



Samoa
Justice Department

Combined Annual Report
1984 - 1999

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1: Foreword from Minister of Justice

In our attempts to facilitate transparent government and improve administration, the need for comprehensive reports has become more marked.

The only way to move forward with a sense of clear and focused direction is to have a grasp of where we have come from.

This report brings to light the areas of progress in the Ministry and also points out the parts of our work that need directed attention.

I offer and endorse this report in the hope that it will provide another indicator to further the stated aims of our government and administration - to provide a better service for the people of Samoa.

Soifua

Hon. Gaina Tino

2: Report of Chief Executive Officer

First and foremost my apologies for the late submission of our Ministry's 1984 to 1999 Report to Cabinet. This is mainly due to the fact that our staff members have been unable to retrieve some of the necessary information to compile this report.

Despite the potholes along the way I am happy to submit this report in response to Cabinet's request.

As the current CEO I pay tribute to all personnel who kept the Ministry going over this sixteen year period. I have therefore noted the names of senior personnel in this report; some of whom are still with the Ministry.

Masinalupe Tusipa Masinalupe
Chief Executive Officer
Ministry of Justice and Courts Administration

Ministry of Justice Ministers

➤ Hon Anapu Solofa	Early 1960 – 1963
➤ Hon Mataafa Faumuina Mulinuu II	29 May 1963 – 20 May 1964
➤ Hon Tuatagaloa Leutele T Simaile	20 May 1964 – April 1967
➤ Hon Ulualofoaiga T Vaela	April 1967 – 1970
➤ Hon Tuala Paulo	5 March 1970 - 1973
➤ Hon Tamasese Lealofi IV	2 April 1970 - 1975
➤ Hon Amoa Tausilia	1975 - 1976
➤ Hon Ulualofoaiga T Niko	1976 – April 1979
➤ Hon Asi Aikeni	3 April 1979 - 1982
➤ Hon Taliaoa Maoama	20 April 1982 – 18 Sept.1982
➤ Hon Papaliitele Laupepa	29 Sept. 1982 – 30 Dec.1982
➤ Hon Taliaoa Maoama	1982 - 1985
➤ Hon Tafua Kalolo	26 March 1985 - 30 Dec.1985
➤ Hon George Lober	30 Dec.1985 – 13 April 1988
➤ Hon Tofilau Eti Alesana	13 April 1988 – 28 Dec.1988
➤ Hon Leiataua Vaiao Alailima	28 Dec.1988 – 14 May 1991
➤ Hon Fuimaono Lotomau	14 May 1991 – 1996
➤ Hon Solia Papu Vaai	18 May 1996 - June 1998
➤ Hon Molioo Teofilo Vaeluaga	3 June 1998 - 2001
➤ Hon Seumanu Aita Ah Wa	2001 – Jan 2004
➤ Hon Gaina Tino	18 February 2004

Chief Justices of the Supreme Court of Samoa

- Hon JE Wilson Esq.
- Hon CR Orr-Walker Esq.
- Hon Paul Loxton Molineaux
- Hon BC Spring Esq.
- Hon CC Marsack Esq.
- Hon EF Rothwell Esq.
- Hon Sir Gaven John Donne Esq.
- Hon MB Scully, C.M.G
- Hon Bryan Osborne Nicholson
- Hon Robert James Baldwin St. John
- Hon David Hull
- Hon John Douglas Dillon
- Hon John Russell Callander
- Hon Vaovasamanaia R. Phillips
- Hon Trevor Gilbert Maxwell
- Hon Anthony John Ryan
- Hon Patu F.M. Sapolu

Supreme and Magistrate Court Judges

- Hon Richard Lussick
- Hon Kenneth Joseph Grave
- Hon Philip Anthony Moran
- Hon P. A Mc Alevey
- Su'a Leituposa F.J.Thomsen
- Hon Andrew Bray Cameron Wilson
- Hon Lesatele Rapi Vaai
- Hon Tagaloa Enoka Fereti Puni
- Hon Vui Clarence J. Nelson

