on establishing a procedure for search of persons and internal body searches is something that they would like to consider to be covered. Ministry for Revenue noted that if internal body searches is covered it would like to collaborate with Ministry of Health to ensure that the process is properly carried out and also to ensure that it recognises the constitutional right of the person. In addition, it also provided that search of persons including internal body searches should also be clarified in the law.

⁴⁸⁷Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with Samoa Pharmacy Association (Samoa Law Reform Commission Conference Room, FiameMataafaFaumuinaMulinuu Building II, Matagalalua, 4 September 2017).

- O a vaega o lo’o faamatalaina (e aofia ai ma oloa ua faamaonia e se fomai faapitoa po’o le tai ulu o le faletalavai)
- O le aofaiga (e tatau ona iai se fua faataitai)
- Laisene e faamaonia ai le faamatuu atu o fualaau. E mafai e le Matagaluega o Leoleo ona faamatuu atu le laisene mo fomai ma i latou e umia faletalavai mo le tausaga e tasi.

i) Mataituina o tuaoi

7.117. O le tasi lea o faafitauli na talanoaina i le taimi o faatalatalanoaga e faatatau i le mataituina o tuaoi. Na maituina le taua o le faatinoina o le mataituina lea o vaega uma e ulufale mai ai i totonu o Samoa, aua le malu puipua mai le feaveaiga o fualaau faasaina e iai le aisa mai le faaofi ina mai i totonu o Samoa.⁴⁸⁸ Na iai se popolega e uiga i va’a ma pusa lau oloa e auina mai i totonu o Samoa e ono faaaogaina e aumai faanana ai fualaau faasaina i totonu o Samoa mai isi o nofoaga.⁴⁸⁹ Na laga foi, o le faateleina o le malaevaalele o Samoa o le a avea lea ma auala o le a faatoateleina mai ai i latou e omai i Samoa nei, ma o le a avea lea ma auala e aumai faanana ai ia fualaau faasaina i totonu o Samoa.⁴⁹⁰ E manaomia si aoaoga moa lii ofisa mo le auiliiliina ma le tomai ina ia iloa ai ituaiga fualaau eseese.⁴⁹¹

o) Metotia e faaaogaina i faiga faasoligatulafono

7.118. Na laga e le Matagaluega o Leoleo ni atugaluga e faatatau i auala e faatinoina i le aoina o metotia e faaaogaina i faiga faasoligatulafono ma e tatau ona fa’aleleia ma faamalosia e leoleo. O nisi o auala o le faaaogaina lea o meatotino sa aveesea faamalosi mai ma faatauina ma o tupe maua mai le faatauina e faaoga lea e faatupe ai galuega faatupe a le Matagaluega o Leoleo; faataitaiga o suesueina faasaeanisi o fualaau faasaina.⁴⁹² O le taimi nei, o loo vaai pea e le Matagaluega o Tupe tupe maua mai le faatauina o nei meatotino. E talitutusa foi lea faiga ma Niu Sila ma Ausetalia ae pau le eseese, o le tagata o loo nafa ma le mataituina ma le vaai o nei tupe maua, na te mafaia ona tuuina atu se vaega tupe i leoleo e fesoasoani lea ia latou galuega faatino.

MANATU O LE KOMISI

7.119. Na fa’ailoa e le Komisi le taua o le mataupu ua taua i luga aua le faamalosia lea o le tulafono o Nakoti i totonu o Samoa. Aepeitai o nisi o nei mataupu e i tua atu o vaega ua fa’amatuu maim o se Poloketie faatinoina. E fautuaina e le Komisi e tataluga ona tuuina atu i Matagaluega e latou te soalaupuleina, aemaise lava i mataupu o lo’o aafia ai matafaioi ma galuega faatino. I faatalanoaga sa faatinoina ma Matagaluega, e taua le faamanino ma faaaogaina o nei vaega e soalaupule ai mataupu e aliae mai ina ia mafai ona foia ma faalelei pe afai e iai ni aafiaga i matafaioi ma tiute faatino a le Matagaluega.

⁴⁸⁸Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁴⁸⁹Consultation with the Ministry of Prime Minister and Cabinet (Ministry of Prime Minister and Cabinet Conference Room, FiameMataafaFaumuinaMulinuu II, Matagalalua, 7 August 2017);

⁴⁹⁰Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁴⁹¹Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁴⁹² Consultation with the Ministry of Police, (Ministry of Police Building, Apia, 28 August 2017).

FAUTUAGA 60: E fautuaina, o soo se mataupu e patino i galuega faalelotoifale a se Matagaluega faataitaiga suesueina o se tagata, mataitu le faatauina o fualaau faasaina, mataituina o tuaoi o le atunuu ma le faaogaina o tupe maua mai le faatauina o meatotino na faaoga i soligatulafono, ina ia tuuina atu pea le malosiaga i Matagaluega taitasi latou to taitaia ma mataituina; faataitaiga faatuina o alafua ma aiaiga mo le faatauina o fualaau faasaina. O se isi faatalatalanoaga loloto atu o lenei mataupu e mafai ona faatinoina i le va o Matagaluega ina ia mautinoa le faatinoina lelei o galuega.

VI. Luitau ma Aafiaga o le faamalosia o tulafono

7.120. O faatalanoaga na faatautaia na faalia ai le anoanoai o mataupu eseese e iai ona aafiaaga i le lelei lea ona faamalosia o tulafono i totonu o Samoa. O nei faafitauli e aliae mai e mafua mai ona o le feteenaiga o malosiaga o le Matagaluega o Leoleo ma le Ofisa o Tiute i le faatinoina o o latou matafaioi. O nei mataupu e aofia ai;

- i) Le lē galulue faatasi ai o le Matagaluega o Leoleo ma le Ofisa o Tiute, mo se faataitaiga o nisi o mataupu e aofia ai le ave faamalosia o tuaoi.
- ii) E manaomia le faaleleia o auala o fesootaiga i le va o le Matagaluega o Leoleo ma le Matagaluega o Tupe Maua. I le taimi nei, o lo’o galulue faatasi le Matagaluega o Tupe Maua ma le Matagaluega o Leoleo faatasi ai ma le Matagaluega o le Soifua Maloloina i mataupu e pei o fualaau faasaina e aveese faamalosia mai i tuaoi. O nisi o taimi e maitauina ai o nisi o faafitauli e aliae mai ona o le lelei o le fesootaiga i nisi o mataupu.
- iii) I le faafoeina o le fa’agasologa o i latou ua masalomia i faiga faasolitulafono. E maitauina e iai nisi o mataupu e lei lelei ona faatinoina e mafua mai ona o le sese o faamaumauga o moliaga faatasi ai ma i latou sa gafa ma le faatinoina o suesuega e faatatau i le ua molia.
- iv) O le nisi o mataupu e faatatau lea i le suesueina o faamomoli po’o uta e auina mai fafo. Na faaalua e le Matagaluega o Leoleo, e iai mataupu e talitonu le Matagaluega e iai fualaau faasaina (Nakoti) o lo’o aumaia faananana i totonu o le Atunuu e aunoa ma le iloa, o lea e iai le naunautaiga o le Matagaluega o Leoleo ina ia faatinoina se suesuega e sailia uma ai uta ma faamomoli e auina mai fafo. I lalo le tulafono (Customs Act 2014), o lo’o faamanino ai e na o i latou e galulue ai i le Ofisa o Tiute e faatinoina suesuega o uta ma faamomoli e auina mai.
- v) Ulufale i vaaafi o lo’o taula i le uafu. Na laga foi e le Matagaluega o leoleo e o’o foi i le faatinoina o suesuega o vaaafi e faatautaia lea e le Ofisa o Tiute. Aepeitai e iai mataupu e manaomia ai le auaunaga a leoleo, ae faigata ona e le’o i totonu o le tulafono. I lalo o le tulafono (Customs Act 2014), o lo’o faamanino ai o se tasi o le Vaega o Tiute e mafai ona ulufale i se vaa pe afai o masalomia o lo’o iai ni fualaau faasaina po’o ni oloa/aupega matautia faasolitulafono.⁴⁹³

⁴⁹³Customs Act 2014 (Samoa) s 153(1).

- vi) O nisi o faafitauli e aliae mai e faatatau i leoleo e ulufale faamalosia i nisi o nofoaga o lo'o i lalo o le vaavaaiga a le Vaega o Tiute, e ono iai se faagaulemalie i le afaigaluega a le Vaega o Tiute, ona e leo mafai ona o lo'o manino le tulafono, o le mataituina o mataupu faatatau i tuaoi e na o le afaigaluega a le Vaega o Tiute e faatagaina ai ae le o Leoleo. Ae ui i lea, na taua i se tasi o finagalo sa tuuina mai, o lenei galuega e le gafatia ona faatinoina e se Matagaluega se toatasi. E ono iai mataupu e ono tutupu mo se faataitaiga, o se mataupu o lo'o talia ai e le Ofisa o Tiute ia leoleo, pe o le Ofisa o Leoleo foi ia le Ofisa o Tiute, i le taimi e taunuu mai ai, ae ua leiloa pe ua aveesesea se faamomoli po'o se uta o lo'o masalomia.
- vii) O le popolega lava e tasi na fa'aleoina e leoleo e faatatau i mataupu tau leoleoga o tuaoi. I totonu o le tulafono (Customs Act 2014) o lo'o auiliili ai, e nao le afaigaluega a le Ofisa o Tiute e mafai ona fa'atinoina i soo se taimi ma ia faia ma le tatau se leoleoga i vaega o le talafatai, po'o augutu o alia/vaitafe, po'o nisi o vaega o fanua e tuaoi, po'o se nofoaga e faatinoina ai galuega a le Ofisa o Tiute. E ui lava o lo'o iai le tulafono, ae i le faatinoina o galuega.⁴⁹⁴

MANATU NA TUUINA MAI

Na sailia e le Komisi ni auuala e foia ai faafitauli o lo'o aafia ai le faamalosia o tulafaono, ma faaleleia ai le faatinoina o matafai ai i latou o lo'o gafa ma nei galuega.

7.121. I finagalo sa tuuina mai i le mamalu o le atunuu o lo'o faailoa ai e manaomia le faalelei o galuega faatino a i latou lo'o faamalosia tulafono e faatatau i mataupu tau i fualaau faasaina. O nisi o finagalo tuuina mai o lo'o fautuina ai;⁴⁹⁵

- Faaaogaina ma faalauteleina alagaoa e faatinoina ai galuega moomia e pei o taifau ma masini e faaaogaina i le sailia o fualaau faasaina.
- Faaleleia ma faalauteleina o taiala o lo'o faaaogaina i le taini nei e faatinoina ai galuega i se tulaga lelei. Mo se fa'ataitaiga, e ao i le Ofisa o Tiute ona logoina le Matagaluega o Leoleo e ni gaiogia e faatinoina nai lo le natia ina. O so'o se alii/tamaiti ofisa e maua o lo'o ia tolopoina tulafono ma le faagasologa o mataupu e ao ona faasalaina pe faamalolo le tumau po'o se faasalaga e faatatau i amioga a i latou o lo'o aafia.
- Faatinoina aoaoga pupuu mo i latou o lo'o faamalosia tulafono ina ia faalauteleina le toma male iloa i tulafono e o gatasi ma o latou tiute tauave.
- Faalauteleina ma faatautaia polokalame e faalauiloa ai i le mamalu o le atunuu i aafiaga o fualaau faasaina e aafia ai totonu o faalapotopotoga/sosaiete ae le gata i lea o Matagaluega eseese o lo'o feagai ma le faatinoina o tiute tau le vaavaaia o tulafono o fualaau faasaina i Samoa e pei o le Matagaluega o le Soifua Maloloina, Matagaluega o Leoleo ma le Vaega o Tiute.

⁴⁹⁴ Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, Fiame Mataafa Faumuina Mulino II Building, Matagalalua, Samoa, 29 August 2017).

⁴⁹⁵ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and Apita Pisaga Hall in Savaii, 25-26 and 28-29 September 2017).

- O Matagaluega e patino iai tiute, e ao ina latou sailia se tasi e na te faatautaia aoaoga pupuu i le aufaigaluega aua le faatinoina lelei o tiute i lalo o le tulafono.
- Ia galulue faatasi matagaluega e patino tonu ma le faatinoina o tiute faatasi ai ma Matagaluega uma a le Malo, o nuu ma afioaga e faamalosia ma mataituina tulafaono.
- O Matagaluega e patino tonu iai le faatinoina o nei mataupu e tatau lea ona faalauteleina ma faaleleia a latou polokalame toefuataina. E tatau foi ona iai ni polokalame e faatinoina i tua I nuu ma afioaga mo le toe Fuatai o olaga o i latou ua tatalaina atu i tua i nuu ma afioaga.
- E tatau i le Malo ona ave le faamuamua i mataupu e tetee atu ai i fualaau faasaina. O le tele se suiga o le a iai pe tele se lagolagosua a le Malo e faamalosia ma teena ai fualaau faasaina.
- E ao ona faamalosia pulega a Nuu ma Faipule i nuu i totonu o le taulaga, e iai le taofi o le tele o soligatulafono e faatinoina i totonu o Apia.
- Faalelei le tulafono e ala lea i le faamanino o matafaioi ma tiute faatino o i latou o lo'o iai le faatanaga e faatinoina ai galuega e faatatau i fualaau faasaina. E ao foi ona lloilo faasalaga e tuuina atu iai latou e solitulafono e mautinoa ai o lo'o o gatusa faasalaga ma le solitulafono sa faatinoina.

MANATU O LE KOMISI

- 7.122. E lagolagoina e le Komisi nisi o finagalo e ala lea i le tele o luitau e feagai ai i le taumafai lea e faamalosia o tulafono, e oo foi le Tulafono o Nakoti e o lo'o laugatasia uma ai. O nisi o nei luitau e mafua mai ona o le lē lelei o le galulue faatasi, utiuti punaoa fa'aaogaina, fesopoai malosiaga ma mafua ai feeseeseaiga, leai ni alafua manino e limataitaina ai galuega a i latou o loo faamalosia le tulafono faatasi ai ma le lē malamalama lava o e faamalosia le tulafono i o latou tiute ma matafioi i lalo o le tulafono. Na atagia foi lenei tulaga i faatalatalanoaga faalauaitete.
- 7.123. Ia o gatasi ai ma finagalo ma manatu tuuina mai i le mamalu o le atunuu e tuuina atu ai e le komisi nisi o fautuaga e soalaupule ai luitau fetaiai ma le faatinoina o galuega;
- Faamalosia le galulue faatasi ai o Matagaluega uma ale Malo faatasi ai ma Nuu ma Afioaga.
 - Iloilo ma faamalosia taiala o lo'o iai le taimi nei e unaia ai le faatinoina o galuega ia sili ona lelei
 - Faatinoina o aoaoga pupuu mo i latou o lo'o feagai ma tiute tau le faamalosia o tulafono ina ia mafai ona siitia lo latou iloa i tulafono o lo'o faatinoina ai a latou galuega.
 - Faataunuuina polokalame e faalauiloa ai i totonu o Nuu ma Afioaga ia matafaioi eseese a Matagaluega o lo'o faamalosia tulafono.
 - Faatino ma faamalosia polokalame faatatau i olaga toefuataina e faatinoina i totonu o Nuu ma Afioaga.
 - E ao i le malo ona ave le latou faamuamua i mataupu tau fualaau faasaina.

- Faaleleia ma faamaioio tulafono e ala lea i le faamanino o tiute ma matafaioi o Matagaluega o lo’o gafa ma le faamalosalia tulafono.

FAUTUAGA 61: Ina ia mautinoa le alualu i luma ma le faaleleia o galuega faamalosalia o tulafono ma le faaititia o faafitauli aliae mai, e tatau ona silasila i vaega nei;

- Faamalosalia le galulue faatasi ai o Matagaluega uma ale Malo faatasi ai ma Nuu ma Afioaga.
- Iloilo ma faamalosalia taiala o lo’o iai le taimi nei e unaia ai le faatinoina o galuega ia sili ona lelei
- Faatinoina o aoaoga pupuu mo i latou o lo’o feagai ma tiute tau le faamalosalia o tulafono ina ia mafai ona siitia lo latou iloa i tulafono o lo’o faatinoina ai a latou galuega.
- Faataunuaina polokalame e faalauiloa ai i totonu o Nuu ma Afioaga ia matafaioi eseese a Matagaluega o lo’o faamalosalia tulafono.
- Faatino ma faamalosalia polokalame faatatau i olaga toefuataina e faatinoina i totonu o Nuu ma Afioaga.
- E ao i le malo ona ave le latou faamuamua i mataupu tau fualaau faasaina.
- Faaleleia ma faamaioio tulafono e ala lea i le faamanino o tiute ma matafaioi o Matagaluega o lo’o gafa ma le faamalosalia tulafono.

8. VAEGA 7 PUIPUIGA MA LE TOE FUATAINA

8.1. O lenei Vaega e talanoaina ai mataupu e lua. Muamua, o puipuiga e faaaogaina ai tulafono i totonu o Samoa e pei o faiga faavae e faatatau i faasalaveiga, polokamale faatino mo le puipuiga po o le faaititia o le faaaogaina o fualaau faasaina ma a’afiaga e ono tutupu mai. O le a talanoaina foi le faatusatusaina o tulafono i isi atunuu. Ma lona lua, o le lagolagosua ma gaioga faatino faatasi ai ma polokalame mo le toe faaleleia e faia i Samoa faatasi ai ma le talanoaina o tulafono i isi pulega fa’afaamasinoga.

8.2. I le faaiuga o lenei Vaega o le a iloiloaina ai manatu faalia faatasi ai ma mataupu tuuina mai i ni pepa o faamatalaga e faatatau i le puipuiga ma le toe faaleleia e fausia mai ai se fautuaga ale Komisi.

I. Puipuiga faatonutonu o lo’o iai le taimi nei

8.3. I faatalanoaga sa faatinoina, o lo’o manino ai, e le’o iai ni faiga faavae e faatatau i fualaau faasaina i Samoa, e faasino lea i fualaau faasaina i totonu o le Vaega o le Soifua Maloloina, e ui ina ua maea ona faatalanoaina i tausaga ua mavae ina ia fausia se faiga faavae. I faatalanoaga sa faatinoina i le 2016 na fautuina ai afai ae fausia lenei faiga faavae, o le a mafai ai ona faatinoina e le vaega o le soifua maloloina faatasi ai ma le vaega o le faamasinoga susesuega o mataupu aliae mai e patino i fualaau faasaina ma saili faamaumauga talafeagai o mataupu faapenei o totonu o Samoa ina ia limataitaina ai le tusia o faiga faavae. E tatau i faiga faavae on auiliili mataupu e aofia ai le faatauina atu ma manaoga o tagata o fualaau faasaina faapea ai ma le faateleina o togafitiga, polokalame faalauiloa ma le fesoasoani tuuina atu i aiga, nuu ma afioaga.

