

SOLOMON ISLANDS GOVERNMENT

QUESTIONNAIRE FOR THE AUSTRALIAN FEDERAL DIRECTOR OF PUBLIC PROSECUTIONS, MR DAMIAN BUGG QC

(A) GLOSSARY OF ABBREVIATIONS

(B) INTRODUCTION

(C) VANUATU INVESTIGATION AND PROSECUTION OF AG MOTI QC

- (i) History of the Vanuatu courts concerning the case of AG Moti QC
- (ii) Tainted and contaminated criminal investigation into AG Moti QC
- (iii) Illicit and questionable motives of the Salmon family
- (iv) Salmon's blackmail - another motive
- (v) Vanuatu Ombudsman's politically motivated investigation into AG Moti QC
- (vi) Civil Proceeding in Vanuatu – Roy's complaints finally dealt with
- (vii) Bogus Australian allegations of corruption in the Vanuatu case

(D) AUSTRALIAN INVESTIGATION & PROSECUTION OF AG MOTI QC

- (i) Knowledge of Australian authorities of the Vanuatu case concerning AG Moti QC
- (ii) There is no bona fide complainant for the Australian prosecution

- (iii) Australian prosecution of AG Moti QC is a violation of the double jeopardy principle
- (iv) Unexplained delay in the Australian criminal investigation – spurious excuses
- (v) Prejudicial and oppressive delay – AG Moti QC would not receive a fair trial in Australia
- (vi) Prejudicial publicity – AG Moti QC would not receive a fair trial in Australia
- (vii) Prejudice and oppression – it would be unfair for AG Moti QC to be tried in Australia
- (viii) Australia’s political agenda in the case of AG Moti QC
- (ix) Australia’s investigation of AG Moti QC– a politically driven case
- (x) AG Moti QC is not a fugitive from justice of India in relation to the Australian arrest warrant
- (xi) Australia’s failure to inform the Solomon Islands Government of the 2006 arrest warrant
- (xii) Australia’s warning to AG Moti QC not to travel to the Solomon Islands to work as Attorney General
- (xiii) Australia’s failure to act in good faith in bail negotiations concerning AG Moti QC
- (xiv) Australian Federal Police investigation of AG Moti QC – a staged manipulation of the truth
- (xv) Australia’s investigation and prosecution of AG Moti QC – a fraud and malicious sham
 - a) No prima facie evidence
 - b) Suppression of inconsistencies

- c) Concealed or suppressed explanations and material
- d) New Australian evidence – recently invented and concocted stories
- e) Other manipulation of sworn statements
- f) Gross Australian investigatory failures

(E) OTHER VIOLATIONS OF HUMAN RIGHTS, NATIONAL AND INTERNATIONAL LAW

- (i) Unauthorised Australian investigation in Vanuatu
- (ii) Interview with Roy – a violation of rights
- (iii) Illegal arrest of AG Moti QC in Papua New Guinea
- (iv) Violations of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons
- (v) Illegal arrest of AG Moti QC by RAMSI in the Solomon Islands
- (vi) Unlawful suspension of AG Moti QC
- (vii) Illicit manipulation of the Registrar of the Supreme Court of Vanuatu for the purpose of misleading the PNG Defence Board of Inquiry

(F) CONCLUSIONS

A. GLOSSARY OF ABBREVIATIONS

“AG Moti QC ” refers to the Solomon Islands Attorney General Mr Julian Moti QC

“AG Ruddock” refers to the Australian Federal Attorney General Mr Phillip Ruddock

“Commissioner Castles” refers to the Solomon Islands Police Commissioner Mr Shane Castles

“Commissioner Keelty” refers to the Australian Federal Police Commissioner Mr Mick Keelty

“DPP Bugg QC” refers to the Australian Federal Director of Public Prosecutions Mr Damian Bugg QC

“DPP Cauchi” refers to the former Solomon Islands Director of Public Prosecutions Mr John Cauchi

“Minister Downer” refers to the Australian Minister of Foreign Affairs Mr Alexander Downer