1984 – 1999

Asi Vaimasanuuu Niko Apa	-	Secretary for Justice Department
Tuala Kerlake	-	Secretary for Justice Department
Faaitamai P. Meredith	-	Secretary for Justice Department
Luamanuvae P. Asera	-	Deputy Secretary for Justice
Masinalupe Tusipa	-	Deputy Registrar Supreme Court
Lealaisalanoa Kaisa	-	Deputy Registrar Magistrate Court
Vasa Mavaega	-	Deputy Registrar Magistrate Court
Moenoa Ki Uene	-	Deputy Registrar Magistrate Court
Simea Avei	-	Deputy Registrar Magistrate Court
Faatasi Puleiata	-	Deputy Registrar Magistrate Court
Timena Usoalii	-	Deputy Registrar General
Sami Leota	-	Deputy Registrar Supreme Court
Ropati Uefa Faalelei	-	Chief Film Censor
Levaopolo P. Eteuati	-	Chief Film Censor
Eti T. Vaaletoa	-	Public Defender
Papalii Nofaotolu	-	Chief Probation/Parole Officer
Taamu Turituri	-	Chief Probation/Parole Officer
Peseta Peresitene	-	Senior Probation Officer
Tuli Fepuleai Samuelu	-	Chief Probation/Parole Officer
Cecilia Mariner	-	Senior Probation Officer
Semu Matia	-	Senior Probation Officer
Gene Urhle	-	Chief Maintenance Officer
Tuala Lili	-	Chief Maintenance Officer
Olive Matai'a	-	Chief Maintenance Officer
Caroline Schmidt	-	Chief Justice Associate
Faapi'o Asi Sagaga	-	Chief Justice Associate
Taufau Mulifusi	-	Chief Justice Associate
Taufao Tone	-	Chief Accountant
Mafuli Matalavea	-	Chief Accountant
Fata P Young	-	Senior Accountant
Genevive Purcell	-	Senior Accountant
Arasi Tiotio	-	Assistant Secretary Corporate Service
Georgina Strickland	-	Deputy Registrar BDM
Kenape Faletoese	-	Deputy Registrar BDM
Alataua Tuliaupupu	-	Deputy Registrar Registry
Margaret Fruean	-	Assistant Secretary Registry
Faamaoni T Mc Carthy	-	Senior Inspector Companies
Treena Atoa	-	Senior Inspector Companies

3: Report of Court Section

The Courts Section reflects the following significant changes.

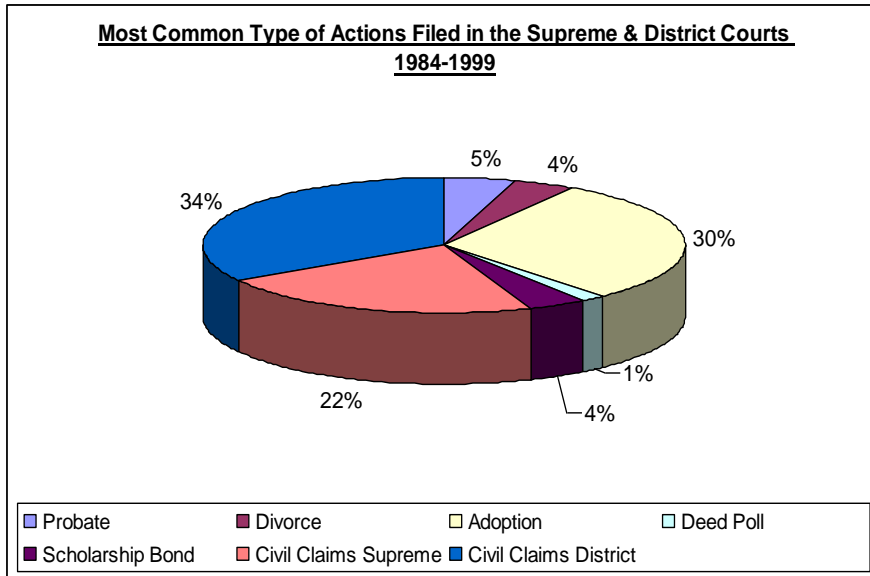
- i. The makeup of the Judiciary saw a gradual shift to having an all Samoan Bench. Although not realised in this period, this period is marked by the appointment of Vaovasamanaia Phillips, the first Samoan to become Chief Justice. He was followed by Tiavaasue F.M.Sapolu who is the current Chief Justice but is using his other matai title - Patu F.M. Sapolu.
- ii. The Magistrate's Court Act 1969 had its name changed to the District Court Act which also extended its civil jurisdiction to hearing and determining claims up to the value of \$10,000.00 tala.
- iii. The increase in the number of court cases and court work resulted in expanding the Judiciary to two Supreme Courts and two District Courts.
- iv. The Court of Appeal was established with an Annual Sitting. The Ministry was fortunate to obtain some of the most senior judges of the Appeal and High Courts of Australia and New Zealand.