8.4. I le leai ai o se faiga faavae fausia mo fualaau faasaina, o lo’o iai nisi o faiga faavae i totonu o Samoa e fesoatai mo Fualaau faasaina.

a) *Ata Faataitai o le Fuafuaga mo le Puipuiga o Soligatulafono (2016-2020)*

8.5. O le auga ma le faamoemoe o le iai o le faavaa o le puipuiga o faiga faasoligatulafono, o le a avea ai Samoa ma se atunuu saogalemu, ma e malu puipuia mo le nofoia e tagata, e fia asiasi mai ai foi le toatele o tagata e le gata i lea e mafai foi ona faatuina ai ni pisinisi e ala i gaioiga autasi a Nuu ma Afiogaa e tetee atu ai I faiga faasolitulafono e aliae mai i totonu o Samoa. O lenei faavaa o lo'o faamanino ma faamaioio mai ai Vaega autu o lo'o avea iai le faamuamua a le faalapopotoga o faamasinoga ma tulafono. O lo'o faamanino mai ai auala e faaaogaina e soalaupuleina ai faafitauli o lo'o aliae mai ae le gata i lea o taimi faatulagaina fa'atasi ai ma Matagaluega o lo'o taimua i le faatinoina o nei galuega. O se faataitaiga o le galulue faatasi ai lea o Ekalesia faapea Nuu ma Afiogaa e faalauiloa tulafono ma faatonuga faaetutulafono e tuuina mai. E ao ona faaleleia lenei Vaega, aua le nofo silafia ma le malamalama o tagata lautele i polokalame faalauiloa mo tulafono talafeagai ma mataupu taitasi.

e) *Faiga Faavae mo Fualaau 2008*

8.6. O lenei faiga faavae sa talanoaina mo le mataituina o fualaau faasaina o lo'o faaaogaina mo togafitia faafomai. O lo'o fa'atuina ai taiala ma auala e faaaogaina mo le faatonutonuina o tualaga uma mo le malu puipuia o paaga o lo'o i le Vaega o lo'o feagai ma fualaau ma vai mo gasegase, ona tali atu i faafitauli e aliae mai i togafitiga faafomai aemaise ai foi le mataituina ma le pulea lelei o vailaau eseese i soo se itu.

i) *Faiga Faavae mo Aafiaga i le Mafaufau 2006*

8.7. O lenei faiga faavae e faatatau lea i le faatinoina o togafitiga o i latou o lo'o maua i mai o le mafaufau a e fautuaina le ao lea ona fausia se faiga faavae tutoatasi e lima taitaina ai galuega faatino aemaise lava i le faaaogaina faaletatau o vailaau/fualaau faasaina mo togafitiga i totonu o Samoa mo i latou o lo'o maua i mai o le mafaufau.

o) *Faiga Faavae o le Sikareti 2010*

8.8. O lenei faiga faavae na faatuina e pulea aemaise o le faatonutonu ina o le faaaogaina o tapaa/sikareti i totonu o Samoa. I totonu o le faiga faavae o lo'o faamanino mai ai le taumafai lea e faaitiitia le faatauina o tapaa/sikareti i le siitia o le tau e faatauina ai faapea lafoga e tologiina, o polokalame faalauiloa, o aoaoga ma faatalanoaga, o polokalame e faamuta ai ma tetee atu ai i le tagofia o le tapaa/sikaleti.

Faatusatusaga ma isi Atunuu

Niu Sila

8.9. I Niu Sila, o le faiga faavae 2015-2020 faatatau mo fualaau faasaina (National Drug Policy 2015-2020) o lo'o avea ma taiala e lima taitaina ai i le faafoeina o mataupu tau i fualaau ma faafoeina ai le faaaogaina o tapaa/sikaleti faapea le ava malosi.⁴⁹⁶ O le sini autu o lenei faiga faavae ina ia faatuai ma fa'aitiitia le tagofia o fualaau faasaina e le tupulaga talavou, faaitiitia fa'amai ma manuaga e mafua mai i le tagofia o fualaau faasaina, ao le aoga o le faiga faavae ina ia mafai ona malamalama ai i aafiaga o le ava malosi ma fualaau pe a tagofia. Ua maituaina le lelei o le lagolagosua a le malo e ala mai i faalapopotoga o lo'o

⁴⁹⁶ Inter-Agency Committee on Drugs, *National Drug Policy 2015-2020* (2015)

<<https://www.health.govt.nz/system/files/documents/publications/national-drug-policy-2015-2020-aug15.pdf>>.

tali atu e e lagolagoina le tetee atu i le faaogaina o fualaau faasaina ma le ava malosi.⁴⁹⁷ Mo se faataitaiga o le auuanaga o le soifua maloloina, matagaluega o aoga, o le faalapotopotoga e lagolagosua i le tele o afioaga faapea aiga, o lo'o galulue faatasi ina ia faaititia le tagofia o nei fualaau faasaina. O nei faiga faavae o loo taumafai e faaititia ma mataitu nofoaga o loo iai auuanaga mo le togafitiga o aafiaga o fualaau faasaina ma le ava malosi. Faataitaiga, o loo ofoina atu e le Asosi o Fualaau Faasaina i Niu Sila se fesoasoani mo i latou ua fai ma vaisū le fualaau faasaina ma ua le mafai ona tuu.

Ausetalia

8.10. I Ausetalia o lo'o iai la foi a latou fuafuaga autasi (National Campaign against Drug Abuse Strategy 2016 – 2015), o lo'o faamatalaina ai Vaega e 3 e lagolagoina ai aafiaga e tataua ona faaititia.

- (i) Ia faaititia aafiaga e mafua mai i le faaogaina o fualaau faasaina ma le ava malosi;
- (ii) Faamalosi le faaitia o le faaogaina o fualaau faasaina ma le ava malosi; ma
- (iii) Faaititia sapaalai o fualaau tuuina mai e puipuia ai ma faaitia ai le mauaina o nei fualaau.

FINAGALO TUUINA MAI

Na sailia e le Komisi pe ono talafeagai ona faatuina se faiga faavae mo fualaau faasaina, ae le gata i lea o le a se vaaiga o le a o'o iai; faataitaiga, le a se sini autu faatasi ai ma se taimi faatulagaina mo le toe iloilo.

Filifiliga 1: Faiga Faavae Tutoatasi e Patino lava e nao Fualaau Faasaina

8.11. O le tele o finagalo ma manatu faalia o lo'o lagolagoina ai le alagatatau lea ona fausia se faiga faavae, e mafai ai ona foia faafitauli e aliae mai ona o le fa'aaogaina o fualaau faasaina. Na taua foi e sui mai le faamasinoga, o le iai o lenei faiga faavae o le a mafai ona fa'aaogaina e fai ma taiala mo le Malo, Faamasinoga ma tagata lautele.⁴⁹⁸

8.12. I le fausiaina o lenei faiga faavae, e ao ona iai nisi o le auuana o le soifua maloloina faatasi ai ma le faatinoina o tulafono ma faamasinoga e taimua i le fausiaina ma le tuufaatasia.⁴⁹⁹ O lenei vaega faapitoa e alagatatau ona amatamea ai le Matagaluega o le Soifua Maloloina ma le lagolagosua a le Matagaluega o Faamasinoga, Matagaluega o Leoleo faatasi ai ma le Ofisa o le Loia Sili.⁵⁰⁰ O nisi mo manatu faalia sa faailoa mai ai le galuega soosoo tauau a le

⁴⁹⁷Inter-Agency Committee on Drugs (NZ), *National Drug Policy 2015-2020* (2015) < <https://www.health.govt.nz/system/files/documents/publications/national-drug-policy-2015-2020-aug15.pdf>>.

⁴⁹⁸Consultation with members of the Judiciary (Judges Chambers, Ministry of Justice and Courts Administration Office, Sogi, 13 September 2017).

⁴⁹⁹Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, (*Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁵⁰⁰Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017); Consultation with the Transnational Crimes Unit (Transnational Crimes Unit Office, FiamemataafaFaumuinaMulinuu II Building, Matagalalua, Samoa, 29 August 2017).

ADC.⁵⁰¹ Na faalia le finagao o le Afioga Sapolu, le Faamasino Sili, e le tatau ona faalavelaveina le galuega tutoatasi e faatinoia e le ADC.

8.13. Na talosagaina e nisi o Paaga a le Komisi le tatau lea ona aofia uma faalapotopotoga tumaoti faatasi ai ma Fono a Alii ma Faipule i le unaia ma faamallosia tulafono i ni auala faapitoa.⁵⁰² O le ala lea e tatau ai ona galulue faatasi, vaega tetele, auaunaga o le soifua maloloina, vaega o faamasinoga, auaunaga fa'aagafesootai, o nuu ma afioaga faapea foi ma faalapotopotoga tumaoti.⁵⁰³ O nisi o lenei vaega e gafa ma le faatinoina o suesuega ma aoina mai faamaumauga talafeagai e faatatau i fualaau o lo'o maua i totonu o Samoa, faatasi ai ma faafitauli e aliae mai i le faaaogaina faaletatau o nei fualaau.⁵⁰⁴

u) *Sini Autu Faatuina*

8.14. O nisi o paaaga a le Komisi na fautina nisi o sini autu e ao ona fausia ma faatuina mo faiga faavae e faatatau i fualaau faasaina.

- Ia mautinoa le malupuipua ma le saogalemu o Samoa mai le faaaoga seseina, faatauina ma le fausiaina o fualaau faasaina;⁵⁰⁵
- Ia puleaina ma le faatonutonu leleia o auala e foia ai fualaau faasaina faatasi ai male soona faia faasolitulafono o le faaaogaina o nei fualaau faasaina. (faaitiitia o aafiaga) aafiaga ma taunuuga.⁵⁰⁶
- Ia faavaeina ni faiga po'o ni aiaiga faaletulafono e faamallosia ai puipuiga ma faaitiitia ai le faaaogaina faaletatau o fualaau faasaina, o faamai ma manuaga tuga e alia'e mai ona o le tagofia o nei fualaau, aemaise lava iai latou o lo'o i lalo o tausaga faatapulaa.⁵⁰⁷

8.15. O nisi o finagalo faaalua o lo'o taua ai le tatau lea ona faaaogaina auala ma metotia o lo'o faaaogaina e Niu Sila, ae ia faatinoina iai se iloiloga ia o gatasi ai ma le manaomiaga o lo'o iai i totonu o Samoa.⁵⁰⁸ Na faalia foi i nisi o finagalo, e tatau ona faamaioio mai totonu o lenei faiga faavae ia aiaiga o lo'o i totonu o le fuafuaga autasi (Draft Crime Prevention

⁵⁰¹Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁵⁰² Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

⁵⁰³ Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

⁵⁰⁴ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017;

⁵⁰⁵Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁵⁰⁶Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁵⁰⁷ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁵⁰⁸Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

Strategy) o lo'o talanoaina ai le tele o mataupu e faatatau i fualaau faasaina, i le taimi nei o lo'o talia se faamaoniga aloaia o leni fuafuaga autasi.⁵⁰⁹

f) Faataatiaga mo le tulaga

- 8.16. Na faaalua i nisi o finagalo ma manatu tuuina mai, o so'o se faiga faavae e tatau ona foia ai le tele o faafitauli aliae mai e aafia ai vaega eseese e pei o, itupa o alii, tupulaga talavou, oi latou e iai manaoga faapitoa pe le atoatoa le malosia o le tino, o fafine ma tamaiti.⁵¹⁰ E tatau ona faamanino auala talafeagai e foia ai faafitauli e ala i manaoga, o le tuuina mai o fualaau faasaina aemaise i le va ma isi:⁵¹¹
- Auala e faaaogaina ma aveesea ai le faaaogaina, faatau atu ma le fausiaina lea o fualaau faasaina.
 - E tatau ona faamamafaina le galulue faatasi ai o Matagaluega ma Faalapotopotoga a le Malo, o Ofisa Tumaoti, o Fono a Alii ma Faipule faatasi ai ma Ekalesia.
 - O matafaioi fai faatasi a Matagaluega a le Malo fa'apea Nuu ma Afioaga, oei o Sui o Nuu ma Sui Tamaitai.
 - Faatuina ni auala talafeagai ma lelei mo togafitiga ma auaunaga e toe Fuatai ai olaga oi latou e tagofia fualaau faasaina
 - Faatinoina o Polokalame faalauiloa i totonu o nuu ma afioaga i aiaiga aemaise foi le lagolago sua e fesoasoani ai iai latou o lo'o tagofia fualaau faasaina ma o latou aiga.
 - E taua foi le mataituina o galuega faatino a i latou o lo'o faatinoina galuega, pei o teine tausimai ma fomai, aemaise i latou e faamalosi tulafono i auala e latou te faaaogaina pe afai ae tuuina atu i lalo o la latou vaavaaiga ia i latou nei e tagofia fualaau faasaina.
- 8.17. O nisi o paaga a le Komisi na latou faalia le alagatatau lea ona faaaogaina e Samoa o auala o lo'o faatinoina ai galuega faatino a Ausetalia ma Niu Sila e fai ma taiala i galuega faatino.⁵¹²

g) Iloiloga ma le toe siitia o sea Faiga Faavae

- 8.18. E tusa ai ma finagalo tuuina mai mo le iloiloaina o le faiga faavae, o nisi nei o vaega e tatau ona tilotilo iai;
- I tausaga taiasi;⁵¹³ po'o
 - Tai lua tausaga pe a talafeagai;⁵¹⁴ po'o

⁵⁰⁹ Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

⁵¹⁰ Consultations with the Ministry of Women, Community and Social Development (Ministry of Women, Community and Social Development Main Office, Savalalo, 9 August 2017).

⁵¹¹ Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017;

⁵¹² Consultation with Samoa Nursing Association (Samoa Nursing Association Complex, Moto'otua, 5 September 2017).

⁵¹³ Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁵¹⁴ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

- Tai tolu tausaga, ma tuuina atu se lipoti e faailoa ai le lava o le aufaigaluega e faatinoina galuega;⁵¹⁵ po'o
- Tai lima tausaga;⁵¹⁶ po'o
- Pe a aliae mai ni faafitauli e faatatau le faatinoina ma tuuina atu i tua o faiga faavae. O le naunautaiga e iloilo ina e fua i luga o faatufugaga na mafai ona faailoa ma aoina mai i le faatinoina o faiga faavae, ma nisi lava o faafitauli e faailoa mai le Komisi faafoe mo tulafono ma faamasinoga.⁵¹⁷

Filifiliga 2: Tuu i totonu o Faiga faavae o loo iai nei

8.19. O nisi o paaga a le Komisi na latou faalia e tatau lava ona iai se vaega faapitoa i totonu o le fuafuaga autasi (Draft Crime Prevention Strategy) e faatatau i mataupu tau fualaau faasaina i totonu o Samoa.⁵¹⁸ Na fautuina e le Matagalugea o le Soifua Maloloina e tatau ona talanoaina i lalo o faiga faavae mo fualaau ma vailaau (o lo'o faatinoina le iloilo i le taimi nei, ae iai le naunautaiga o le a aofia ai ma fualaau ma vailaau faasaina). O lea, e leo iai se manaomiaga e fausaia se faiga faavae faapitoa mo fualaau ma vailaau.

Fausia e le Matagalugea a Leoleo se fuafuaga mo le mataituina o fualaau faasaina ma isi faafitauli e pei o le Fuafuaga a Leoleo mo le faasaina o Fualaau Faasaina 2010 a Niu Sila

8.20. O le tele o finagalo ma manatu fa'aalia, o lo'o faalia ai e tatau i le Matagalugea o Leoleo ona fausia se fuafuaga e tali tutusa ma Niu Sila, pau le eseesega o le a iai, o le aganuu faatasi ai ma punaoa e faaogaina.⁵¹⁹ Na faalia e le Matagalugea o Leoleo, o lo'o faatino a latou suesuega e faatatau i laltou faiga faavae mo fualaau ma ava malosi i le taimi nei. O lenei faiga faavae o le a tuuina ai totonu ma nisi o mataupu e pei o le mataituina ma le puipuga. O le mea e pito sili ona taua, o le a tilotilo iai pe faapefea ona faatinoina tiute ma matafaioi a leoleo ina ia faaitiitia faafitauli ma mataupu aliae mai i totonu o Samoa ona o fualaau faasaina aua o i latou ua tofia e tausia ma puipua Samoa ina ia maua se atunuu filemu ma saogalemu.⁵²⁰

MANATU O LE KOMISI

8.21. E ui lava i manatu ma finagalo sa faalia e faatatau i faiga faavae ua iai e pei o le faiga faavae mo fualaau ma vailaau (Medicine Policy) faatasi ai ma le fuafuaga autasi (Draft Crime

⁵¹⁵Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁵¹⁶Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017.

⁵¹⁷Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁵¹⁸Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Review of the Tulafono o Nakoti 1967*, 30 October 2017.

⁵¹⁹Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017; Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁵²⁰ Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017.

Prevention Strategy) o lo'o faamoemoe e tuuina ai totonu ma mataupu faatatau i fualaau faasaina i totonu o Samoa, e manatu le Komisi e alagatatau ona faatuina se faiga faavae mo fualaau faasaina e fausia e le Matagaluega o le Soifua Maloloina, faatasi ai ma le fesoasoai ai o nisi o faalapotopotoga e pei o le Vaega o Tulafono ma Faamasinoga faatasi ai ma Vaega Tumaoti) o le a tele se aoga mo Samoa. O le tuufaatasia o auala e puipuia ai le faaogaina o fualaau faasaina i faiga faavae ma fuafuaga autasi ua iai le taimi nei, e le'o lava lea e tali atu ai e foia faafitauli aliae mai ona fualaau faasaina o lo'o tutupu i totonu o Samoa e pei ona taua lipoti (TOR) o lo'o lisiinina i le Vaega muamua. O lea, a fai ae faatino se faiga faavae e faasino mo fualaau, o le a mafai ai ona faatautaia faafitauli e tutupu mai e faatatau i fualaau faasaina, ma o le a faaogaina o se metotia e faaitiitia ai aafiaga, o manaomiaga ma le naunau e faatau fualaau faasaina.

8.22. O lenei faiga faavae e ao ona tuuina ai nisi o mataupu e feagai ai ma nisi o vaega eseese, pei o tupulaga talavou, alii, tamaitai ma Matagaluega uma a le malo (PWD) faatasi ai ma auala e puipuia ai le tagofia ma le faaogaina le tatau o fualaau faasaina, o polokalame e toefuatai ai olaga o i latou o tagofia fualaau faasaina, faatasi ai ma auunaga e foia ai ma vaavaaia i latou e tagofia fualaau faasaina, ma e aofia ai foi na Nu'u ma Afioaga i le faatinoina o lenei matafaioi. O lea faiga faavae e tatau ona laugatasia ma nisi o faiga faavae ua maea ona fausia pei o le taiala mo le puipuia o soligatulafono ma le tagofia o fualaau, ia ia mautinoa e le'o iai se feteenaiga, ma e tatau ona iloilo i tausaga taitasi i luga o se managoa e faatino ai.

8.23. Na faamauina e le Komisi nisi o finagalo ma manatu faalia sa tuuina mai e faatatau i le ao lea ona fausia se taiala e limataitaina ai le Matagaluega o Leoleo e faatinoina galuega e tetee atu ai i soligatulafono ia o gatasi ai ma Niu Sila. O lea faiga faavae e faaogaina lea ma faamalosi ai puipuiga i fualaau faasaina. Faamauina foi e le Komisi le lava lea o punaoa faatasi ai ma le faatupeina pe afai ae faaogaina le fuafuaga autasi (Draft Crime Prevention Strategy) e soalaupuleina ai faafitauli e tutupu nai lo le faaogaina o le Taiala (Police Illicit Drug Strategy). O le a mafai ona faaitiitia ai le faaogaina o punaona ma o leai ai foi se feteenaiga.

FAUTUAGA 62: MOH, faatasi ai ma le fesoasoani a lala sooupu talafeagai, e tatau ona atia'e se faiga faavae faasaina / patino faapitoa mo le tagofiaina o fualaau faasaina ina ia tagofia lelei ma foia faafitauli o fualaau faasaina ma faafitauli o loo feagai nei Samoa e pei ona atagia mai i le TOR. O lea faiga fa'avae e tatau ona a'afia ai mataupu uma e feso'ota'i ma le puipuia o fa'ama'i fualaau, fa'aleleia, fa'alauteleina le lauiloa, fa'apea fo'i ma matafaioi a tagata ta'aalo autu. O le faiga faavae e tatau ona logoina e faiga faavae o lo'o i ai nei ma e tatau ona fa'afouina pea ina ia mautinoa o lo'o ogatasi ma atina'e fou i Samoa e uiga i fualaau faasaina.

FAUTUAGA 63: E leai se mana'oga mo le MOP e atia'e se ta'iala e tutusa ma Niu Sila e pei o le ata o le Puipuiga o Solitulafono o Soligatulafono ua lava. O le ata faataitai o faiga faavae e tatau ona aofia ai le taulai faapitoa i auala aoga e puipuia ai solitulafono e faatatau i fualaau faasaina ma taulumaga mo le lipotia o solitulafono e faatatau i fualaau faasaina.

II. Toefuataiga

8.24. I le tulafono o le Nakoti, e le'o iai se aiaiga e faatatau i le ola toe fuatai e ala lea i le faatinoina o faasalaga talafeagai mo i latou o aafia ina ia mafai ona toe fuatai olaga ma ia malu puipuia. Ae peitai, o lo'o iai tulafono o lo'o iai vaega o lo'o faasino tonu iai latou o lo'o tagifia fualaa faasaina ina ia toe fuatai o latou olaga. E le gata i lea, o lo'o iai faalaptopoga o lo'o latou faatinoina leni auaunaga e ala lea i le ofoina atu o polokalame mo le toefuataina o olaga e le gata iai latou o lo'o tagofia fualaa faasaina ae faapea foi iai latou sa aveesea faamalosi mai i se atunuu sa nofo faasolitulafono ai ma ua toe tuina atu i totonu o Nuu ma Afioaga. E ui lava i le tele o faiga ma polokalame o lo'o faatinoina le taimi nei aemaise fuafuaga faataatitia ina ia faaititia le tagofia o fualaa faasaina ma faiga faasoligatulafono, i le faatalatalanoaga sa faatinoina ma le SPCS i le 2016 na taua ai e tusa ma le 60% i le 70% oi latou o lo'o tuli o latou faasalaga i Tafaigata o i latou ua molia fa'alima po'o le fa'aono ai lea ona o soligatulafono. O leni faitau aofai e aofia uma ai faiga faasoligatulafono eseese e le na'o le tagofia o fualaa faasaina. Ona o lea, e mafaua ai ona faavaeina se fesili taua, pe faamata o talafeagai faasalaga o tuuina atu iai latou o e solitulafono, e ala lea i le tuuina atu i le falepuipui faatasi ai ma polokalame mo le ola toe Fuatai e faatinoina e faalapotopotoga ina ia faaititia ai nei ituaiga soligatulafono i totonu o Samoa faatasi ai ma faaaitaui e aliae mai i Samoa ona o fualaa faasaina

a) O Tulafono e patino i le toefuataiga o ola

8.25. Ua faamalosi i totonu o Samoa le tele o tulafono e faatatau i le ola toe fuataina o i latou o lo'o solitulafono faapea foi i latou e tagofia fualaa faasaina. O nei tulafono e aofia ai vaega ua taua i lalo:

i) Community Justice Act 2008

8.26. O le tulafono (Community Justice Act 2008) e tele lona taua i Nuu ma Afioaga ona o lo'o faamanino mai ai faiga faatino aua le ola toe fuataina oi latou e tuuina atu i tua i Nuu ma Afioaga. O le auga ma le faamoemoe ia mafai ona faatinoina e alalafa auala ma faasalaga talafeagai aua le toefuataina o olaga o i latou o lo'o faia faiga soliga tulafono faapea foi le tagofia o fualaa faasaina.⁵²¹ Ae le gata i lea o leni tulafono e faaogaina lea e faatonutonu ma faaogaina e faatinoina ai ni faiga maumaututu ma ni auala e faamalosi ai le saogalemu o tagata lautele ma fesoasoani i le mataituina o Nuu ma Alalafaga.⁵²²

ii) Young offenders Act 2007

8.27. E pei ona taua e sui o le Faamasinoga, i le taimi o faatalatalanoaga, o le tulafono (Young Offenders Act 2007) o lo'o atagia mai ai galuega faalelei mo le ola toe fuatai o tupulaga talavou. I le taimi e to laulauina ai faasalaga, e tatau i le faamasinoga ona auilili ma fua le faasalaga agai i mataupu faavae:⁵²³

- (a) Le mafai lea ona ioeina e le Tupulaga Talavou o le sese sa ia faatinoina; ma
- (b) O le ola toefuatai lea o le tupulaga talavou ma ia iloiloina le talafeagai ma le tatau o le nofoaga o lo'o nofo ai; ma
- (c) O aafiaga o le tupulaga talavou i totonu o aiga, ekalesia, matai ma faiga nuu; ma

⁵²¹Community Justice Act 2008 (Samoa) Long title.

⁵²²Community Justice Act 2008 (Samoa) s 2.

⁵²³Young Offenders Act 2007 (Samoa) s 13.

- (d) O aafiaga o le tupulaga talavou i totonu o aiga, ekalesia, matai ma faiga nuu; ma puipuiga o faalapotopotoga; ma
- (e) taliaina o manatu faalia o i latou ua aafia, ma le toe faaleleia o tulaga ma amioga a e ua aafia e tusa ai ma tu ma aga faasamoa; ma
- (f) Tuuina atu lea o ni fuafuaga mo le toe fuataina o olaga o tupulaga talavou aua le faaleleia ma unaia i tiute ma matafaioi faatino i totonu o nuu, faatasi ai ma le unaina ma le faamalamalaina o tu ma aga faasamoa ina ia mafai ona toe Fuatai ai olaga o tupulaga talavou.

iii) Prisons and Corrections Act 2013

8.28. O lo’o taua foi i totonu o le tulafono (Prisons and Corrections Act 2013) ia le toefuataiga. O le auga ma le faamoemoe na faatuina ma faavaeina ai le Falepuipui a Samoa ina ia mafai ona tuuina atu le puleina, vaavaaia, tausiga faatasi ai ma le toefuatai lea o olaga o i latou ua taofia faaletulafono.⁵²⁴

8.29. I lalo o le vaega 50 o le Tulafono, o polokalame toefuatai e taula’i i le vave fa’amagaloina o pagota. O le fa’amoemoe nei polokalama e fesoasoani lea i le toe fuata’iina o olaga o pagota ma tu’uina atu ai avanoa e toe ulufale atu ai i le sosaiete e ala i le fa’atinoga o galuega a le nu’u, po’o le lesitalaina i se vasega mo a’oa’oga.⁵²⁵ E le gata i lea, e fuafua nei polokalame ma vaevaeina tatau pagota i nei polokalame e tusa ma a latou manoga ma tulaga.⁵²⁶

iv) Prisons Parole Board Act 1977

8.30. I le fesoasoani i le toe fuataiina o tagata solitulafono, e tatau i le ofisa o le parola ona mataitū tagata uma i lalo o lana vaavaaiga, ma ia fesoasoani i le fa’aleleia o agafesootai ma faaititia le toe solitulafono.⁵²⁷

v) Sentencing Act 2016

8.31. O se tasi o mafua’aga o se fa’asalaga e tuuina atu ina ia ō gatusa ma le Tulafono o le Faasalaga 2016, o le fesoasoani lea i lē molia i le toe fuataiga ma le toe ulufale atu i totonu o le sosaiete.⁵²⁸ Ona o lea, e tatau ona silasila le faamasinoga i le olaga o lē ua solitulafono, o lona aiga, nu’u ma le aganuu ae lei tuuina atu o se faasalaga pe tuuina atu i se polokalame toefuatai.⁵²⁹

vi) Mental Health Act 2007

8.32. E tusa ai ma le toe fuataiga o tagata gasegase e le atoatoa le mafaufau (ona o le faaogaina o fualaau faasaina), o le Tulafono o le Soifua Maloloina o le Mafaufau 2007 o loo maioio ai vaega mo le tausiga, fesoasoani, togafitiga ma le puipuia o tagata e le atoatoa le

⁵²⁴*Prisons and Corrections Act 2013* (Samoa) s 4(1) (c).

⁵²⁵*Prisons and Corrections Act 2013* (Samoa) s 50. See also *Prisons and Corrections Act 2013* (Samoa) s 47.

⁵²⁶*Prisons and Corrections Act 2013* (Samoa) s 39.

⁵²⁷*Prisons Parole Board Act 1977* (Samoa) s 18(2).

⁵²⁸*Sentencing Act 2016* (Samoa) s 5(1) (g).

⁵²⁹*Sentencing Act 2016* (Samoa) s 6 (1) (h).

mafaufau.⁵³⁰ O le mea lea, e faoogaina ai punaoa o loo avanoa e latou o loo nafa ma le togafitia o gasegase o le mafaufau ma ia manatu i sini ma mataupu faavae nei:⁵³¹

- (a) ia mautinoa e maua e tagata e lē atoatoa le malosi o le mafaufau le tausiga lelei, le fesoasoani, togafitiga ma le puipuiga peā manaomia;
- (b) ia lagolago le aiga atoa ma le nuu i le tausiga o se tagata e le atoatoa le mafaufau;
- (c) ia faamalosi le atinaeina o aoaoga mo i latou e nafa ma le tausiga, lagolago, togafitiga ma le puipuiga o tagata e le'ō atoa le malosi o le mafaufau.

O Feagaiga a Malo Tuuafaatasi e faasaga i Fualaa Faasaina

8.33. E tusa ai ma le Feagaiga Nofofua o Fualaa Faasaina 1961 (1961 Convention) ma le 1971 Feagaiga, e tatau ona talafeagai ma ō gatusa faasalaga ma le toe fuataiga. O solitulafono matuiā e tatau ona fa'asalaina i le nofosala i le falepuipui.⁵³² A'o solitulafono e pei o solitulafono e a'afia ma fualaa faasaina e tatau ona mafaufau i le toe fuataiga (togafitiga, a'oga, pe a mae'a le tausiga po'o le toe fa'aleleia o agafesootai), o se isi lea itu e mafai ona fa'aopoopo i le fa'asalaga.⁵³³ I totonu o le Feagaiga e faasaga i Taavale Fefaatauaiga ma le Feaveaiina Faanana o fualaa faasaina 1988 (Feagaiga 1988), ua vaaia ai le faoogaina o auala toefuataiga o se isi lea auala poo se faasalaga mo soligatulafono o le faoogaina e le tagata lava ia o fualaa faasaina po'o "mataupu/ soligatulafono laiti."⁵³⁴ O loo auai Samoa i le Feagaiga 1961⁵³⁵ ma le Feagaiga 1988.⁵³⁶ E iai le avanoa mo Samoa e auai ai I le Feagaiga 1971 ma taula'i i le toe faaleleia o auala mo le tali atu I soligatulafono laity e aafia ai fualaa faasaina.

O polokalame mo toefuataiga o ola ma Faalapotopotoga o loo faatinoina

8.34. Na faalia i faatalatalanoaga amatamata i le 2016 o loo i ai polokalame ma avanoa i totonu o Samoa o loo ofo ai le auaunaga mo le toefuataiga:

i) Samoa Prisons and Corrections Service

8.35. O lo'o faatonpona e le Matagaluega o Falepuipui polokalame aua le toefuataiga o tulafono e fua i luga o vaivaiga ma manoga o pagota. E aafia i nei polokalame vaega nei:

⁵³⁰*Mental Health Act 2007* (Samoa) Long title.

⁵³¹*Mental Health Act 2007* (Samoa) s 3.

⁵³²*United Nations Single Convention on Narcotic Drugs 1961 as amended by the 1972 Protocol*, opened for signature until 1 August 1961 (entered into force 8 August 1975) art 36 (1) (a); *United Nations Convention on Psychotropic Substances 1971*, opened for signature until 1 January 1972 (entered into force 16 August 1976) art 22(1) (a). See also Law Commission (NZ), *Controlling and Regulating Drugs*, Issues Paper No 16 (2010) 96.

⁵³³*United Nations Single Convention on Narcotic Drugs 1961 as amended by the 1972 Protocol*, opened for signature until 1 August 1961 (entered into force 8 August 1975) art 36 (1) (b); *United Nations Convention on Psychotropic Substances 1971*, opened for signature until 1 January 1972 (entered into force 16 August 1976) art 22(1) (b). See also Law Commission (NZ), *Controlling and Regulating Drugs*, Issues Paper No 16 (2010) 96.

⁵³⁴*United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988*, opened for signature on 19 December 1988 until February 1989 (entered into force 11 November 1990) art 3(4) (c)-(d). See also Law Commission (NZ), *Controlling and Regulating Drugs*, Issues Paper No 16 (2010) 96.

⁵³⁵Samoa became a party to the 1961 Convention by default. This is because the control system established under such Convention applies to all States whether a party or not to adhere to the rules stated therein.

⁵³⁶ Accession to the 1988 Convention took place in 2005.

Polokalame fa'apitoa

8.36. O nei polokalame e faasino tonu lea ia i latou ua solia le tulafono ona o mafuaga tau tupe. O nisi o ē ua solia le tulafono ua faafalepuipuiina ona o le faatauina o fualaa faasaina e lagolago ai aiga ma feola ai. O nei pagota, ua auai atu i polokalame faapitoa e aoaoina ai le mafaufau ina ia maua le tomai ma le agavaa e faatu ai ni a latou lava pisinisi po'o le faigaluega pe'ā magalo. E aofia ai le faiga o elei mo le paogta laiti ma pagota tamaitai, faifaatoaga mo pagota uma ma le vageina o meataulima ma meafale faapea ai ma le tapenaina o mea taumafa.

A'oa'oga

8.37. O nei polokalame e aoaoina ai pagota ina ia iloa faitau ma tusitusi aemaise mo i latou sa gata i Vasega 8 poo lalo atu. E iai foi mataupu faaleagaga mo pagota uma faapea ai ma aoga tau komipiuta ma mataupu tau tupe mo i latou e mananao ai.

Polokalame mo Amio Pulea

8.38. O nei polokalame e tulimata'i i le toe fuataiga o amio a pagota. Mo se fa'ata'ita'iga, e iai polokalame mo i latou e faaogaina pe faatauina fualaa faasaina e faatinoina e le Falemai, le Matagaluega o Soifua Maloloina faapea ma le Goshen Mental Health Trust (GMHT), ua iai foi polokalame mo i latou e maitaita gofie e le Matagaluega o Leoleo ma polokalame mo i latou e le atoatoa le malosi o le mafaufau ma le togafitiga e le Falemai, Matagaluega o Soifua Maloloina, Vaega o le Falemai o loo togafitia i latou e le atoatoa le malosi o le mafaufafu, Fa'ataua Ola ma le GMHT.

Luitau

8.39. Ua maitauina e le Komisi e ui lava o polokalame ua taua i luga o se itu lelei lea i le toe fuatagia o ola o pagota, o isi tagata solitulafono e ono manaomia ni togafitiga faapitoa ina ia toe fofō ai faafitauli e pei o le toe faaogaina/tagofia o fualaa faasaina ma faafitauli o le mafaufau. Ae ui i lea, ua faalia e le Matagaluega o Falepuipui i faatalatalanoaga amatamata o le luitai mo i latou o le leai o ni punaoa ma tagata e faatinoina nei polokalame faapitoa ina ia tulimata'i ai vaega faapitoa e pei o i latou ua avea ma vaisū le faaogaina o fualaa faasaina.

ii) Alcohol and Drugs Court

8.40. Ao lei faatuina le Faamasinoga mo Soligatulafono tau Fualaa Faasaina ma le Ava Malosi, sa tauaveina e isi Faamasinoga. Ae peitai, ua maitauina le leai o se suiga i le fuainumera o pagota latou te toe solia le tulafono, tusa poo leā faasalaga ma le faafalepuipuiina. E manaomia se vaifofo e faasino tonu i soligatulafono e aofia ai fualaa faasaina ma le ava malosi. O lea sa faatuina ai loa le Faamasinoga mo Soligatulafono tau Fualaa Faasaina ma le Ava Malosi ina ia faapea ai ona tuuina atu i latou ua faamaonia le solia o le tulafono e ala i le tagofia o fualaa faasaina ma le ava malosi i polokalame e toefuatai ai ae lei tuuina atu i le Faamasinoga mo le lauina o le faasalaga. E tusa ai ma alafua o loo faaogaina e Niu Sila, e tasi le Faamasino mai le Faamasinoga Maualuga, tasi le tagata tomai faapitoa mo ava malosi ma fualaa faasain, tasi le Taitai o Mataupu uma a le Faamasinoga, o alii/tamaitai malu o le Mālo, o loia, o sui o le Faamasinoga, o taitai o faufautua mai nuu ma le vaega o palola.⁵³⁷

⁵³⁷ Preliminary Consultation with Moana Mata'utia Solomon, Clinician of the Alcohol and Drugs Court (Samoa) (Level 1-Ministry of Justice and Courts Administration Building, Sogi, Samoa, 24 October 2016).

- 8.41. E le'ō tagata uma ua solia le tulafono e agavaa mo nisi o polokalame i lalo o le Famaasinoga o Ava Malosi ma Fualaa Faasaina. Na faalia i faatalatalanoaga amatamata e iai aiaiga e tatau ona faamalieina e i latou ua molia mo le auai atu i polokalame a le Faamasinoga. Mo se faataitaiga;
- O i latou e solia le tulafono e tatau ona latou fiafia e faaoga le fualaa faasaina ma le ava malosi ua alai ona soli le tulafono;
 - E tatau ona tautino le tagata ua ia solia le tulafono;
 - E tatau ona maualuga le avanoa e mafai ai ona tatalaina faavaitaimi ina ia auai atu i polokalame a le Faamasinoga;
 - E tatau ona aumau i nuu i le vā o Lauili ma Afega (e aofia ai ma tagata ua solia le tulafono i le tausaga 2017);
 - E tatau ona molia i se soligatulafono e oo atu lona sala i le 3 tausaga;
 - Ia aua nei iai ni moliaga muamua i le faiaiga faamalosi matagā poo le talepe fale;ma
 - Ia atoatoa le malosi o le mafaufau o lē ua molia ina ia mafai ona auai atu i le Faamasinoga;
- 8.42. Afai ua maea le polokalame, e tuuina atu e le ua iai le tomai faapitoa lana fautuaga i se faasalaga talafeagai e fua i luga o le gaoiga a le ua molia i taimi o polokalame. O nisi nei o polokalame o loo faatinoina e le Faamasinoga o Ava Malosi ma Fualaa Faasaina o loo latou faatautaia:

Polokalame o Ava Malosi ma Fualaa Faasaina

- 8.43. O i latou ua faamalieina aiaiga mo lenei Polokalame e matuai faasaina ona tagofia pe taumafaina fualaa faasaina poo se ava malosi. E mataitu e le Faamasinoga, sui o afioaga ma le afioaga atoa. E ono manaomia ona siitia le tagata i se isi nofoaga ina ia aua nei faosoosoina.