Despite the significant progress over the years, problems related to the working conditions and resources continue to hinder positive development in the administration of justice. These problems relate to the working environment, salaries, unavailability of resources, lack of awareness, lack of community support, and the ever growing number of court cases.

The lack of computers to store and collect data became an obstacle in collecting data for up to date reports on the work of the Court and for assessment by the Judiciary of the trends and the direction of decisions and the significance of the Courts' caseloads.

The caseload of the criminal court has increased with each year. This means more and more crimes are being committed each year.

Figure 1.



Court Records Register

Civil Claims District, Adoptions and Civil Claim Supreme topped the list of civil matters heard before the Supreme and District Courts.

In 1998, The Magistrate Court not only changed its name to become the District Court but also had its civil jurisdiction extended to hearing and determining matters up to \$10,000.00 tala, which means the Supreme Court case load was reduced by nearly 20% as most cases filed in the Supreme Court were between the value of \$1,000.00 and \$10,000.00 tala.

Judgment Summons continued to be the preferred type of enforcement for judgment creditors. From 1984 – 1999 Judgment Summons for all Courts constituted 99.73% of judgment enforcement compared to only .27% of Writ of Sale.

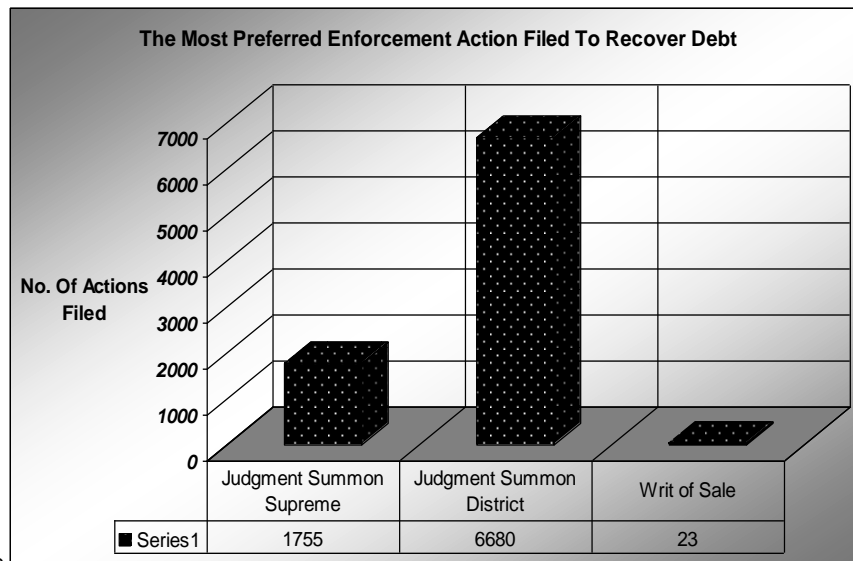


Figure 2
 Court Records Register

WARRANT OF COMMITTAL ISSUED FOR EXECUTION FOR CIVIL CLAIMS SUPREME, DISTRICT & FF COURT				
YEAR	SUPREME		DISTRICT & FF	
	No. of issues	Amount \$	No. of issues	Amount \$
1984	44	\$ 67,044.14		
1985	31	\$ 29,684.81		
1986	41	\$ 206,366.96		
1987	37	\$ 94,974.00		
1988	40	\$ 190,094.80		
1989	47	\$ 211,132.98	38	\$ 15,182.63
1990	47	\$ 280,640.36	76	\$ 24,556.81
1991	46	\$ 217,756.45	30	\$ 10,459.00
1992	68	\$ 453,289.70	63	\$ 26,285.56
1993	66	\$ 636,304.64	109	\$ 49,361.15
1994	91	\$ 547,217.50	107	\$ 44,429.00
1995	53	\$ 332,738.85	56	\$ 24,043.48
1996	88	\$ 735,414.63	56	\$ 24,368.40
1997	51	\$ 312,029.07	46	\$ 17,373.44
1998	58	\$ 338,596.87	44	\$ 18,526.14
1999	90	\$ 465,809.92	101	\$ 23,373.99

Court Records Register - Table 1

From 1984 – 1988, only the record of warrants for the Supreme Court was retrievable. Warrants of committal are issued for civil claims filed by law firms and individuals. The Ministry only processes warrants on the request of judgment creditors but receives no earning from it.

Court Records Register - Table 2

Year	Number of Issues	Amount \$	Amount Paid \$	Outstanding \$	Committed in Prison \$
1984	1662	\$74,540.00	\$36,083.00	\$30,464.00	\$7,957.00
1985	1201	\$33,639.00	\$15,786.00	\$12,508.00	\$5,345.00
1986	2221	\$46,959.00	\$19,674.00	\$27,098.00	\$187.00
1987	8414	\$181,450.00	\$70,010.00	\$95,765.00	\$15,675.00
1988	2072	\$99,512.00	\$42,739.00	\$50,492.00	\$6,281.00
1989	2806	\$125,865.00	\$67,896.00	\$49,674.00	\$8,295.00
1990	2791	\$157,646.00	\$98,852.00	\$50,998.00	\$7,796.00
1991	2763	\$151,225.00	\$101,869.00	\$37,789.00	\$11,567.00
1992	2317	\$151,809.00	\$110,966.00	\$30,877.00	\$9,966.00
1993	3127	\$180,697.00	\$131,589.00	\$43,832.00	\$5,276.00
1994	1407	\$101,756.00	\$82,189.00	\$11,001.00	\$8,566.00
1995	1850	\$114,668.00	\$80,280.00	\$28,492.00	\$5,896.00
1996	1790	\$101,932.00	\$90,976.00	\$9,700.00	\$1,256.00
1997	1480	\$103,546.00	\$87,100.00	\$13,693.00	\$2,753.00
1998	1814	\$144,146.00	\$114,786.00	\$18,364.00	\$10,996.00
1999	2340	\$143,749.00	\$102,209.00	\$36,644.00	\$4,896.00

4. Report of Probation and Parole Section

PROBATION:

Probation is one of the Court's sentencing options and is always imposed when the offenders are young and are appearing for the first time in court. It is the last opportunity for offenders to start anew before being incarcerated if they re-offend. When an offender is placed on probation, it is always with conditions and the length of time must not be more than 3 years.

Over the years, the majority of offenders placed on probation are young people under the age of 25 and about 99% of them are male, mainly charged with theft and burglary. Reasons for offending are unknown but according to their background checks, most were school dropouts at an early age, and are from low-income families, either depending on a small subsistence plantation or one member of the family who is employed.

Number of Probation Cases Sentenced by the Courts

Years	Number of Pre-sentence Reports	# of Persons released on Probation	Number of Offenders Sentenced to Prison
1986	357	94	147
1987	369	75	92
1988	393	61	176
1989	454	76	217
1990	479	52	208
1991	444	62	205
1992	431	70	198
1993	332	57	122
1994	314	55	165
1995	331	18	147
1996	385	45	90
1997	393	37	68
1998	316	80	101
1999	347	56	112

Source: Probation Service Registers - Table 3

For each year between 1986-1999, more offenders that the court ordered pre-sentence reports for were sentenced to prison than those released on probation. This is because the courts ordered reports for serious offences which were more likely to be given imprisonment sentences.