Polokalame Faufautua

- 8.44. O lenei Polokalame e aofia ai le mataituina o i latou e maitaita gofie faapea ai ma le faatalatalanoaga o le vā ma isi tagata aemaise mo i latou ua leaga vā ma o latou aiga ma e masani ona o le ava malosi ma fualaa faasaina.

Polokalame mo galuega i totonu o Nu'u

- 8.45. O nisi o i latou ua molia e manaomia ona faatino galuega mo nu'u ma afioaga ina ia aoaoina ai le mafaufau ma maua ai nisi tomai faapitoa ma aogā mo le nu'u ma le afioaga.

Luitau

- 8.46. E ui o nei galuega lelei ua faatinoina e le Faamasinoga o Ava Malosi ma Fualaa Faasaina, o loo tele pea ni faafitauli o loo alia'e mai, e pei ona faalia e le Faamasinoga i faatalatalanoaga amatamata i le 2016. O nei luitau e aofia ai;
- Leai ni tagata o loo iai le tomai faapitoa e mafai ona faatino le auaunaga ma fautua mo i latou e le atoatoa le malosi o le mafaufau poo i latou ua le mafai ona tu'ua le faaogaina o fualaa faasaina i totonu o Samoa. Ua faamauina e le Komisi le toatele o le au faufautua e tuuina atu le fesoasoani faaleagaga ae le patino pe faasaga tonu ia i latou ua le atoatoa le malosi o le mafaufau ma i latou ua lē mafai ona tuua le faaogaina o fualaa faasaina;

- Faafitauli faaleaganuu ona o nisi o tagata solitulafono o loo o lalo o Polokalame a le Faamasinoga e le iloa faatino nisi o galuega faigofies ma e le mafai ona ola tutoatasi ma tele ina faamoemoe i matua.
- Ua faafaigata ai galuega a le Faamasinoga i Polokalame Toefuataiga ae e manaomia ona toe aoao i latou nei i nisi o vaega sa tataua ona aoaoina ai ina ua matutua;
- Leai se faalauiloa o faafitauli o loo aliae mai i mataupu o ava malosi ma fualaau faasaing;
- Leai se galulue felagolagomai ma ua le fesoasoani e le gata o Matagaluega ma isi Matagaluega ao o Matagaluega ma le Faamasinoga.

iii) Samoa Returnees Charitable Trust

8.47. O le Faalapotopotoga o Samoa Returnees Charitable Trust latou te fesoasoani atu ia i tagatanuu o Samoa ua toe faafoi mai mai atunuu fafo ona o soligatulafono. Latou te tuuina atu le fesoasoani faapitoa mo i latou ua solia le tulafono i le faaoga o fualaau faasaina ma e galulue vavalalata le Faalapotopotoga ma le Faataua le Ola (o le fesoasoani mo i latou e ono mananao e pule i lo latou soifua). E tuu atu le resitalaina i le faitalia o le tagata, nao I latou ua resitala e maua le fesoasoani e ala i Polokalame e fesoasoani e toefuatai. Ina ia mautinoa le resitalaina uma o tagata toe faafoi mai, E tusa ai ma talanoaga amatamata, na faailoa mai ai o loo tagatagai le Faalapotopotoga ina ia faatulafonoina le resitala uma o tagata toe faafoi mai i se taimi o i luma. O lea tulaga ina ia mautinoa ai e le nao I latou o loo foi mai e maua le fesoasoani ae ia malu puipuaia ai foi nuu poo afioaga.

iv) Goshen Mental Health Trust (GMHT)

8.48. O le GMHT, o se isi lea Faalapotopotoga e fesoasoani malosi mo i latou o loo feagai ma faafitauli e afua mai I le ava malosi ma fualaau faasaina. E tele ina fesoasoani I le itupa o alii talavaou ua vavae ese mai I o latou aiga on a o le faafitauli e afua mai I le tagofia o le ava maloi ma fualaau faasani. I suesuega a le Komisi, ua atagia ai o le tele o mataupu e aafia ai tagata ua tagofia le ava malosi ma fualaau faasaina e tuuina atu lea I le GMHT sei vagana ai mataupu ua tuga tele. Sa faalia e le GMHT I taimi o faatalatalanoaaga amatamata latou te soalaupule le tele o mataupu ma faaoga la tatou aganuu *fa'a Samoa* e fofoi faafitauli. O le manulauti a le GMHT ina ia toe mafai ona toe faaofia atu le tagata u aafia I le faaogaina o fualaau faasaina poo le ava malosi I totonu o le sosaiete.

FINAGALO TUUINA MAI

Na sailia e le Komisi se finagalo o le mamalu lautele o le atunuu I ni auala e ono faaleleia ai le Faamasinoga o Ava Malosi ma Fualaau Faasaina ma oa foi ni auaunaga toefuatai e ao ona faatino e fesoasoani ai I le toefuataiga o ola o I latou ua aafia ma mafai ai ona toe ola I totonu o le sosaiete lautele.

Faaleleia o le auaunaga o le Faamasinoga o Ava Malosi ma Fualaau Faasaina

8.49. Na maitauina I finagalo na tuuina mai I le Komisi, talu ona faavae le Faamasinoga I le 2016, ua tele ni polokalame faalauiloa ua faatino e le Matagaluega o Faamasinoga ma le faafoeina o mataupu tau Faamasinoga faapea ai ma le Faamasinoga o Ava Malosi ma Fualaau Faasaina. Ae peitai, o loo tele pea se galuega e fia faia ina ia atinae atili ai le Faamasinoga ina ia faaleleia atili le auaunaga. O nisi o fautuaga sa tuuina mai o le:⁵³⁸

⁵³⁸Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Transnational Crimes Unit, Written Finagalo tuuina

- *Polokalame Faalauiloa*: Ia faia ni polokalame faalauiloa I totonu o nuu ma afioaga ina ia aoaoina ai le mamalu o le atunuu I matafaioi o le Faamasinoga. E avea foi lea ma auala e lagolago ai e nuu ma afioaga galuega a le Faamasinoga ma faaoga ai sui o le nuu e mataitu nisi o faafitauli aliae mai. E nofo silafia ai e le nuu ma tagata taitoatasi lo latou taua ma le sao I le toefuataiga o ola oi latou solitulafono.
- *Aoaoga*: Ia faia ni aoaoga mo alii ma tamaitai loa o loo nanau e galulue mo le Faamasinoga o Ava Malosi ma Fualaau Faasaina. E manaomia foi le lagolago a tagata o loo iai le tomai faapitoa o loo tuuina mai mataupu I le Faamasinoga. O loo iai le faamamafa I le aoaoina lea o tagata uma e aafia I nei mataupu ina ia mau ni faailoga aloaia. I le taimi nei, ua nao tagata mai fafo o loo faafaigaluegaina I lea vaega.⁵³⁹
- *Galulue faatasi ma Lagolagosua*: e manaomia le galulue faatasi o taata uma ma lagolago e le isi le tasi
- *Aufaigaluega*: anaomia tagata e lava le tomai ma le agavaa e fesoasoani I le galuega. Tatau ona lagolagoina le faaogaina o a tatou lava tagatanuu mo le faatinoina o galuega pe'a maea ona aoaoina I le mataupu.
- *Puna'oa*: manaomia ona iai ni faamaumauga maumaututu ina ia fesoasoani e faatino ai le galuega pea le lave puna'oa.

8.50. O nisi o finagalo tuuina mai o loo fautuaina ai le fautuina o se Faalapotopotoga tutoatasi mo le toefuataiga o ola o I latou ua solia le tulafono e alai le tagofia o fualaau faasaina ma mataupu tau fualaau faasaina ina ia o lua ma le Faamasinoga o Ava Malosi ma Fualaau Faasaina.⁵⁴⁰

Fesoasoani mo I latou e tagofia fualaau faasaina, ua le mafai ona tuu le tagofia o fualaau faasaina ma I latou ua toe faafoi mai mai atunuu o I fafo.

8.51. O nisi o Sui o le vasega o Faamasino ua fautuaina le saili sao o I latou e aoga ai le polokalame toefuatai mai ia I latou ua solia le tulafono. Sa faapea foi se finagalo ina ia faatauaaina e nuu ma alalafaga polokalame nei mo le toe fuataiga o tagata ua aafia I le tulafono ona o fualaau faasaina ina ia mautinoa e atoatoa ma aoga le polokalame.⁵⁴¹

O i latou ua le mafai ona taofi le faaogaina o fualaau faasaina;

8.52. Na maua mai I le Matagaluega o le Soifua Maloloina, o le auaunaga laveai mo I tagata ua le mafai ona taofia le faaogaina o fualaau faasaina, o se tasi lea o vaega o le latou auaunaga o loo manaomia le toe faaleleia ma e toaititi I latou e agavaa ma ua aoaoina I lenei matata. O polokalame o loo faagasolo I totou o Falepuipui e le nafatia manaoga o nei tagata. Afai ua finagalo loa le Malo ma le atunuu ina ia fo'ia faafitauli nei, ua tatau loa ona saili vaega tupe

mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁵³⁹ Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

⁵⁴⁰ Consultation with National Council of Churches (Level 6-John Williams Building, Tamaligi, 11 August 2017); Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁵⁴¹ Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

ina ia amata ai galuega e toe faaleleia lenei auaunaga e ala I le totogiina o tagata ua lava le tomai ma le agavaa.⁵⁴²

- 8.53. O nisi ua finagalo ina galue faatatau le atunuu e tusa ma punaoa ua mafai ona gafataulimina I le taimi nei. Mo se faataitaiga, na fautuaina e le vasega o Faamasino ina ia taumafai e faaoga mai ma galulue faatasi ma nuu ma afioaga mo fofo o nei faafitauli. O lenei faiga e le gata ina talafeagai ae e le tele se tupe e alu ai. O loo faatino lenei galuega e le Faamasinoga o Ava Malosi ma Fualaa Faasaina I le faaoga lea o sui o nuu ma afioaga I a latou polokalame toefuatai o loo faatino.⁵⁴³ E faapena foi ona galulue le Vaega o Gasegase o le Mafaufau ma aiga ma afioaga o I latou ua aafia. O se vaega tele lea o le *Mental Health Act 2007*. E tuuina atu le fesoasoan I aiga mo le togafitiina lea o sui o le aiga ua aafia. O nisi o tagata mamai e tausia lea e le Vaega o Gasegase o le Mafaufau pe'a fai ua le mafai e aiga ona latou tausii.⁵⁴⁴
- 8.54. O loo molimau le Vaega o Gasegase o le Mafaufau, o falepuipui I Samoa, ua resitalaina o faalapotopotoga e togafiti ai I latou ua le atoatoa le malosi o le mafaufau. E le iai ni nofoaga I totonu o Samoa e vavae ese ai pagota e le atoatoa le malosi o le mafaufau ma ua tuufatasi ma isi pagota ma o le galuega a fomai o le asiasi lea I le falepuipui ma faatino ai le latou galuega. Ua iai nei le paaga a le Vaega o Gasegase o le Mafaufau ma le GMHT I le fesoasoani lea I le galuega o le togafiti lea o tagata mamai (i.e. step-down service). O tagata mamai e tuuina atu I le GMHT o I latou ia e le tuga tele le gasegase e mafai ai ona taofia e le Vaega of Gasegase o le Mafaufau ae le lava foi le malosi e tuu atu ai e toe foi I aiga. E faalua ona asia e lenei Vaega le GMHT I le vaiaso mo o I latou e nafa mo le vaaiga o nei mai.

Tagata Solitulafono

- 8.55. Sa faamauina e le Vaega o Gasegase o le Mafaufau le leai o ni polokalame mo le soifua maloloina o tagata le Faamasinoga o Ava Malosi ma Fualaa Faasaina. Na laga e le Vaega lea tulaga ae lei faatuina le Faamasinoga ae peitai ua manatu le Matagalueg o Faamasinoga o le a latou faia ni polokalame e faasino I amioga pulea.
- 8.56. E le o iai foi se tasi o iai se tomai faapitoa mo I latou ua le mafai ona taofia le faaogaina o fualaa faasaina.⁵⁴⁵ O lenei faafitauli e mafua mai I le leai o ni fomai fapaitoa ma tagata o loo iai le tomai faapitoa I lenei ituaiga vaega o le galuega faafomai.⁵⁴⁶
- 8.57. E tatau I le Faamasinoga o Ava Malosi ma Fualaa Faasaina ona faaleleia a latou Polokalame Toefuatai ina ia togafiti sao le mafuaaga o le faafitauli ma e manaomia ai ni polokalame lelei tapenaina.⁵⁴⁷

⁵⁴²Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

⁵⁴³Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

⁵⁴⁴Consultation of the Mental Health Unit (Mental Health Unit Office, Moto'otua Hospital, 22 August 2017).

⁵⁴⁵Consultation of the Mental Health Unit (Mental Health Unit Office, Moto'otua Hospital, 22 August 2017).

⁵⁴⁶ Ministry of Health, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 4 September 2017.

⁵⁴⁷Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

Pagota

a) *O pagota ua faamaonia le soligatulafono ona o le faaogaina/tagofia o fualaau faasaina o loo tuli faasalaga*

- 8.58. E fesoasoani le Matagaluega o Falepuipui I pagota o loo tuli faasalaga I le toese e ala lea I le faia o polokalme toefuatai. O nei polokalme e lautele mataupu e talanoaina ai ma e talanoaina ai fualaau faasaina, o le tulafono ma faasalaga ma ona aafiaga. O le manulauti a le Matagaluega o Falepuipui ina ia faatino pea nei polokalame mo pagota ina ia faaoga tatau ai le taimi. O le faamoemoe ia maea le polokalame ua maua se mea aoga ma ia avea ma auala e le toe solia ai le tulafono sa faapea ona faasalaina ai. E tolu ni polokalame o loo faatinoina, Polokalame mo Amioga Pulea, polokalame o aoaoga ia ma polokalame e aoaoina ai matata eseese. O loo tagatagai pe le Matagaluega o Falepuipui o le faaogaina lea o le *Community Justice Act 2008* e fesaosaoni I le toefuataiga o pagota. E ui ina leai ni polokalame faafomai ina ia fesoasoani lea I pagota ua le mafai ona tuua le tagofia o fuaaau faasaina ae o loo taumafai pea ma lototele le Matagaluega o le a mafai se polokalame faapea mo I latou I se taimi o I luma.
- 8.59. O loo iai nisi finagalo e ao pea ona faatino polokalame e agai tonu I faafitauli e afua mai I ava malosi ma fualaau faasaina ma e sili lea mo pagota.⁵⁴⁸ Sa faalia foi o aiaiga a atunuu I fafo, e manaomia ona faia nei polokalame mo pagota.⁵⁴⁹ O nisi polokalame e tatau ona tapena faapitoa lea ina ia aoaoina le amioga o le tagata ma e ese le taua tele. O nei polokalame e tatau ona faatino ina ia suia ai lagona ma finagalo o tagata ae e aoga foi e foia ai le toe tagofia e nei tagata o le ava malosi poo fulaau faasaina.⁵⁵⁰
- 8.60. E tusa ai ma le molimau a le Matagaluega o Faamasinoga, o polokalme o loo faatino e le Matagaluega o Falepuipui e manaomia ona faaleleia ma e manaomia ona aloaia. E tatau e le Matagaluega o Falepuipui ona faafesootai le Tusi Pasi Taualoa o Samoa ina ia auiliili polokalame o loo faatino ae aua le taliaina o soo se tasi ina ia nao le faataunuu ai le polokalame toefuatai. O Polokalame uma e tatau on tapena lelei ina ia mautinoa e aoga ma talafeagai. O loo talosagaina e le Matagaluega o Faamasinoga le Matagaluega o Falepuipui ina ia faaoga atu e pagota a latou Polokalame ae ua faafaigata lenei tulaga o pa puipui o le galuega a le Matagaluega o Falepuipui. O le mafuaaga lea ua nao I latou e ui mai I le Faamasinoga o Ava Malosi ma Fualaau Faasaina e auai I polokalame a le Matagaluega o Faamasinoga. E tatau ona galulue faatasi le Matagaluega o Falepuipui ma le Matagaluega o Faamasinoga ma felagolagomai le isi Matagaluega I le galuega a le isi Matagaluega.⁵⁵¹ Na fautuaina foi e le Matagaluega o Faamasinoga le Matagaluega o Falepuipui ina ia tofia se tagata o loo iai le agavaa e faatino Polokalame nei. Ua maitauina o le tele o pagota ua faafalepuipuiina ona o le ava malosi ma le fualaau faasaina e le o auai I Polokalme ua patino mo I latou.

⁵⁴⁸Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁵⁴⁹ Consultation with the Ministry of Justice and Courts Administration (Ministry of Justice and Courts Administration Building, Sogi, 15 August 2017).

⁵⁵⁰ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

⁵⁵¹ Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

e) *O pagota ua faamaonia le soligatulafono ona o le faaogaina/tagofia o fualaau faasaina u magalo*

- 8.61. O le tele o finagalo tuuina mai e faatatau lea ia I latou ua uma ona tuli a latou faasalaga, ina, e manaomia le fesoasoani ina ia toe mafai ona talia e le sosaiete ma avea ma tagatanuu lelei.⁵⁵²
- 8.62. E toatasi se finagalo na faalia e tatau ona loto fefaamagaloai tagata uma ma talia pagota ua maea ona tuli a latou faasalaga. E patino lea mataupu mo le aiga o le pagota ma ia mataitu lelei e le aiga ina ia aua nei toe foi le pagota ua magalo I ona uiga tuai/masani ai. O le tele o taimi e pau ai le ulu o le laau ma le mamafa o lenei galuega I le aiga o le pagota (immediate family. E iai taimi e feagai ai le aiga ma faaiuga faigata pe ripoti le pagota I leoleo pea toe soli le tulafono pe leai. E manaomia le galulue faatasi o tagata uma.⁵⁵³
- 8.63. O se tasi o finagalo faalia sa fautuaina le toe faafoi o le pagota I lona nuu moni, le nuu sa fanau ma ola mai ai ae faatino le galuega a alii ma faipule e mataitu lelei.⁵⁵⁴

O tagata Samoa ua toe faafoi mai mai atunuu mamao ona o soligatulafono

- 8.64. Ia galulue vava lalata le SRCT ma le Faamasinoga o Ava Malosi ma Fualaau Faasaina faatasi ai ma le Matagaluega o Faamasinoga ina ia galulue felagolagomai e faatino polokalame toefuatai, faataitaiga o soalaupulega. E leai ni polokalame ua mautinoa e manuia atoatoa. E tele polokalame e faatino e le SRCT. O se tasi o nei polokalame ua faaigoaina o le “e fuata’i ai le olaga”. O le manulauti o lenei polokalame ina ia aoaoina mafaufau o I latou ia ua solia le tulafono ma ia avea o tagata aoga mo le lautele o le atunuu. E talanoaina I lenei polokalame faigafilifiliga lelei, o le afaina o le tagofia o fualaau faasaina ma le ava malosi ma le faaamalosai ai, o lau filifiliga e te lelei ai pe leaga ai foi.⁵⁵⁵ O le toatele o I latou ia e toe faafoi mai o le itupa o alii ma ei le va o le 17 I le 50 tausaga le matua.
- 8.65. O se isi faafitauli o loo feagai ai le SRCT o leai lea o se nofoaga talafeagai e faatino ai a latou polokalame. A le seanoa foi ma le fesoasoani a Niu Sila, Ausetalia ma Amerika e le mafai ona faafaigaluega le toatele o le afaigaluega. O nisi o I latou ua toe faafoi mai atunuu I fafo e fesoasoani foi I Polokalame a le SRCT. E nao le toafa I latou o loo galulue nei I le SRCT. O loo faamoemoe le SRCT e toe faafaigaluega nisi tagata ma toe faalauaiteleina le tomai ma le afaigaluega o loo iai I le taimi nei. O loo iai foi taumafaiga ina ia soalaupule ma

⁵⁵² Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967), 30 October 2017; Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017); Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967), 24 September 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967), 5 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, Drugs Reform (Review of the Tulafono o Nakoti 1967), 31 October 2017.