The period 1989-1992 saw the highest number of pre-sentence reports ordered by the court exceeding 400 each year for that period as compared to 300 for the years in the period 1986-1999.

The trend for the total number of persons released on probation and sentenced to prison varied from 18 to 24 for probation and 68 to 217 for imprisonment.

SUPERVISION AND REHABILITATION PROGRAM:

The Probation and Parole Service did not have Rehabilitation Programs prior to 2000. Community Service was always part of sentencing yet it did not have a set programme for implementation during this period (1986 – 1999). Supervision was carried out by way of home visits once a month to assess the reintegration of probationers and parolees into families and communities.

PAROLE:

Parole contributes to the rehabilitation of prisoners when released. It is a non- custodial measure for dealing with prisoners when released by administering prison and parole board orders to provide effective and close supervision directed at eliminating re-offending, promoting and supporting reintegration into the community.

PRISON AND PAROLE BOARD:

The Prison and Parole Board consists of six members. They are:

1. Any judge of the Supreme Court
2. Commissioner of Police
3. CEO for the Ministry of Justice and Courts Administration
4. Three other persons of whom one shall be a registered practitioner/or psychologist and one shall be a woman

Any prisoner who has served half of their custodial sentence is eligible for consideration for parole. However, in cases where:

1. A death sentence has been commuted to life imprisonment – a person has to serve ten years before they are eligible to apply for parole
2. For life imprisonment, a person has to serve eight years
3. A prisoner with less than a year remaining of their term of imprisonment has to be on parole for twelve months
4. A prisoner with more than a year remaining of their term of imprisonment has to be on parole for the entire unserved term.

Number of Prisoners Released on Parole

Years	Females	Males	Total	Life Parole
1986	-	29	29	1
1987	1	27	28	3
1988	1	26	27	4
1989	-	36	36	3
1990	1	32	33	2
1991	2	81	83	3
1992	1	60	61	3
1993	2	24	26	1
1994	-	26	26	2
1995	1	45	46	2
1996	1	53	54	-
1997	-	62	62	-
1998	2	25	27	2
1999	1	45	46	-

Source: Parole Registers - Table 4

97.78% of prisoners released on parole between 1986-1999 were male. 4.45% of parolees released in this period were serving imprisonment terms for murder. The rest of parolees were mainly serving terms for other serious offences such as sexual offences, manslaughter, theft as a servant and grievous bodily harm.

5. Report of Maintenance and Affiliation Section

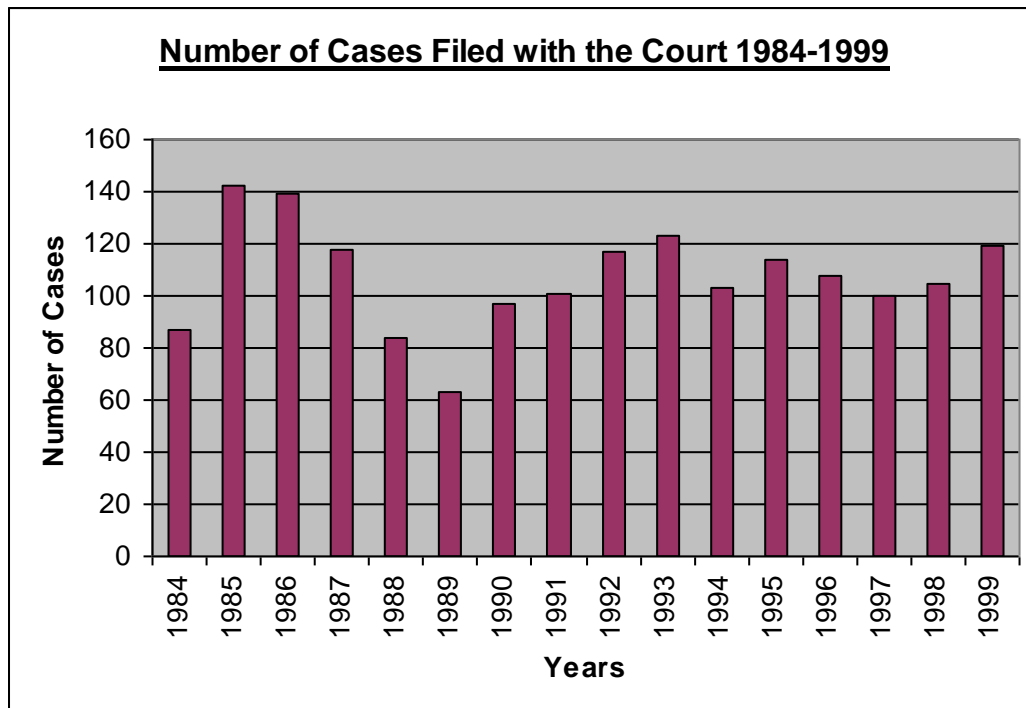
All of the cases that come through the Maintenance section are family oriented, mainly between couples seeking maintenance and custody of their children because the family has gone through rough times due to:

- The father being an alcoholic and becoming abusive towards the mother and children
- The involvement of extended families with stereotypical expectations of gender roles where the woman must serve the husband's family and vice versa.
- The involvement of a third party in the husband/wife relationship.
- Employment
- Desertion

The service provided concentrated on filing cases to the court upon request. In the mid-nineties it extended its role to include consultations between parties - attempting reconciliation and if not, to try and reach an agreement for maintenance.

TOTAL NUMBER OF CASES FILED WITH THE COURT:

Figure 3



Maintenance & Affiliation Register

From 1984 to 1999, the number of cases filed each year fluctuated between 90 and 120. There was a steady decrease from 1985 to 1989, then a slow increase from 1990 to 1993. Another gradual decrease was noted from 1995 to 1997 but in 1998 and 1999, there has been an increase of nearly twenty cases.

6. Report of Research, Policy and Planning Section

This unit was established in 1998 with the intention of centralizing all research purposes, policy and training coordination. It concentrated most of its efforts in this two year period (1998 - 1999) in setting up the unit and the compilation of the Ministry's Management Plan, Corporate Plan and Quarterly Bulletin.

7. Report of Births, Deaths and Marriages Section

Year	BIRTH REGISTRATION			DEATH REGISTRATION			MARRIAGE
	Ordinary	Late	Total	Ordinary	Late	Total	Registered
1983	1503	2579	4082	658	580	1228	1164
1984	705	2925	3630	830	173	1003	921
1985	616	3398	4014	235	219	454	1062
1986	454	3649	4103	449	319	768	875
1987	403	4690	5093	622	593	1215	925
1988	341	4827	5168	840	312	1152	1071
1989	212	4197	4409	920	683	1603	984
1990	70	3472	3542	1030	990	2020	815
1991	189	3795	3984	921	210	1131	895
1992	272	3820	4092	270	260	430	1041
1993	266	3954	4220	250	444	694	988
1994	267	4178	4445	220	290	510	1037
1995	738	3578	4316	170	210	380	895
1996	497	3595	4092	175	290	465	1030
1997	931	4645	5576	223	232	455	1189
1998	1280	4720	6000	217	329	546	1206
1999	1373	4089	5462	163	174	337	2060

Registry's Register - Table 5

Birth:

Ordinary registration is registration of births within two months of the birth as directed by the Births Deaths and Marriages Registration Act. Late registration is registration done outside of the statutory two month period. The table confirms the ongoing problem of the late registration of births.

In each year, more than half of the births registered are late.

Death:

The same principle of ordinary and late registration of births applies to the registration of deaths.

Marriage:

The number of marriage registration does not mean the number of marriages per year but of marriages registered on an annual basis.

8. Report of the Companies and Intellectual Property Section

DATA

Years	Companies	Charitable Trust	Credit Unions	Cooperative Societies	Incorporated Societies	Trademarks	Patents	Industrial Designs
1983	37	0	6	2	14	25	0	0
1984	34	4	5	1	12	146	0	0
1985	60	3	12	0	7	68	4	1
1986	48	2	9	2	10	189	3	0
1987	53	3	1	1	11	10	0	0
1988	75	2	6	0	10	104	0	0
1989	52	3	8	1	6	60	0	2
1990	75	1	0	1	13	70	1	0
1991	61	1	1	0	12	101	2	0
1992	77	1	0	0	12	97	3	0
1993	79	3	1	0	17	105	2	1
1994	71	4	1	4	18	87	1	0
1995	68	2	0	0	6	144	2	2
1996	65	5	1	0	10	179	4	0
1997	71	9	1	0	11	201	0	0
1998	60	3	0	1	11	182	4	0
1999	68	5	2	1	22	183	5	0
Total	1054	51	54	14	202	1871	31	6

Companies Section Register - Table 6

9. Report of Censoring Services Section

Censorship work consisted mainly of the censorship of movies for two movie theaters. Not very much censoring work was done for movie shops since there were a few in number. However, changes emerged in this line of business and more Samoans began investing in it which saw the number of movie shops increase and the accessibility of Samoan families to technology such as VCR and DVD made it impossible for the Ministry to ignore the need to change its focus to accommodate this change. As a result, Censoring became a tool or means to protect society from any detrimental impact in particular from the exposure of society to a high degree of violence and to the values and cultures some of the movies promoted or portrayed. Ratings of the movies were carried out to allow the right age group to view the appropriate movies. This change saw an increase in the censoring workload. This meant that this particular section needed rearrangement to include more staff members that were qualified to carry out censoring duties and the amendment of the Film Control Act in 1998.

The censoring unit became another unit generating income for the government.

10. Report of Accounts Section

Year	ACTUALS \$	ESTIMATE \$	(OVER)/UNDER \$
1983	136,412	118,000	-18,412.00
1984	193,403	170,000	-23,403.00
1985	187,999	180,000	-7,999.00
1986	194,430	195,000	570.00
1987	228,414	215,000	-13,414.00
1988	281,731	275,000	-6,731.00
1989	346,711	305,000	-41,711.00
1990	376,772	300,000	-76,772.00
1991	215,681	151,850	-63,831.00
1992	399,894	350,000	-49,894.00
1993	424,290	539,500	115,210.00
1994	389,728	450,100	60,372.00
1995	494,490	345,000	-149,490.00
1996	416,848	385,000	-31,848.00
1997	393,121	385,000	-8,121.00
1998	400,472	670,000	269,528.00
1999	589,165	728,000	138,835.00

Accounts Register - Table 7

11. Report of the Administration Section

The total number of staff from 1984 to 1999 increased due to the restructuring of the Ministry taking into account Public Sector Reforms.

The total number of staff up to December 1999:

Section	Number of Staff
Courts Division	21
Registries Division	13
Corporate Services Division	16
Tuasivi Office	6
Samoa Judges	17
Total	73

Administration Register - Table 8

The Ministry went through a period of transition and development and concentrated most of its efforts in providing training and induction courses for all its staff to familiarize with the recent public sector reforms, the setting up of systems and procedures for the enhancement of management skills through the Institutional Strengthening Project under NZAID and the campaign for awareness of the start of the many changes introduced to working conditions and entitlements. This saw an improvement in the work performance of staff.

Between 1984 to 1999, the only noted benefits awarded to staff was in salary.

Year	Increase by %
1990	7
1991	7.5
1993	10

Problems encountered are limited access to a vehicle for delivery of mail and other urgent business.

12. Report of Tuasivi Office, Savai'i

General Registration:

Year	BIRTH REGISTRATION	DEATH REGISTRATION		MARRIAGE	
	Registered	Registered	Cert. Issued	Registered	Cert. Issued
1984	1162	54	9	160	76
1985	1161	42	25	201	81
1986	1189	38	22	172	97
1987	1235	*	48	123	93
1988	1284	*	54	176	100
1989	1023	*	68	*	99
1990	1356	74	55	129	73
1991	1122	84	25	108	61
1992	1016	75	58	107	47
1993	881	55	50	170	82
1994	487	60	59	155	77
1995	1027	53	33	160	110
1996	1432	70	60	213	120
1997	1404	73	47	113	44
1998	752	80	73	110	60
1999	1219	81	76	134	75

Tuasivi Register - Table 9

Years marked with an * are unknown which makes the data for deaths and marriages incomplete.