⁵⁵³ Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁵⁵⁴ Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

⁵⁵⁵ The use or abuse of alcohol and drugs makes them vulnerable to carrying out violent behaviours e.g. fighting, physical, sexual, psychological abuse as well as impacts on their health.

fatalatalanoaina pea tagata ua maea ona latou faatinoina le polokalame. E faaosofia ai foi le naunau I galuega a le SRCT.⁵⁵⁶

- 8.66. E faapea foi luitau o loo feagai ma le Matagluega o Soifua Maloloina aemaise le toe faafoi mai o I latou ua solia le tulafono I atunuu I fafo. Faataitaiga, o nisi o tagata toe faafoi mai e manaomia togafitiga faapitoa e le maua I Samoa.⁵⁵⁷
- 8.67. O le fautuaga a le Matagluega a le Palemia ma le Kapeneta, o loo iai faiga faavae ma taiala mo I latou e toe faafoi mai mai atunuu I fafo. Ae e le taofia ai le faaogaina o le aia tatu a nei tagata e pule ai pe auai I nei polokalame ona ua maea ona tuli a latou faasalaga I atunuu I fafo. O le mafuaaga lea ua nao le pau se galuega e mafai ona faatino e le Immigration o le mataitu o nei tagata. O le resitalaina o tagata toe faafoi mai e I lalo lea o le TCU.⁵⁵⁸

Tupulaga Talavou

- 8.68. E manaomia foi ona tapena faapitoa polokalame toefuatai mo le tupulaga talavou ma o latou foi manaoga.⁵⁵⁹

MANATU O LE KOMISI

- 8.69. E faapea se manatu o le Komisi, o Polokalame o Amioga Pulea ma isi polokalame ua faatinoina o se laasaga muamua lea mo le toefuataiina o tagata solitulafono ae peitai, e manaomia on iai ma polokalame faalesoifua maloloina aemaise mo I latou ua soli le tulafono ona o le tagofia o fualaau faasaina ma I latou ua aafia le mafaufau. E manaomia se faiga ina ia taofai uma ai manaoga a vaega taitoatasi i.e. tagata ua le mafai ona taofia le faaogaina o fualaau faasaina, tagata solitulafono, o pagota, o tagata ua toe faafoi mai atunni I fafo ona o le soli o le tulafono ma ia mautinoa ai le manuia o nei tagata ma le polokalame faatino. Afai e mananao le Malo ma Alii ma Faipule ina ia faaititia faafitauli e aliae mai ona o fualaau faasaina, e tataua ona faamuamua le atinaeina o auauanaga ma polokalame e toefuatai ai I latou ua aafia ma ua afaina ona o fualaau faasaina.
- 8.70. Ua faamauina le le lava o le tamaoaiga, punaoa ma le tomai ma le agavaa o a tatou tagatanuu e faatino ai nei polokalame. Ua le lava nofoaga talafeagai, o le afaigaluega agavaa ia ma le seleni maua avea nei pa pupuni ma mea ua le mafai ai ona faataunuu polokalame nei mo le toefuataiga o tagata aafia. Ae ua fautua mai le vasega o Faamasino I le aoga tele o le galulue faatasi ma nuu ma afioaga ma o se auala pito sili foi lea ona talafeagai ma taugofie.
- 8.71. Ua faamauina e le Komisi aoao a le Matagaluega o Soifua Maloloina e faasaga lea I le faalauaitelina lea o le tomai o sui auai mai Matagaluega eseese ina ia mautinoa aafiaga

⁵⁵⁶ Consultation with Samoa Returnees Charitable Trust (Samoa Returnees Charitable Trust Headquarters, Vailima) 31 August 2017.

⁵⁵⁷ Consultation with the Ministry of Health (Ministry of Health Main Office, Moto'otua Hospital, 17 August 2017).

⁵⁵⁸ Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁵⁵⁹ Consultation with members of the Judiciary (Judges Chambers-Ministry of Justice and Courts Administration Building, Sogi, 13 September 2017).

eseese o le faaogaina o fualaa faasaina ma amio faalia a I latou o loo tagofia.⁵⁶⁰ O se faiga lelei lea aemaise mo I latou ua avea ma vaisu le tagofia/ faaogaina o fualaa faasaina.⁵⁶¹

- 8.72. O nisi tulafono a Samoa o loo iai vaega e faamalosia ai le faaogaina o nuu ma afioaga e avea ma vaifofo ma e aofia ai le *Mental Health Act 2007*, le *Community Justice Act 2008* ma le *Young Offenders Act 2007*. O nei tulafono e manaomia ona faamalosia aemaise I taimi e tuuina atu ai faasalaga ia I latou ua solia le tulafono. O se auala pito sili lea ona talafeagai ma faasaoina ai tupe, o punona ma tupe a le atunuu. Ae e manaomia lava le galulue faatasi o Matagaluega ma nuu ma afioaga ina ia tuuina atu sao le pagota I le polokalame e fetai mo le toefuatiga o lona olaga. I le ma lea, e tatau ona galulue faatasi Matagaluega ma feaasoai tatau ia tupe ma punaoa o loo avanoa ina ia atinaeina ni polokalame talafeagai. E manaomia polokalame faalauiloa mo nuu ma afioaga ina ia nofo malamalama alii ma faipule I matafaioi o le Faamasinoga o Ava Malosi ma Fualaa Faasaina ma le latou galuega fesoasoani mo le au solitulafono o fualaa faasaina e ala I le mataitu. E manaomia ona galulue faatasi Matagaluega o loo faauluulu ai lenei galuega ma aslli ma faipule e tapena lelei polokalame o le toefuataiga.

FAUTUAGA 64: O tulafono e aofia ai le *Mental Health Act 2007*, le *Community Justice Act 2008* ma le *Young Offenders Act 2007*. O nei tulafono e manaomia ona faamalosia aemaise I taimie e tuuina atu ai faasalaga ia I latou ua solia le tulafono. O se auala pito sili lea ona talafeagai ma faasaoina ai tupe, o punona ma tupe a le atunuu.

FAUTUAGA 65: E manaomia lava le galulue faatasi o Matagaluega ma nuu ma afioaga ina ia tuuina atu sao le pagota I le polokalame e fetai mo le toefuatiga o lona olaga. I le ma lea, e tatau ona galulue faatasi Matagaluega ma feaasoai tatau ia tupe ma punaoa o loo avanoa ina ia atinaeina ni polokalame talafeagai.

FAUTUAGA 66: E manaomia polokalame faalauiloa mo nuu ma afioaga ina ia nofo malamalama alii ma faipule I matafaioi o le Faamasinoga o Ava Malosi ma Fualaa Faasaina ma le latou galuega fesoasoani mo le au solitulafono o fualaa faasaina e ala I le mataitu.

9. VAEGA 8: MATAFAIOI O NUU MA AFIOAGA

- 9.1. O le faaogaina faaletatau o fualaa faasaina o se mataupu e manaoma ai le galulue faatasi o vaega uma o le Malo, o Faalapotopotoga tumaoti ma nuu ma afioaga. O lenei feau taua sa faamautuina I le faamasinoga I le va o Leoleo ma Viliamu [2014] 153 WSSC (*Police v Williams [2014] 153 WSSC*) ma sa faamauina ai e le faamasinoga le taua o le galuega e faatino e le nuu I le foia lea o faafitauli aliae mai. E faapea foi finagalo o nisi o Matagaluega ma Faalapotopotoga sa faatalatalanoaina e le Komisi.
- 9.2. Ua iai faamaumauga ua iloa ai e laititi atu aafiaga o Samoa nai lo Fiti ma Toga I soligatulafono e aliae mai ona a fualaa faasaina. O se tasi o mafuaga ona o le tumau o

⁵⁶⁰IoanaTupa'i, "Drugs training forges united effort", Samoa Observer (online ed.), <http://www.samoobserver.ws/en/17_11_2017/local/26775/Drugs-training-forges-united-effort.htm>. Accessed 12 December 2017.

⁵⁶¹The number of cases handled by the ADC has increased to 400, and about 100 drug addict cases that have been dealt with in Court have been transferred to rehabilitation programmes.

Samoa I lana aganuu ma le aga i fanua e fesoasoani lea e fofu faafitauli.⁵⁶² Ae o nisi o Matagaluega ma Faalapotopotoga ua maea ona faatalatalanoaina, e eseese foi a latou mau. O nisi ua manatu ua faatuputupulai faafitauli aliae mai ona o fualaau faasaina e tusa lava pe malosi le aganuu ma le pulega a alii ma faipule. Ua maitauina le toatele o taulelea ua tagofia le mariuana ma ua iai se vaega o le sosaiete ua faaogaina le aisa (methamphetamine).⁵⁶³

a) *Fono a alii ma faipule*

- 9.3. E ui ina leai ni vaega o le Tulafono o Nakoti e faasaga sao tonu i matafaioi ole sosaiete, ae e tele tulafono a le Palemene o loo faamauiina ai. Faataitaiga o le *Internal Affairs Act 1995* o loo ia le vaega mo Komiti Faapitoa⁵⁶⁴ e nafa ma le va ma alii ma faipule o nuu ina ia faaaau le galulue faatasi ma le felagolagomai e tineia le tagofia o fualaau faasaina I totonu o nuu ma afioaga.⁵⁶⁵ E fesoasoani tele lenei vaega o le tulafono i le Malo faapea faalapotopotoga eseese ina ia maua ai se fofu o le faafitauli o fualaau faasaina.
- 9.4. O le *Internal Affairs Act 1995* o loo iai galuega e tataua ona faatinoina e Sui o Nu'u ina ia faatupu ai le filemu i totonu o nuu,⁵⁶⁶ ma faamamaluina le tulafono I totonu o afioaga.⁵⁶⁷ O le *Village Fono Amendment Act 2017*,⁵⁶⁸ o loo faamaioio ai galuega ma le pulega a alii ma fono aemaise le faia lea o tulafono laiti e atinae ai le nuu ma ia faatumauiina le filemu I totonu o nuu.

e) *Matua*

- 9.5. E ese le taua o le galuega e faatino e matua, ekalesia ma aoga i le faaititia lea o le faafitauli e aliae mai I le tagofia o fualaau faasaina. O i latou nei e fesoasoani tele e fofu lenei faafitauli o fualaau faasaina i totonu o nuu ma afioaga.
- 9.6. Ua faaliea e nisi o finagalo i taimi o faatalatalanoaga faalauaitele, o matua o i latou ia o faiaoga muamua e aoaoina le fanau ma faailoa iai le leaga ma le afaina e aliae mai i le tagofia o fualaau faasaina. Ua faalia e nisi ua iai le tomai faapitoa le tele o le fesoasoani ma le aoga tele o galuega a matua e faatino i totonu o aiga tusa pe nao le faaavanoaina o se taimi e talatalanoa ai ma a latou fanau e uiga i fualaau faasaina ma ona aafiaga pea tagofia.⁵⁶⁹ Ua faamausali lenei mau e nisi o suesuega saa faatinoina sa aliae mai ai le le

⁵⁶²Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017.

⁵⁶³ Preliminary Consultation with Mental Health Unit (Samoa) (Moto'otua, Samoa, 27 May 2016); Preliminary Consultation with the Ministry of Health (Samoa) (Level 2-Ministry of Health Complex, Moto'otua, Samoa, 12 May 2016). See also media reports: Deidre Atutua, 'Marijuana charges continue to increase' (3 April 2017) Samoa Observer(http://www.samoobserver.ws/en/03_04_2017/local/18604/Marijuana-charges-continue-to-increase.htm); Deidre Fanene, 'Three Savaii Males charged with Possession of Marijuana' (20 March 2017) Samoa Observer(http://www.samoobserver.ws/en/20_03_2017/local/18121/Three-Savaii-males-charged-with-possession-of-marijuana.htm)

⁵⁶⁴ See section 10 of the *Internal Affairs Act 1995* (Samoa) regarding the composition of Executive Committees.

⁵⁶⁵ *Internal Affairs Act 1995* (Samoa) s 11(c).

⁵⁶⁶ *Internal Affairs Act 1995* (Samoa) s 15(1) (a).

⁵⁶⁷ *Internal Affairs Act 1995* (Samoa) s 15 (1) (b).

⁵⁶⁸ *Village Fono Amendment Act 2017* (Samoa) s 5(c).

⁵⁶⁹ University of Utah, *Parents' Role Important in Preventing Drug Abuse* (<http://healthcare.utah.edu/healthlibrary/related/doc.php?type=20&id=405>).

tagofia e tamaiti poo tupulaga talavou o fualaa faasaina ona o le faataitaiga lelei ma aoaiga a matua.⁵⁷⁰ E manaomia le mafana o le mafutaga a matua ma a latou fanau ina ia tineia ai le tagofia o fualaa faasaina aemaise pea aoai le fanau ao laiti.

i) Ekalesia

9.7. E taua tele le galuega a ekalesia i le aoaoina ma le faalauiloina o aafiaga o le tagofia o fualaa faasaina. E afua mai lea ona o le toatele o tagata e auai atu I le aoga Aso Sa, o autalavou, mafutaga tina ma tama ia ma le aufaipese.

o) O le Malo ma Faalapotopotoga Tumaoti

9.8. O loo iai se polokalme faalauiloa a le Matagaluega a Leoleo o loo faatino e taamilo ai nuu ma afioaga e aoaoina nuu ma afioaga e le gata I lea o aoga I aafiaga o le ava malosi ma ua faaopopo ai nei ma fualaa faasaina.⁵⁷¹ E le gata I lea, e iai le polokalame a le SRCT e faatino mo aoga ma tua I nuu e faasoa atu ai I latou ua toe faafoi mai mai atunuu I fafo io latou olaga ma aafiaga o fualaa faasaina ia I latou.⁵⁷²

9.9. O loo faatino foi e le Matagaluega o Soifua Maloloina polokalame faalauiloa mo aafiaga o le ulaula ma le ava malosi ae leo le fualaa faasaina.⁵⁷³ E faapena foi le Vaega o Gasegase o le Mafaufau, o loo latou faia aoaoga ma polokalame faalauiloa ma Faalapotopotoga Tumaoti e uiga I aafiaga o le faaogaina o fualaa faasaina I le mafaufau o le tagata.⁵⁷⁴

9.10. NGOs including Faataua le Ola and GMHT also conduct awareness and carrying out counselling services for offenders and addicts. O Faalapotopotoga tumaoti e aofia ai le Faataua le Ola ma le GMHT, latou te faatinoina se auaunaga faufautua mo pagota ma I latou ua le mafai ona tuu le faaogaina o fualaa faasaina.

9.11. E ui I taumafaiga a Matagaluega ma Faalapotopotoga e faatino le latou matafaioi, e manaomia lava le galulue uma faatasi e faatino polokalame faalauiloa I aafiaga o fualaa faasaina. E manomia e le Malo, nuu ma afioaga ona galulue soosoo tauau.

Faatusatusaga ma isi atunuu

Ausetalia

9.12. Ua tele le fesoasoani a le Malo o Ausetalia i le faatinoina lea o polokalame faalauiloa ina ia faaititia ai aafiaga o fualaa faasaina. Mo se faataitaiga;

- National Drug Strategy 2016-2025⁵⁷⁵;

⁵⁷⁰ National Crime Prevention Council, *How Parents Can Prevent Drug Abuse*

<<http://www.ncpc.org/topics/drug-abuse/alcohol-tobacco-and-other-drugs>>.

⁵⁷¹ Consultation with the Ministry of Police (Ministry of Police Main Office, Apia, 28 August 2017).

⁵⁷² Lagi Keresoma, 'Samoa returnees Trust help rehabilitate young offenders' (14 January 2015)

Talamua <<http://www.talamua.com/samoa-returnees-trust-help-rehabilitate-young-offenders/>>.

⁵⁷³ Preliminary Consultation with the Ministry of Health (Level 2-Ministry of Health Complex, Moto'otua, Samoa, 12 May 2016).

⁵⁷⁴ Preliminary Consultation with Mental Health Unit (Moto'otua, Samoa, 27 May 2016).

⁵⁷⁵ Intergovernmental Committee on Drugs, Council of Australian Governments, *National Drugs Strategy 2016-2025* (draft, October 2015).

- National Ice Action Strategy 2015⁵⁷⁶;
- National Aboriginal Torres Strait Islander Peoples' Drug Strategy 2014-2019⁵⁷⁷; and
- National Alcohol and other Drug Workforce Development Strategy 2015-2018.⁵⁷⁸

9.13. O le tele o nei polokalame faalauiloa e afua mai le National Drug Strategy, lea sa faavaeina I le 1985 ma faia ai le National Campaign Against Drug Abuse. O le tele o nei taiala e tali tutusa uma manulauti o le faia lea o polokalame faalauiloa mo le atunuu atoa ina ia faaititia aafiaga i le tagofia o le ava malosi, sikaleti ma fualaa faasaina.

FINAGALO TUUINA MAI

Na tapa e le Komisi finagalo o le mamalu o le atunuu i ni auala e faaleleia ai polokalme faalauiloa e uiga I fualaa faasaina. E le gata I lea ae pe faafefea ona faaleleia le auunaga a le Malo ma afioaga ina ia nofo silafia tagata uma.

Polokalame faalauiloa e faatino e le nuu lava ia

9.14. O le toatele o finagalo sa faalia na laga ai le taua o le faia lava e nuu ma afioaga o polokalame faalauiloa ina ia aoga ma aofia ai tagata uma o le nuu.⁵⁷⁹ Ae e manaomia lava le fesoasoani o Matagaluega. O nisi finagalo faalia sa taua e tatau lava e le Malo ona taulamua i le tapenaina o polokalame faalauiloa I totonu o nuu ma afioaga.⁵⁸⁰ Sa finagalo nisi e tatau lava ona logo le nuu ma faailoa iai le vaega ua oo iai polokalame faalauiloa ma tapa so latou finagalo pe faafefea ona faatino nei faalauiloa i totonu o nuu ma afioaga. E nofo malamalama ai foi le Malo i galuega o loo faamuamua e le nuu.⁵⁸¹ O nis finagalo na tuuina mai sa faapea e aoga le tuu atu I le nuu latou te faatinoina ona e mamalu ma latou faia faalelei ai le polokalame ma mautinoa ai le toatele o tagata e auai ma fiafia iai.⁵⁸² O le

⁵⁷⁶Commonwealth of Australia, Department of the Prime Minister and Cabinet, *National Ice Action Strategy 2015* (2015).

⁵⁷⁷Intergovernmental Committee on Drugs, Council of Australian Governments, *National Aboriginal Torres Strait Islander Peoples' Drug Strategy 2014-2019* (2014).

⁵⁷⁸ Intergovernmental Committee on Drugs, Council of Australian Governments, *National Alcohol and Other Drug Workforce Development Strategy 2015-2018* (2014).

⁵⁷⁹ Ministry of Police, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 30 October 2017; Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Consultation with National Council of Churches (John Williams Building, Tamaligi, 11 August 2017); Ministry for Revenue, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 18 August 2017; Consultation with Samoa Returnees Charitable Trust (Samoa Returnees Charitable Trust Headquarters, Vailima) 31 August 2017.

⁵⁸⁰ Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017; Ministry of Justice and Courts Administration, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 24 September 2017.

⁵⁸¹Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

⁵⁸²Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Cancer Society, Written Finagalo

a faatauina foi e le nuu ona o I latou o loo faatinoina le polokalame faalauiloa e puipui ai le nuu ma le afioaga.⁵⁸³

- 9.15. E iai le Faalapotopotoga sa fautuaina le faatauina e nuu ma afioaga o faafitauli e tutupu ona o le tagofia o fualaau faasaina e pei ona faatauina o le atinaeina o auala ma auala galue faapea ai ma le vai ma le eletise. A lelei ona latou faatinoina, o le faigofie foi lea ona tuuina atu e le Malo se fesoasoani tau tupe aua le faatinoina o nei polokalame.⁵⁸⁴

Saili fofo mo le faafitauli o fualaau faasaina i Samoa: Matafaioi o Vaega o loo taulamua

- 9.16. O le toatele o finagalo sa tuuina mai o loo faalia e manaomia le galulue o vaega uma e amata mai I le Fono a alii ma faipule, o ekalesia, o aoga, o aiga taitasi e fofo faafitauli e aliae mai ona o le tagofia o fualaau faasaina. O nisi nei o matafaioi sa faalia e le mamalu o le atunuu;

Matafaioi o le Fono a alii ma faipule

- 9.17. E talitutusa manatu o tagata i le tataua lea ona taulamua le saofaiga a alii ma faipule e saili fofo o aafiaga o fualaau faasaina.⁵⁸⁵ E aofia ai le faamalosi o le Tulafono ma faia tulafono a le nuu e fofo ai lenei faafitauli.⁵⁸⁶ O se isi matafaioi taua a alii ma faipule o le galulue soosoo tauau lea ma le Matagaluega o Leoleo faapea isi Matagaluega ama Faalapotopotoga ina ia faaititia fualaau faasaina mai nuu. Faataitaiga o osofaiga a leoleo i se fale poo se tagata ua mautinoa o loo maua ai fualaau faasaina.⁵⁸⁷ Sa fautuaina foi le tuuina atu o le malosiaga I le Fono a alii ma faipule latou te faasalaina ai se tagata ua faamaonia ua tagofia fualaau faasaina.⁵⁸⁸

- 9.18. O nisi Faalapotopotoga ua latou taua le aoga tele o le faaogaina o le Fono a alii ma faipule e mataitu soligatulafono e faasaga i fualaau faasaina ae faapea foi I latou ua uma on tuli faasalaga ma ua toe nofo I totonu o le nuu.⁵⁸⁹ E tataua e le Fono a alii ma faipule ona lipotia

tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

⁵⁸³Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017; Samoa Cancer Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 22 September 2017.

⁵⁸⁴ Consultation with Samoa Returnees Charitable Trust (Samoa Returnees Charitable Trust Headquarters, Vailima, 31 August 2017).

⁵⁸⁵ Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017).

⁵⁸⁶ Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017).

⁵⁸⁷ Public Consultations with Alii ma Faipule (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii, 25-26 and 28-29 September 2017); Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5 September 2017); Consultation with Samoa Prisons and Corrections Services (Samoa Prisons and Correction Service Main Office, Tafaigata, 11 August 2017).

⁵⁸⁸ Public Consultations with Alii ma Faipule Tina ma Tamaitai (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii 25-26, 28-29 September 2017).

⁵⁸⁹ Public Consultations with Alii ma Faipule (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii 25-26, 28-29 September 2017).

tagata o loo masalaomia ua tagofia fualaau faasaina i le Matagaluega o Leoleo.⁵⁹⁰ E mautinoa ai le malu puipuia o le afioaga.⁵⁹¹

- 9.19. O nisi matafaioi e aofia ai le fesoasoani faalapotopotoga e faalauiloa aafiaga o fualaau faasaina, o le tulafono ma faasalaga o I latou e solia le tulafono.⁵⁹²
- 9.20. Na faalia I manatu o tupulaga talavou le taua o le galuega a le Fono a alii ma faipule I le faaititia o soligatulafono e faasino I fualaau faasaina I totonu o afioaga. E tatau ona mataala alii ma faipule I le mataituina o soligatulafono I totonu o nuu. E tatau ona taulamua alii ma faipule i le fesoasoani atu lea I le tupulaga talavou ma aiga o le nuu e ala I le sailia o galuega au o le le maua o ni galuega o se tasi lea o mafuaaga e tagofia ai le fualaau faasaina e tupe vave. Na fautuaina e talosaga le fono a alii ma faipule I le malo ma nisi o faalapotopotoga mai fafo mo ni tupe e fesoasoani e amata ai ni poloketi e maua ai tupe e pei o se maumaga poo se toga fugalaau aina.

Matafaioi o Ekalesia

- 9.21. E tele ni finagalo na faalia e tatau ona tele se sao o Ekalesia i le fofoina o le faaaitia o le tagofia o le fualaau faasaina I totonu o Samoa e ala lea I le faatinoina o polokalame faalauiloa e tusa ma aafiaga o fualaau malosi e faaoga ai faatasiga o aoga Aso Sa, o mafutaga a le aulotu, o le autalavou ma mafutaga a autalavou.⁵⁹³ O nisi tagata ua fautuaina e faaoga e faifeau a latou lauga I Aso Sa e aoai le tupulaga talavou I aafiaga leaga o fualaau faasaina.⁵⁹⁴
- 9.22. Na laga e Fono of Lotu Tuufatasi sa latou faia se polokalame faalauiloa sa faationina I lalo o le faamalumaluga o le Matagluega o Tina ma Tamaitai Atinae o Nu'u ma Afioaga ma Agafesootai mo le faaititia lea o sauaga I totonu o le aiga. E mafai foi ona latou faia se polokalame faapitoa faapea mo fualaau faasaina.

Matafaioi o Aiga

- 9.23. Sa faalia I le tele o finagalo tuuina mai I le Komisi e tatau I aiga aemaise o matua ona aoai a latou fanau ma faamatala iai aafiaga o le tagofia o fualaau faasaina.⁵⁹⁵ E tatau ona avea

⁵⁹⁰Public Consultations with Alii ma Faipule Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii 25-26, 28-29 September 2017).

⁵⁹¹Public Consultations with Alii ma Faipule Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii 25-26, 28-29 September 2017).

⁵⁹²Public Consultations with Alii ma Faipule Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii 25-26, 28-29 September 2017).

⁵⁹³Public Consultations with Alii ma Faipule Tina ma Tamaitai (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii 25-26, 28-29 September 2017); Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁵⁹⁴Consultation with National Council of Churches (John Williams Building, Tamaligi, 11 August 2017); Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁵⁹⁵Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii, 25-26 and 28-29 September 2017); Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Consultation with National Council of Churches (John Williams Building, Tamaligi, 11 August 2017); Consultation with Samoa Nursing Association (Samoa Nursing Association Headquarters, Moto'otua, 5

matua ma faataitaiga lelei ia latou fanau ma ia taumamao le fanau mai fualaau faasaina ma le ava malosi. O le fanau e pei o se mea pue ata ma e latou te faataitai mea uma latou te vaavaai iai aemaise amio faalia e matua I totonu o le aiga. O le toatele o I latou e tagofia fualaau faasaina e mafua mai I leaga o le aoaiga ao tuputupu ae.⁵⁹⁶

Matafaioi a Aoga

9.24. O le toatele o finagalo sa faalia e manatu e tatau I aoga ma Iunivesite ona faatautaia polokalame faalauiloa I aafiaga o fualaau faasaina.⁵⁹⁷ O loo iai le silapasi mo le soifua maloloina a le Matagaluega o Aoga, Taaloga mo aoga tulaga luga faapea kolisi mauululuga ae ppeitai e le aafia ai fualaau faasaina. Sa faalia I se tasi finagalo e tatau ona tuu ai I totonu se vaega mo fualaau faasaina ina ia aoaoina ai le mafaufau o le tamaititi aoga.⁵⁹⁸

9.25. Sa laga foi e tatau ona tele se fesoasoani a Iunivesite e fofo le faafitauli e ala I le suesueina faasaeianisi o mataupu tau fualaau faasaina.⁵⁹⁹

Matafaioi a Matagaluega

9.26. O le toatele o paaga sa faatalatalanoaina sa autasi e tele se galuega e fia faia mo polokalame faalauiloa a Matagaluega. E manaomia le galulue faatasi o Matagaluega aemaise le Matagaluega o Leoleo ma le Matagaluega o Soifua Maloloina e saili fofo.⁶⁰⁰ E fesoasoani tele lea I le Malo ma faasao ai tupe ma punaoa.⁶⁰¹

9.27. O nisi o finagalo sa fautuaina le tai 6 masina ma feiloai o Matagaluega e soalaupule ma faasoa le faagasologa o a latou galuega. E le gata ina faaititia ai galuega ae maua ai le avanoa e faatalatalanoa le tele o mataupu.⁶⁰²

9.28. E manaomia on sui le faatinoina e Matagaluega o polokalame faalauiloa. E manaomia ona tapena lelei polokalame ina ia fetau ma tausaga o I latou o loo auai I le polokalame faapea

September 2017); Consultation with National University of Samoa (NUS Campus, Le Papaigalagala, 4 September 2017).

⁵⁹⁶ Consultation with Samoa Returnees Charitable Trust (Samoa Returnees Charitable Trust Headquarters, Vailima, 31 August 2017).

⁵⁹⁷ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii, 25-26 and 28-29 September 2017); Transnational Crimes Unit, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 5 September 2017; Consultation with the University of the South Pacific (Samoa) (University of the South Pacific Alafua Campus, 15 September 2017); Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁵⁹⁸ Consultation with the University of the South Pacific (Samoa) (University of the South Pacific Alafua Campus, 15 September 2017).

⁵⁹⁹ Consultation with the University of the South Pacific (Samoa) (University of the South Pacific Alafua Campus, 15 September 2017).

⁶⁰⁰ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁶⁰¹ Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁶⁰² According to MHU ever since the Continuing Medical Education (CME) and the regulation of antibiotics, there has been a big improvement with doctors not prescribing antibiotics like lollies. CME is weekly and the antibiotics team present on how many antibiotics has gone out, over which period of time etc. Accordingly, this system could be used for monitoring the dispensing of illegal drugs to update everyone. Consultation with the Mental Health Unit (Mental Health Unit Conference Room, Moto'otua Hospital, 22 August 2017).

ma le siosiomaga o le nuu ma e tatau ona lelei le tapenaina o faamaumauga uma.⁶⁰³ E mafai ai ona mautinoa le aoga o le polokalame ma tele le aoaoga e maua e tagata e auai.⁶⁰⁴

- 9.29. E tatau foi ona tapena lelei polokalame faalauiloa ia fetau faamaumauga ma folasaga ia fetau mo tagata o nuu i tua ma nu utu lata I le taulaga ae aua nei faapito I nao se vaeaga e tasi.⁶⁰⁵
- 9.30. Sa fautuaina e se tasi tagata le faaogaina o upega tafailagi ma isi metotia faaonaponei o loo tele ina faaoga e tupulaga talavou ma metotia ia ua faaogaina I aso nei. E tatau ona toe iloilo ma tagatagai i le faaogaina o metotia faaonaponei ma faaoga tatau.⁶⁰⁶

Tulafono Faatonutonu a Nu'u

- 9.31. O le toatele o finagalo faalia na fautuaina le tuuina atu lea o le malosi I alii ma faipule e faamalasia ai tulafono faatonutonu ina ia fesoasoani I le faaititia o soligatulafono I totonu o nuu e aafia ai fualaau faasaina faataitaiga o le malosiaga e tuuina atu ai faasalaga poo se sala a le nuu.⁶⁰⁷ O se tasi finagalo sa fautuaina le soalaupule ma Matagaluega ia tulafono faatonutonu.⁶⁰⁸ E le gata ia lea, sa fautuaina ina ia faaeteete I le faaogaina o tulafono faatonutonu ina nei solia ai aia tatau o tagata pe le o gatasi ma tulafono o loo iai.⁶⁰⁹

MANATU O LE KOMISI

- 9.32. E tele le taua o galuega ma matafaioi o le Malo, alii ma faipule, aoga ma Ekalesia i le fofoina o faafilemu e tutupu mai ona o fualaau faasaina aemaise le tupulaga talavou. E taua le galulue faatasi o nei vaega uma.
- 9.33. O le matafaioi taua a le Fono a alii ma faipule o le o le faamalasia lea o tulafono a nuu ma tulafono faatonutonu, o faasalaga ma le ripoti ina o mataupu e faasaga tonu ia I latou e tagofia fualaau faasaina aemaise le augatupulaga. O loo *Village Fono Amendment Act 2017*,⁶¹⁰ o loo tuu atu ai le pule i le Fono a alii ma faipule latou te fai ai tulafono faatonutonu ina ia atagaia ai atinae o loo faatino I totonu o nuu ma afioga ma ia maua ai le toafilemu I totonu o nuu. E tatau foi ona faaauau le galuega faufautua ma le fesoasoani i alii ma faipule I le Matagaluega o loo faamalasia le tulafono, e le gata o lea o le mataitu, ripoti ma faatino polokalame faalauiloa I aafiaga o fualaau faasaina. O le *Internal Affairs Act 1995* o loo

⁶⁰³Consultation with the University of the South Pacific (Samoa) (University of the South Pacific, Alafua Campus, 15 September 2017).

⁶⁰⁴Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁶⁰⁵ Public Consultations with Alii ma Faipule, Tina ma Tamaitai, Youths (TATTE Conference Centre in Upolu and ApitaPisaga Hall in Savaii, 25-26 and 28-29 September 2017).

⁶⁰⁶Samoa Nursing Association, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)* 4 September 2017.

⁶⁰⁷Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017; Samoa Law Society, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 31 October 2017.

⁶⁰⁸ Ministry of Education, Sports and Culture, Written Finagalo tuuina mais to Samoa Law Reform Commission, *Drugs Reform (Review of Tulafono o Nakoti 1967)*, 4 August 2017.

⁶⁰⁹Ministry of Prime Minister and Cabinet, Written Finagalo tuuina mai to Samoa Law Reform Commission, *Drugs Reform (Review of the Tulafono o Nakoti 1967)*, 7 August 2017.

⁶¹⁰*Village Fono Amendment Act 2017* (Samoa) s 5(c).

maioio ai matafaioi o Sui-o-Nuu ma Sui-Tamaitai-o-le-Nuu ina ia faamalasia tiute o alii ma faipule e mataitu ai fualaau faasaina I totonu o nuu ma afioaga.⁶¹¹

- 9.34. E taua foi galuega a taitai o Ekalesia ma vaega eseese o se aulotu e aofia ai le autalavou, aoga Aso Sa i le aoaoina o le fanau ma le tupulaga talavou ma faalauiloa aafiaga o fualaau faasaina.
- 9.35. O finagalo sa faalia I taimi o faatalatalanoaga faalauaitetele sa faalia ai e tatau ona faatino le galuega a matua e aoai, apoapoi, ma faufautua I a latou fanau I aafiaga o le tagofia o fualaau faasaina.
- 9.36. E lagolagoina e le Komisi le mau e tele lava se galuega e manaomia mo le faaleleia o polokalame faalauiloa o loo fatino e Matagluega a le Malo. E fautuaina e le Komisi le manaomia o le galulue faatasi o Matagluega ma Faalapotopotoga. E le gata I lea e manaomia ona tapena polokalame faapitoa ina ia mautinoa e malamalama ma aofia ai soo se tagata. E tatau ona faaoga ia auala o fesootaiga faaonaponei e aofia ai ma upega tafailagi aemaise atinae fou o le tekonolosi a Samoa e momoli ai le feau. E faafaigofie ai foi galuega a Matagaluega e faatino a latou polokalame faalauiloa o mataupu tau fualaau faasaina.

FAUTUAGA 67: E tatau ona silafia e matua, aoga, Ekalesia ma alii ma faipule le taua o la latou galuega I le faaititia o aafiaga o fualaau faasaina ma e tatau ona galulue faatasi tagata uma faatasi ai ma Matagaluega a le Malo.

FAUTUAGA 68: O le matafaioi taua a le Fono a alii ma faipule o le o le faamalasia lea o tulafono a nuu ma tulafono faatonutonu, o faasalaga ma le ripoti ina o mataupu e faasaga tonu ia i latou e tagofia fualaau faasaina aemaise le augatupulaga. E tatau foi ona faaauau le galuega faufautua ma le fesoasoani i alii ma faipule i le Matagaluega o loo faamalasia le tulafono, e le gata o lea o le mataitu, ripoti ma faatino polokalame faalauiloa i aafiaga o fualaau faasaina.

FAUTUAGA 69: E tatau ona faamalasia le malosiaga a le Komiti Faapitoa I lalo o le *Internal Affairs Act 1995* e taofia ai le tagofia ma le faaogaina o fualaau faasaina ma nakoti.

FAUTUAGA 70: E fautuaina e le Komisi le manaomia o le galulue faatasi o Matagluega ma Faalapotopotoga.

E tatau ona faaoga ia auala o fesootaiga faaonaponei e aofia ai ma upega tafailagi aemaise atinae fou o le tekonolosi a Samoa e momoli ai le feau.

10. LISI O FAUTUAGA

FAUTUAGA 1: O soo se aiaiga e leo mafai ona talanoaina i totonu o lenei Ripoti, e tatau ona faatumauiina pea, ma e tatau ona toe tusia i se faatulagaga talafeagai ma se gagana faigofie. O le a faigofie ai foi ona malamalama tagata i le tulafono ma ia o gatasi ma isi tulafono o loo iai nei.

FAUTUAGA 2: Ina ia faamalieina le faasinomaga na tuuina mai, e tatau ona toe teuteu atoa le Tulafono o Nakoti a Samoa ma ia sui tulaga i se tulafono fou ina ia talafeagai ma manaoga o Samoa i le taimi nei.

⁶¹¹*Internal Affairs Act 1995* (Samoa) s 11(c).

FAUTUAGA 3: E tatau ona iai se naunautaiga autasi a Matagaluega ua fitoitonu iai lea matafaioi ina ia mafai ona iai se faatinoga mautu mo le aoina o faamaumauga. E faafetaia galuega faaaauu pea a le Matagaluega o Leoleo ma le Faamasinoga mo le faatuina o le Auafamau ma e tatau ona faagaga se vaega tupe ma punaoa e lagolagoina le faatinoga o lea galuega. O lea ituaiga faatinoga e pei o le Auafamau o le a mafai ona fesoasoani i le fausia o faiga faavae ma tulafono e faatatau i fualaau faasaina.