The difference in the number of registration and certificates issued for deaths and marriages, one can register either the death or marriage is not issued with a certificate straight away.

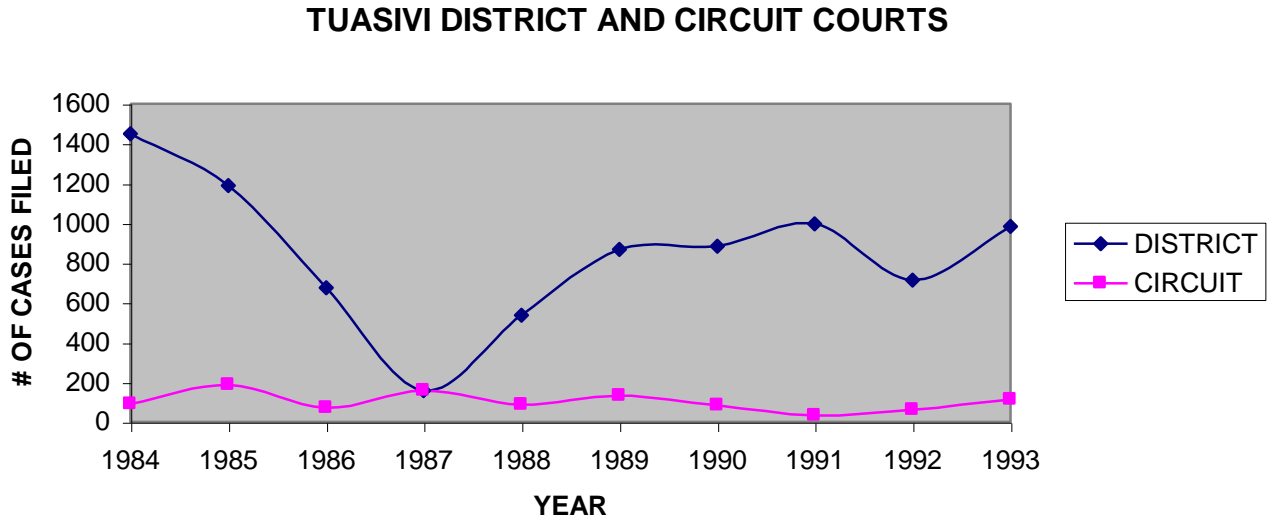
CRIMINAL CASES & PRESIDING JUDGES

YEAR	DISTRICT	CIRCUIT	PRESIDING JUDGE (S)
1984	1,450	90	Su'a L.F.J Thomsen, P.A Mc Alevey, T. Sioa, M. Esau, M. Feo
1985	1,189	187	Su'a L.F.J Thomsen, P.A Mc Alevey, L.R.Vaai, M. Esau, M. Feo
1986	674	70	A. Senu, K. Grave, P.A Mc Alevey, S. Vaai, Se Apa
1987	157	157	R.B Lussick, K. Grave, S. Sega, M. Feo, M. Esau
1988	537	88	R.B Lussick, K. Grave
1989	868	132	R.B Lussick
1990	883	82	R.B Lussick, S. Vaai, A.N Apa, T. Sioa, M. Esau, S. Sesaga
1991	996	31	R.B Lussick, Dillion, E. Puni, L.R Vaai
1992	712	60	R.B Lussick, Dillion
1993	984	111	R.B Lussick

Tuasivi Court Register - Table 10

District cases were matters called at the Tuasivi Court and the Circuit cases were cases called at various sittings around the island of Savaii using either the Church Ministers' or the village mayors' houses in selected villages.

Figure 4



CONCLUSION

The preceding overview provides a snap shot of the activities of the Ministry over this fifteen year period. It highlights the points of progress and indicates the areas of need that exist within the Ministry as it attempts to carry out its duties, responsibilities and service.

With the current report due to be released in the near future a point of comparison will be created and an assessment of how far we have come will be possible; where we are heading in these early years of the new millennium will also be clearer.