FAUTUAGA 4: O soligatulafono tau fualaau faasaina ma soligatulafono ogaoga e tatau ona aoina e sailia ai pe faamata o se tagata solitulafono o loo tagofia fualaau faasaina ma/poo le ava malosi i le taimi o le faatinoga o se soligatulafono. O lea tulaga o le a fesoasoani i le Faamasinoga o Ava Malosi ma Fualaau Faasaina i le naunautaiga mo le toefuataiga o olaga o le au solitulafono.

FAUTUAGA 5: E tatau ona iai se aiaiga i totonu o le tulafono fou o fualaau faasaina, i le ave lea o le faamuamua a matagaluega ma ofisa talafeagai i le aoina o faamatalaga. O nei aiaiga e tatau ona maioio mai ai matafaioi a tagata o le a nafa ma le aoina ma le puleaina o faamatalaga. O aiaiga o loo i totonu o tulafono a Malo Afaatasi ma Niu Sila e faaono avea ma taiala mo Samoa.

FAUTUAGA 6: O le upu 'nakoti' ua tuai ma e tatau ona sui tulaga i se igoa fou e fetai ma le tulaga o loo iai nei. Mo le manulauti o le tulafono fou o fualaau faasaina, e tatau ona vaavaai i igoa pupuu faigofie e pei o le 'Tulafono o Fualaau Faasaina' poo le 'Tulafono o le Faaaoga Faasolitulafono o Fualaau Faasaina'

FAUTUAGA 7: O igoa uumi o loo i totonu o le *Tulafono o Nakoti 1967* a Samoa o loo iai nei e tatau ona faatumauina pea. Ae peitai, o faafitauli e pei o le lagolago ma auaunaga mo togafitiga aemaise o le matafaioi a le atunuu e tatau ona vaavaai iai mo le fausia ma le toe iloiloga o igoa uumi i totonu o le tulafono fou o fualaau faasaina.

FAUTUAGA 8: E tatau ona vaavaai ma le faaeteete i faaiuga fai i le taimi e faaopoopo ai upu fou (ft. 'auina mai', 'tuuina atu' ma isi e aofia ai upu mai isi atunuu) ma le toe faamatalaina o uiga o upu o loo iai nei (ft. 'atiina a'e') i totonu o le tulafono fou. E faamautinoa ai i lea tulaga o nei upu o le a tali atu i le manulauti o le tulafono fou ma le a faaogaina faalauaitele. O upu ua ma'ea ona faamatalaina o latou uiga i totonu o isi Tulafono a le Palemene (ft. 'faatau atu' i lalo o le *Tulafono o le Faauigaina o Tulafono 2015*, 'nofoaga e pulea e le ofisa o le tiute' i lalo o le *Tulafono o le Ofisa o Tiute 2014*) e tatau ona faamatala tutusa ina ia ogatasi ma atoatoa. O le upu 'leoleo' e tatau ona toe faafou i lona uiga 'o se tagata faatauto a le Matagaluega a Leoleo' ina ia ogatasi ma le *Tulafono o Galuega tau Leoleo 2009*.

FAUTUAGA 9: Mo le faamoemoega o aiaiga o le faoa, o le upu 'meafaitino' e tatau ona faamatala lona uiga i totonu o le tulafono fou ina ia aofia ai mataupu e pei o substances, meafaitino, oloa, meatotino ma taualumaga o soligatulafono o fualaau faasaina.

FAUTUAGA 10: O le Matagaluega a le Soifua Maloloina ma le Matagaluega a Leoleo e tatau ona faafoeina le tulafono fou o fualaau faasaina. O nei Matagaluega e lua e tatau ona galulue soosootauu faatasi ina ia faamautinoa ai le faatinoga lelei ma le faamalosi o le tulafono fou.

FAUTUAGA 11: O le tofiga o tagata asiasi e tatau ona aofia i totonu o le tulafono fou o fualaau faasaina. E tatau ona faia nei tofiga e le Ofisa Sili o Pulega a le Matagaluega o le Soifua Maloloina. Mo le faapupulaga atili o matafaioi a tagata asiasi i totonu o le tulafono fou o fualaau faasaina, e mafai ona maua mai nisi taiala pe a vaavaai i aiaiga talafeagai o loo i totonu o le *Drugs Act 1967* ma le *Tulafono o Meataumafa 2015*.

FAUTUAGA 12: I le tofiaina o tagata asiasi, o itu taua e tatau ona iloiloina e le Ofisa Sili o Pulega a le Matagaluega o le Soifua Maloloina e aofia ai le iai o tusipasi talafeagai, agavaa e faatino ai asiasiga ma suesuega, ma le malamalama lautele e uiga i fualaau faasaina.

FAUTUAGA 13: E tatau i le tulafono fou o fualaau faasaina ona tuuina mai ai ni galuega tauave a le Minisita o le Soifua Maloloina e faalauiloa ma tetee atu ai i le soona tagofia o fualaau faasaina. E tatau ona tagatagai ma faaogaina aiaiga talafeagai o loo tuuina mai i totonu o le tulafono a Niu Sila.

FAUTUAGA 14: O le faavasegaina ma le teuteuina o Faamatalaga i le Tulafono (Vaega 5) e tatau ona avea ma matafaioi autu a le Minisita o le Soifua Maloloina, i le faia i luga o fautuaga a se komiti faapitoa po o se komiti faufautua, pe faamata e faavaeina i lalo o le *Tulafono o le Matagaluega o le Soifua Maloloina 2006* poo le faaogaina komiti o loo iai nei.

FAUTUAGA 15: O lenei komiti faapitoa poo se komiti faufautua e tatau ona aofia ai sui mai ofisa talafeagai e iai le poto faapitoa i fualaau faasaina, foma'i ma foma'i faapitoa o vailaau, ma soo se isi tagata faigaluega talafeagai. O le tulafono a Niu Sila e mafai ona fa'aaoga e fai ma ta'iala pe a talafeagai ai.

FAUTUAGA 16: Ina ia o gatasi ma manatu o le atunuu lautele, o galuega tauave a sea komiti faapitoa poo se komiti faufautua, e tatau ona aofia ai tulaga ua ta'ua i lalo:

- ia fautuaina le Minisita pe afai ua talafeagai le faaopoopoina poo le toesea o fualaau faasaina poo se sauniuniga i le Faamatalaga;
- ia fuafua le maualuga o tulaga lamatia ma tuuina mai le maualuga o aafiaga e afua mai i fualaau faasaina (e pei o aafiaga i le tino, tulaga eseese o le faalagolago ma aafiaga lautele);

FAUTUAGA 17: O Faamatalaga o le Tulafono o Nakoti a Samoa e tatau ona faafouina e le aunoa ina ia faamautinoa ai o loo aofia ai fualaau faasaina taatele ma isi vailaau e pei o le logo ma sikareti faafefiloi. E manaomia nisi suesuega faaopoopo e faasino i nei vailaau e fuafua ai le maualuga o aafiaga ma faailoa mai ai isi vailaau matautia (e pei o le logo ma le pulouaitu) lea e tatau ona faatulafonoina. O isi su'esu'ega e mana'omia ona fa'atinoina i luga o nei vaila'au e fuafua ai le tele o le fa'alavelave na tupu ma ia iloa isi mea leaga (e tutusa ma le logo ma le pulouaitu) e tatau ona fa'atonutonu. O le Komiti ua faavaeina i lalo o le **Fautuaga 14** o lenei Lipoti e tatau ona faia sea su'esu'ega faaopoopo poo le Matagaluega o le Soifua Maloloina i lalo o lana vaega talafeagai.

FAUTUAGA 18: E tatau ona toe iloilo Faamatalaga i luga o se tulaga manaomia e faamautinoa ai lelei atoatoa pe a faia iloilo o se fualaau faasaina ua faaofi mai.

FAUTUAGA 19: E tatau ona faavaeina ni tulafono a Samoa e faatulafonoina ai vailaau oona faamalositino ma fualaau gaosi faasaina e tutusa ma faatinoga a isi atunuu faatutusa. E tatau ona aofia lenei tulaga i totonu o le tulafono fou o fualaau fa'asaina e pei o New South Wales, ae le o se tulafono tutoatasi. Afai o le a faia lea tulaga, e tatau ona fuafuaina e Samoa le sainia o le *Feagaiga a Malo Afaatasi i Vaila'au Psychotropic substances 1971* lea e puleaina ai le faatonutonuina o vailaau oona faamalositino faavaomalo.

FAUTUAGA 20: O le tulafono fou o fualaau faasaina e tatau ona aofia ai se soligatulafono o le tu'uina atu o fualaau i luga o se tulaga faifai pea, e tutusa ma NSW. O sea ituaiga soligatulafono o le a fesoasoani i le su'eina o i latou ua fai ma masani le tuuina atu o fualaau fa'asaina i totonu o

Samoa. E fua i le mamafa o le soligatulafono se faasalaga talafeagai e tatau ona tuuina atu mo sea soligatulafono. Mo se fa'ata'ita'iga, pe afai o le tuuina atu o fualaau fa'asaina e mo mafuaaga faapisinisi, e talafeagai le tuuina atu iai o se faasalaga mamafa. E mafai ona faaaogaina le tulafono a NSW e fai ma ta'iala.

FAUTUAGA 21: O se soligatulafono tutoatasi e faasino i fefaatauaiga o fualaau faasaina e tatau ona aofia i lalo o le tulafono fou o fualaau faasaina. O le itu lelei o lenei faatinoga o le a mafai ai ona su'eina i latou e umia se aofaiga maualuga o fualaau faasaina ua maua e i latou ua fitoitonu iai lenei galuega.

FAUTUAGA 22: A o fa'atalia le pasiaina e le Palemene o le *Tulafono Taufaaofi mo le Puipuiga o Tamaiti 2017*, e tatau ona aofia i totonu o le tulafono fou o fualaau faasaina se soligatulafono faaopoopo e aumai ai se tamaititi e tu'uina atu pe auai i le tu'uina atu o fualaau faasaina. E tatau ona iloilo le aofia ai o se faasalaga talafeagai e fua i le mamafa o le soligatulafono (aafia ai o tamaiti) ma manaoga faaleleia o le tagata solitulafono.

FAUTUAGA 23: E le tatau ona aofia i le tulafono fou o fualaau faasaina ni aiaiga mo tamaiti talavou e aafia i soligatulafono tau fualaau faasaina ona o loo talafeagai lelei le tagofiaina i lalo o le *Young Offenders Act 2007*.

FAUTUAGA 24: Ia faalautele soligatulafono i lalo o le vaega 13(b) ina ia aofia ai le tuuina atu, gaosia, auina atu i fafo poo le faaulufale mai o meafaitino faigaluega ina ia o gatasi ma Toga ma Niu Sila.

FAUTUAGA 25: Ia vavaeese le soligatulafono o le faaaogaina o fale/nofoaga e faaoga mo feuiaga (vaega 13(a)) ma avea o se aiaiga tutoatasi ina ia faamamafa ma faailoa mai ai le faatupulaia o 'fale gaosi aisa' lea na maua i osofaiga a leoleo talu ai. E tatau ona faamatata auiliili ma manino lelei le faaupuga nofoaga/fale ina ia aofia uma ai nofoaga/fale o loo faaaogaina mo le faatinoga o se soligatulafono i lalo o le tulafono fou o fualaau faasaina ft. vaa, ma isi.

FAUTUAGA 26: Ina ia ogatasi ma atina'e ua iai atunuu i fafo, e tatau ona aveesea le vaega 25B ona o le a solia ai le agatapuia i le va o fomai ma le gasegase/tagata mai, ma o le a faavaivaia ai se gasegase mai le sailia o fesoasoani e uiga i faafitauli tau soifua maloloina mai fualaau faasaina. O le a avea foi lea ma mafuaaga o le faia o moliaga e faasaga i fomai ma e taugata mo le Malo. Mo lea mafuaaga, e tatau ona iloilo lelei ina ia ogatasi ma faatinoga a Niu Sila, se matafaioi a fomai e faasa ai le tuuina atu o fualaau iai latou ua latou talitonu e faalagolago i fualaau faatonuina.

FAUTUAGA 27: Ia iai se soligatulafono tutoatasi i lalo o le tulafono fou o fualaau faasaina mo le gaioia o fualaau ma Vailaau faatonuina e pei o Niu Sila. E tatau ona tuuina atu se faasalaga talafeagai mo sea soligatulafono e fua i le natura o le soligatulafono.

FAUTUAGA 28: A o faagasolo le pasiaina o le Tulafono Taufaaofi o le Extradition 2017 e le Palemene, e tatau ona talanoaina le iai o se aiaiga mo le taupulepulega e faia se soligatulafono i totonu ma fafo atu o Samoa i lalo o le tulafono fou o fualaau faasaina.

FAUTUAGA 29: E tatau ona i ai tulafono faatonutonu e aiaia ai fa'asalalauga o loo faalauiloaina le faaaogaina o fualaau faatonuina e pei o Niu Sila. O tulafono faatonutonu e le tatau ona fa'atapula'aina e na o vailaau o le mafaufau ae tatau ona aofia ai so'o se fualaau faatonuina. E ui lava o nei tulafono faatonutonu e faaono le talafeagai i Samoa i lenei taimi ona o nei fualaau e le o faaaogaina mo faamoemoega tau faasalalauga e pei o Niu Sila ma NSW, o se vaaiga taulai a le Komisi iai le taimi e faia ai nei faasalalauga e faalauiloa ai fualaau faatonuina (ft. fualaau e gaosia

mai i le mariuana) i se taimi lata mai i le lumanai. E le gata i lea, o tuusaunoaga e tatau ona tu'uina atu i tulaga pe a faapea o le faamoemoega autu o sea faasalalauga o le faalauiloaina lea o aafiaga o se fualaau faasaina i le mamalu o le atunuu, fa'apea fo'i ma fesoasoani i fomai mo togafitiga tau le soifua maloloina.

FAUTUAGA 30: O le faatulagag o fa'asalaga o lo'o iai nei e tatau ona faatumauina. O le Faamasinoga, i le limataitaia ai e isi tulafono talafeagai (e pei o le *Tulafono o le Fa'amasinoga o Nuu ma Afioga 2008*) e i ai le pule faitalia e tu'uina atu ai fa'asalaga talafeagai e fua i luga o ituaiga mataupu. E ui lava i le maualuga o faasalaga/umi e falepuipui ai e pei ona aiaia i lalo o le Tulafono o Nakoti a Samoa, e le o faamalosia lona faaogaina e le Faamasinoga. O le faatumauina o le faatulagaga o fa'asalaga o lo'o iai nei o le a foia ai faafitauli e tula'i mai i le taimi nei ma le lumana'i e faatatau i fualaau faasaina ma soligatulafono fou. O lenei mea o le a faasaina ai punaoa a le Malo ma tau mai le toe teuteuina o le tulafono i le lumana'i, pe afai o le tulafono o lo'o iai nei e tatau ona teuteuina e fa'atautaia ai faatinoga le talafeagai.

FAUTUAGA 31: Fa'atasi ma atina'e i Toga ma Niu Sila, o le tuusaunoaga 'suesuega faasaienisi su'esu'e ma au'ili'iliga' e tatau ona fa'amaonia i totonu o le fualaau fou o vaila'au. Ua maitauina e le Komisi e ono mafai ona fa'aleagaina pe afai o sea tuusaunoaga e fa'amaonia ona o le fuainumera o soligatulafono i totonu o Samoa. Ae ui i lea, o sea tuusaunoaga, pe a fai o le laisene talafeagai ua tu'uina atu, e tatau ona fa'amalosia ma fa'atonutonuina e pulega talafeagai.

FAUTUAGA 32: O le aiaiga e faatatau i le tuuina atu o le opium e tatau ona taofia ma aofia i totonu o le fualaau fou o fualaau faasaina. E mafua ona o le Matagaluega o le Soifua Maloloina o lo o faia pea se vaega tele i le faatonuina o le opium mo tagata ua fai ma vaisu ua faamauina ma tautua i isi togafitiga faafoma'i (e pei ona faaalua i feutagaiga). Ae ui i lea, e tatau ona i ai tulaga talafeagai e pulea ai le fa'aleagaina.

FAUTUAGA 33: O le 'puipuia o le mea sese e tusa ai ma le natura o fualaau faasaina po'o vailaau fa'amalosi' e tatau ona aofia i totonu o le fualaau fou o vaila'au. Afai o sea aiaiga o lo'o finau, e tatau ona tu'uina i le fa'amatalaga a le Fa'amasinoga.

FAUTUAGA 34: E tatau i le alafua fou mo fualaau faasaina on iai se vaega e patino i tagata faimalaga mai atunuu I fafo ua faamaonia le feaveai ma I tagofia o fualaau faasaina na o le togafitiina o se gasegase. Ae e manaomia ona maumausalī taiala e faatonutonu ai ma ia aofia ai le;

- Le tele o fualaau faasaina e mafai onafaaulufale mai I Samoa ma ia lalo atu o le 1 masina e faaoga ai i.e. pemitā mo le 30 aso
- Sa faatauina I luga o le tulafono le fualaau faasaina ma sa uia ala uma e pei ua faamaonia le gasegase o loo maua ai e manaomia ai le fualaau ma ua faamaonia e se fomai ua mae'a tofia.

Ia iai faamaumauga uma e faamaonia ai le ripoti a le fomai ma ia iai le pepa faamaonia o le fualaau faasaina o loo faaogaina ona o le togafitia o le gasegase.

FAUTUAGA 35: Ina ia ogatusa ma faiga masani aemaise atina'e i atunuu e pei o Niu Sila, o le fa'aaogaina o fualaau (vaila'au ma vailaau fa'asaina) e tatau ona fa'atulafonoina e tusa ai ma le vaega 29 o le Tulafono o Nakoti. O Tulafono Faatonutonu e tatau ona faatulaga lelei ai mea nei:

- Tagata e mafai ona fa'amaonia talavai mo fualaau faasaina ft. o fomai faapitoa ua uma ona faamaonia. E faapena foi i le faatonuina o talavai o fualaau faasainao loo i ai "aiaiga faapitoa mo le talaina o fualaau faasaina" ua faatonuina e nisi faufautua faafomai.
- O tulaga faapitoa e mafai ai ona fa'amaonia ai le faaogaina o fualaau faasaina ft. kanesa ua leai se vaifofo.

- Faatapulaaina o ituaiga fualaau fa'asaina e tuuina atu nao fualaau faasaina ua maea ai suesuega faasaeanisi ua lelei mo se mai.
- Fa'ata'ita'iga fa'atonutonu e.g. faamaoti le aofaiga o fualaau faasaina ua faatonuina ma le taimi faatulagaina mo le faaaogaina;
- Faamautinoa pulega (Matagaluega o Leoleo) latou te mataituina ma taulimaina laisene mo i latou e tagofia ma tufatufaina atu fualaau faasaina (Laisene mo Fale Talavai).
 - Faamalosia eg. mata'ituina o foma'i o lo'o fa'amaonia talavai ma falema'i o lo'o tu'uina atu fualaau faasaina.

FAUTUAGA 36: Afai o loo sailia pe o talafeagai le tuuina atu e se foma'i fualaai faasaina i se tagata ma'i, ua fautuaina e le Komisi e fetuuna'i ma fa'aaoga taiala nei e pei ona faaogaina e le Malo o Niu Sila:

- Ua oo i se tulaga ogaoga po'o ua lamatia le ola;
- O fa'amaoniga ua uma ona faia togafitiga fa'apitoa talafeagai ma ua masani ai ae leai lava se suiga maumaututū;
- Fa'amaoniga ua mae'a ona iloiloaina e fomai tomai faapitoa;
- Talosaga mai se foma'i tomai faapitoa talafeagai i le Fomai Sili o se Komiti Fa'afoe Soifua Maloloina;
- Talosaga a se tagata ma'i ina ua mae'a ona faatalatalanoaina ma le augatupulaga talafeagai;
- Tu'uina atu o se Tusi Faamaonia o Su'esu'ega mai i se fale suesue ua fa'amaonia, ina ia iloa ai Vailaau o loo gaosi ai; ma
- O le tagata gasegase po'o le tausi ma'i ua tu'uina atu le fa'atagaga/ fa'amaoniga.

FAUTUAGA 37: Ua manatu foi le Komisi e tatau ona faavaeina se Komiti Faatino talafeagai i lalo o le MOH e faafoe ai le tulafono faatonutonu. O le tuufaatasiga o le Komiti Faatino ma galuega tauave e tatau ona fuafuaina e le MOH. O a latou galuega e tatau ona aofia ai mea nei:

- Iloilo talosaga mai foma'i talafeagai e fai ma sui o le ma'i
- Fa'atino nisi su'esu'ega ma saililiga e tusa ai ma le natura o le talosaga ma fa'atalanoaga ma fomai tomai faapitoa talafeagai
- Tuuina atu fautuaga i le Ofisa Sili o Pulega pe ua faamaonia le talosaga pe leai foi
- Faia nisi galuega e ono talafeagai mo le fa'amoemoe o le talosaga

FAUTUAGA 38: E ao pea ona faatumauina aiaiga o lo'o iai i le taimi nei mo Tusi Poloaiga. O lo'o manino tiute ma matafaioi o le afaigaluega a le Ofisa o Tiute o lo'o atagia mai lalo o le Tulafono Customs Act 2014 e faatatau lea i suesuega e patino i Uafu ma Malaevaalele.

FAUTUAGA 39: E tatau i le Matagaluega o Leoleo ma le Ofisa o Tiute ona faatinoina polokalame faalauiloa e faailoa ma faalauteleina ai le malamalama o Alii ma Faipule i tua i Nuu ma Afioaga e faatatau i le faatinoina o suesuega e faaogaina ai Tusi Poloaiga ma faataunuuina i auala talafeagai ma faatino i faiga lelei.

FAUTUAGA 40: E fa'aauupea o aoaoga pupuu e faatautaia e le Matagaluega o Leoleo mo malu o le malo e faatinoina suesuega e faa'aaogaina ai tusi poloaiga. Ina ia nofo malamalama ma mautinoa i le faagasologa o le faatautaia o suesuega e foia ai suesuega e faatino e lē tusa ai ma le tulafono.

FAUTUAGA 41: I le ̄ gatasi ai ma tulafono a Toga, Niusila ma Niusauelese, o le 1 le masina e tuuina atu mo suesuega e fa'aaogaina ai le Tusi Poloaiga e faatumau pea. Ae peitai afai ae manaomia se taimi faaopoopo e faatinoina ai suesuega ina ia mafai ona manino ma tonu faaiuga fai, e ao lea ona faatinoina ma tuuina mai se faatanaga mai le Faamasinoga. O so'o se taimi e faaopoopoina ma talia aloaia mai e le Faamasinona e tatau ona i totonu o le 1 le masine, e foia ai le faatuai faatasi ai ma le faaaoga faa lē tautau o le malosiaga e tuuina atu i alii o le malo e faatinoina ai suesuea le talafeagai.

FAUTUAGA 42: I tulaga e faatatau i suesuega e faatautaia e aunoa ma se Tusi Poloaiga, e ao ona faamanino i totonu o le Faavaa mo Fualaa faasaina i se tulaga ma auala talafeagai ma e foia ai le faatinoina o suesuega e faatinoina ma le lē tatau. O nisi o tulaga e ono faaaogaina e faamaioio ma faamanino ai le faatinoina aiaiga o suesuega e aunoa ma se Tusi Poloaiga e iai;

- Aso e le tatalaina ai le Fa'amasinoga e pei o le Aso Sa po'o Aso malolo
- Ina ia mautinoa e mauaina mai faamaumauga ma faamatalaga e le'i faaleagaina pe toesea foi.
- Ma ia mautinoa e lei sola ese mai le ua tuuaia i le nofoaga o le a faia iai le suesuega

E mafai ona fa'aaogaina le Tulafono o le Malo o Niusila e fai ma taiala.

FAUTUAGA 43: I le Vaega 6(4) o le tulafono (Tulafono o Nakoti) e tatau ona faalauteleina i totonu o le Faavaa ua fausia mo Fualaa faasaina, ina ia faamanino mai ai isi o aupega matautia ma le matuia faatasi ai ma vilaa ina ia mafai ai ona faaopoopo ai i laau faasaina ma e ono aveesea faamalosi ma faaleagaina. O aiaiga e tatau ona faamanino mai auala e faaoagaina mo le faatamaia o nei laau faasaina po'o aupega matuia, i le ma ia mafai ona faamanino mai pe o le a le umi ao afea foi e tatau ona faatino ai lea galuega. Ina ia mautinoa e lei ni tulaga e faia faasolitulafono e faatinoina i le aveesea ma faatafunaina ia laau ma aupeaga faasaina.

FAUTUAGA 44: O aiaiga o lo'o i lalo o le Tulafaono (Drugs Act 1967) e faatatau i maloisaga e tuuina atu iai latou o le a faatinoina galuega e pei o, osofaiga, asiasiga, aveesea poo le faoa faamalosi mai o fualaa faasaina, pe le ono fetuunai ma tuuina atu i totonu o le Faavaa ua fausia mo Fualaa faasaina ina ia laugatasia ma o gatasi ai ma le tulafono.

FAUTUAGA 45: O aiaiga e ala i le puipuiga o i latou o lo'o faatinoina tiute ma matafaifoi i lalo o le tulafono, e aofia ai malu o le malo e alagatatau ona faalauaitete atu mo i latou o lo'o mauaina mai ai faamatalaga ma faamaumauga maumaututu e ala i ia ituaiga soligatulafono. O le a mafai ai ei latou e faamalosi tulafono ma uunaia ai i latou i tua i Nu'u ma Afioaga e lipotiina mai tulaga e faatatau i laau, fualaa faasaina.

FAUTUAGA 47: Ina ia fa'aleleia su'esu'ega o fualaa fa'asaina i totonu o Samoa, e tatau ona silasila i mafuaaga ua taua i lalo e aofia ai utiuti o punaoa e fa'aaogaina faatasi ai ma le faatupeina:

- nofoaga lelei ma le mautu e faatinoina ai su'esu'ega,
- mana'omia ona iai se tasi e agavaa ma ua a'oa'oina lelei e faatinoina su'esu'ega,
- le faatinoina o a'oa'oga mo le afaigaluega a le Ofisa Suesue (SROS) ma isi lala talafeagai (Matagaluega o Leoleo, Matagaluega o le Soifua Maloloina ma le Ofisa o Tiute)
- mana'omia le tuufaatasia o faaputugatupe mapunaoae mafai ai ona fa'atauina ai meafaigaluega talafeagai o lo'o moomia.

FAUTUAGA 48: O su'esu'ega fa'apitoa faapaiolisi e tatau ona tilotilo ma iloiloina mo Samoa. E tatau i le Ofisa Suesue (SROS), Matagaluega o Leoleo (MOP) ma le Matagaluega o le Soifua Maloloina (MOH) ona galulue faatasi e tuufaatasia a latou punaoa fa'atasi ai ma le faatupeina ina ia fa'aleleia su'esu'ega faapaiolisi.

FAUTUAGA 49: O metotia e fa'aaogaina mo su'ega e tali tutusa ma NSW e tatau ona iloiloina. I le taimi nei, e mafai e le SROS ona faia fa'ata'ita'iga e iloilo ai le aoga o lenei metotia. E le gata i lea, e mafai ona aoaoina ma fa'aaogaina le sui ua tofia mai Matagaluega o Faatoaga ma Faigafaiva (MAF) e avea ma tagata suesue mo le fa'amoemoega o le su'eina ma le fa'amaonia o laau ma fualaau faasaina e pei o Niusauelese. I le isi itu, e mafai foi ona a'oa'oina leoleo mo le fa'amoemoe lava lenei e tasi. E alagata tau ona iai se vaega tupe fa'aagana aua le fa'atupega o le fa'atulagaina o lenei metotia/auala e fa'amaonia ma fa'atino ai suesuega.

FAUTUAGA 50: O su'esu'ega fa'apitoa ma siaki e tatau ona fa'atinoina mo nisi o pisinisi ma nisi o Matagaluega ma Faalapotopotoga faapito (FESA, MOP, MOH, SRCT, Ofisa o Tiute, SROS, EPC, Immigration ma Quarantine) ma matauina ai fa'afitauli e ala lea punaoa e faaaogaina. O nisi o pisinisi ma Matagaluega/Faalapotopotoga ua tatau ona i ai ni a latou taiala mo le faatautaia ma le faamautinoaina o le faatinoina o suesuega mo tagata faigaluega ina ia faatinoina ma le lelei.

FAUTUAGA 51: O le faavaa fou mo fualaau fa'asaina e tatau ona atagia mai ai aiaiga o lo'o i lalo o le Tulafono o Malosiaga o Leoleo 2007 e faatatau i le filifilia o fale mo suesuega o fualaau faasaina (e pei o le Fale Suesue i Vailima) lea o le a le gata ina fa'atuina pe va'aia fale suesue mo su'esu'ega ae ia faamanino ma faamaioio mai ai nisi o aiaiga talafeagai.

FAUTUAGA 52: O se aiaiga faapitoa e faasino i le kilivaina o fualaau faasaina i lalo o aiaiga fou mo fualaau ma vai laau fa'asaina ma ia aofia ai ma le malosiaga e suesue ma mātā'itu nanā ai. E tatau i aiaiga ona i ai ni tulaga pe a fa'aaogaina metotia fa'apea foi ma gaoioiga e mafai ona faia i le taimi. E mafai ona fa'aaoga le tulafono a Toga e fai ma ta'iala.

FAUTUAGA 53: O le mataituina o tagata solitulafono o lo'o tuli faasalaga e ala i le faatinoina o galuega mo le afioaga e pei ona fa'atonuina e le faamasinoga e tatau ona fa'amalosia atili. E le gata i lea, e tatau foi ona faalauteleina lenei tulaga e aofia ai pagota ua fa'asa'olotoina pe a mae'a ona tuli lo latou taimi i le falepuipui. E tatau i le SPCS ona galulue soosootauau ma nuu ma afioaga e ausia lenei sini.

FAUTUAGA 54: O le Faiga Fa'avae fou a le MPMC e tatau ona fa'amuamua ma fa'amalosia. O le taimi lava e taamilo ai le Faiga Faavae, e tatau ona o faatasi ma aoaoga mo le aufaigaluega, ma polokalame faalauiloa mo le atinaeina o le nuu. E tatau ona iai se taulai faapitoa i a latou matafaioi i le mataituina lelei o le au faafoi mai atunuu i fafo o loo aumau i totonu poo nu'u/ afioaga.

FAUTUAGA 55: E tatau ona iai se vaega tumaoti o Fualaau faasauina e iai punaoa talafeagai ma tagata faigaluega a'oa'oina i totonu o le MOP e fa'atautaia ai mataupu tau fualaau faasaina.

FAUTUAGA 56: E tatau ona atina'e polokalame mata'ituina e mautinoa ai le lava o taumafaiga e mataituina ai le tagofiaina o vai laau fa'asaina i totonu o Samoa. Polokalame na fa'atinoina i Niu Sila ma Ausetalia e mafai ona fa'aaogaina ma fetuunai ma matauina le maua o puna'oa ma le fa'atupega.

FAUTUAGA 57: O le alafua mo fualaau fa'asaina e tatau ona i ai aiaiga e fa'atatau i mataupu e patino i faamaumauga ma faamatalaga molimau. E tatau foi ona i ai se faagasologa o aiaiga mo le puipuia ma le pulea o le pāsia o faamaumauga ma faamatalaga mai le tasi Matagaluega/

Faalpotopotoga i le isi. O aiaiga i lalo o le Tulafono o Fualaau Faasaina 1967 e mafai ona fa'aaogaina e fai ma ta'iala ina ia alagātutusa ma manino.

FAUTUAGA 58: O le Solitulafono o le faaleagaina pe sui faamaumaua ma faamatalaga e tatau foi ona aofia i lalo o le alafua mo fualaau faasaina. O tulafono oi ai nei e pei o le Tulafono o le Matagaluega o Leoleo 2010 ma le Tulafono o Galuega Tau Leoleo 2008 e tatau ona ona fa'aaogaina e fai ma ta'iala ina ia alagātutusa ma manino.

FAUTUAGA 59: E tatau ona iai se aiaiga e fa'atatau i se taimi fa'atapula'a mo le tuuina atu o se pepa o moliaga ma e tatau ona aofia i lalo o alafua mo fualaau faasaina. Mo mataupu faanatinati, o ia aiaiga e tatau ona faatulaga ai se taimi faatapulaa mo le faatoaiina o se pepa o totogi. E tatau ona iai se taimi fa'atulaga talafeagai e fua i luga o le tulafono e feso'otai e pei o le Tulafono o le Ofisa o Tiute 2015. O le tulafono a Niu Sila e mafai ona fa'aaoga e avea ma taiala e fa'atatau i aiaiga o sea aiaiga.

FAUTUAGA 60: E fautuaina, o soo se mataupu e patino i galuega faalelotoifale a se Matagaluega faataitaiga susesueina o se tagata, mataitu le faatauina o fualaau faasaina, mataituina o tuaoi o le atunuu ma le faaogaina o tupe maua mai le faatauina o meatotino na faaoga i soligatulafono, ina ia tuuina atu pea le malosiaga i Matagaluega taitasi latou to taitaia ma mataituina; faataitaiga faatuina o alafua ma aiaiga mo le faatauina o fualaau faasaina. O se isi faatalatalanoaga loloto atu o lenei mataupu e mafai ona faatinoina i le va o Matagaluega ina ia mautinoa le faatinoina lelei o galuega.

FAUTUAGA 61: Ina ia mautinoa le alualu i luma ma le faaleleia o galuega faamallosia o tulafono ma le faaititia o faafitauli aliae mai, e tatau ona silasila i vaega nei;

- Faamallosia le galulue faatasi ai o Matagaluega uma ale Malo faatasi ai ma Nuu ma Afioaga.
- Iloilo ma faamallosia taiala o lo'o iai le taimi nei e unaia ai le faatinoina o galuega ia sili ona lelei
- Faatinoina o aoaoga pupuu mo i latou o lo'o feagai ma tiute tau le faamallosia o tulafono ina ia mafai ona siitia lo latou iloa i tulafono o lo'o faatinoina ai a latou galuega.
- Faataunuuina polokalame e faalauiloa ai i totonu o Nuu ma Afioaga ia matafaioi eseese a Matagaluega o lo'o faamallosia tulafono.
- Faatino ma faamallosia polokalame faatatau i olaga toefuataina e faatinoina i totonu o Nuu ma Afioaga.
- E ao i le malo ona ave le latou faamuamua i mataupu tau fualaau faasaina.
- Faaleleia ma faamaioio tulafono e ala lea i le faamanino o tiute ma matafaioi o Matagaluega o lo'o gafa ma le faamallosia tulafono.

FAUTUAGA 62: MOH, faatasi ai ma le fesoasoani a lala sooupu talafeagai, e tatau ona atia'e se faiga faavae faasaina / patino faapitoa mo le tagofiaina o fualaau faasaina ina ia tagofia lelei ma foia faafitauli o fualaau faasaina ma faafitauli o loo feagai nei Samoa e pei ona atagia mai i le TOR. O lea faiga fa'avae e tatau ona a'afia ai mataupu uma e feso'ota'i ma le puipuia o fa'ama'i fualaau, fa'aleleia, fa'alauteleina le lauiloa, fa'apea fo'i ma matafaioi a tagata ta'aalo autu. O le faiga faavae e tatau ona logoina e faiga faavae o lo'o i ai nei ma e tatau ona fa'afouina pea ina ia mautinoa o lo'o ogatasi ma atina'e fou i Samoa e uiga i fualaau faasaina.

FAUTUAGA 63: E leai se mana'oga mo le MOP e atia'e se ta'iala e tutusa ma Niu Sila e pei o le ata o le Puipuiga o Solitulafono o Soligatulafono ua lava. O le ata faataitai o faiga faavae e tatau ona

aofia ai le taulai faapitoa i auala aoga e puipuia ai solitulafono e faatatau i fualaa faasaina ma tualumaga mo le lipotia o solitulafono e faatatau i fualaa faasaina.

FAUTUAGA 64: O tulafono e aofia ai le *Mental Health Act 2007*, le *Community Justice Act 2008* ma le *Young Offenders Act 2007*. O nei tulafono e manaomia ona faamalosia aemaise I taimie e tuuina atu ai faasalaga ia I latou ua solia le tulafono. O se auala pito sili lea ona talafeagai ma faasaina ai tupe, o punona ma tupe a le atunuu.

FAUTUAGA 65: E manaomia lava le galulue faatasi o Matagaluega ma nuu ma afioaga ina ia tuuina atu sao le pagota I le polokalame e fetau mo le toefuatiga o lona olaga. I le ma lea, e tatau ona galulue faatasi Matagaluega ma fefaasoai tatau ia tupe ma punaoa o loo avanoa ina ia atinaeina ni polokalame talafeagai.

FAUTUAGA 66: E manaomia polokalame faalauiloa mo nuu ma afioaga ina ia nofo malamalama alii ma faipule I matafaioi o le Faamasinoga o Ava Malosi ma Fualaa Faasaina ma le latou galuega fesoasoani mo le au solitulafono o fualaa faasaina e ala I le mataitu.

FAUTUAGA 67: E tatau ona silafia e matua, aoga, Ekalesia ma alii ma faipule le taua o la latou galuega I le faaititia o aafiaga o fualaa faasaina ma e tatau ona galulue faatasi tagata uma faatasi ai ma Matagaluega a le Malo.

FAUTUAGA 68: O le matafaioi taua a le Fono a alii ma faipule o le o le faamalosia lea o tulafono a nuu ma tulafono faatonutonu, o faasalaga ma le ripoti ina o mataupu e faasaga tonu ia i latou e tagofia fualaa faasaina aemaise le augatupulaga. E tatau foi ona faaauau le galuega faufautua ma le fesoasoani i alii ma faipule i le Matagaluega o loo faamalosia le tulafono, e le gata o lea o le mataitu, ripoti ma faatino polokalame faalauiloa i aafiaga o fualaa faasaina.

FAUTUAGA 69: E tatau ona faamalosia le malosiaga a le Komiti Faapitoa I lalo o le *Internal Affairs Act 1995* e taofia ai le tagofia ma le faaogaina o fualaa faasaina ma nakoti.

FAUTUAGA 70: E fautuaina e le Komisi le manaomia o le galulue faatasi o Matagluega ma Faalapotopotoga. E tatau ona faaoga ia auala o fesootaiga faaonaponei e aofia ai ma upega tafailagi aemaise atinae fou o le tekonoosi a Samoa e momoli ai le feau.