“Morgan” refers to Ms Nicole Morgan

“PM Howard” refers to the Australian Prime Minister Mr John Howard

“PM Sogavare” refers to the Solomon Islands Prime Minister Mr Manasseh Sogavare

“Roy” refers to Mrs Puaita Lysandre Vairea Roy (nee Salmon)

“Salmon” refers to Mr Ariipaea Marc Salmon

“Salmon Family” refers collectively to Salmon, Morgan and their five children

“Senator Ellison” refers to the former Australian Minister of Justice and Customs Mr Christopher Ellison”

B. INTRODUCTION

Under the law of the Solomon Islands the Minister for Police, National Security, Justice and Legal Affairs is responsible for the initial decision to authorise the commencement of extradition proceedings and the final decision whether to return a person to a foreign State.

The Minister for Police, National Security, Justice and Legal Affairs of the Solomon Islands, having examined the documentary requirements and substantive provisions set out in the applicable extradition legislation, considers that the information provided by the Australian authorities in support of its extradition request does not suffice for rendering a decision on the granting of extradition.

The Minister for Police, National Security, Justice and Legal Affairs has therefore requested additional information concerning the Australian request, such information being set out in the list of questions below.

The justification for requesting additional information is set out in clause 7(1) of the London Scheme for Extradition within the Commonwealth which provides:

“ If it considers that the material provided in support of a request for extradition is insufficient, the competent authority in the requested country may seek such additional information as it considers necessary from the requesting country, to be provided within such reasonable period of time as it may specify”.

We have been informed from a reliable source that DPP Bugg QC has not personally inspected the investigatory/prosecutorial file in relation to AG Moti QC and that he has not personally decided that there is sufficient evidence to justify a prosecution of AG Moti QC

1. Would DPP Bugg QC please clarify whether or not he has personally inspected the file concerning the Australian proposed prosecution of AG Moti QC, including inspecting the statements of Roy, made in 1997, 1998 and 2006?
2. Would DPP Bugg QC please inform us whether he personally authorised and approved the decision to prosecute AG Moti QC on or about August 11, 2006?

3. Would DPP Bugg QC personally review the prosecutorial file in relation to AG Moti QC in light of the questions and information contained in this document?

C. VANUATU INVESTIGATION AND PROSECUTION OF AG MOTI QC

(i) History of the Vanuatu courts concerning the case of AG Moti QC

4. Is DPP Bugg QC aware that Minister Downer, AG Ruddock, Senator Ellison and Commissioner Keelty have been grossly misinformed about the history and status of the Vanuatu criminal and civil proceedings involving AG Moti QC?
5. Is DPP Bugg QC aware that the vicious lies suggesting that AG Moti QC bought his freedom in Vanuatu in relation to his criminal charges, has been part of a witch hunt to criminally defame AG Moti QC and the Governments of several Pacific countries, including the Governments of Solomon Islands, Vanuatu and Papua New Guinea?
6. Is DPP Bugg QC aware that a thorough and accurate knowledge of the court proceedings in Vanuatu between 1998 and 2000 is vital so as to show that there is no legal or policy justification for Australia to resuscitate new charges against AG Moti QC concerning the same criminal allegations which had been previously considered and conclusively determined by the Vanuatu judiciary?

For the purpose of greater transparency we set out the following sequence of events, which we have sourced and verified from unimpeachable court files in Vanuatu and authoritative witnesses:

March 20, 1998

AG Moti QC is arrested and charged in Vanuatu with committing underage sexual offences against Roy between May and October 1997 in Vanuatu and New Caledonia. The court grants AG Moti QC bail.

April 17, 1998

Port Vila Magistrate Mr Jerry Boe commits AG Moti QC to the Supreme Court for trial. Magistrate Boe refuses to allow AG Moti QC to make any submissions or representations on the prosecution case before making his decision to commit.

April 23, 1999

Vanuatu Court of Appeal (Acting Chief Justice Vincent Lunabek, Justice Bruce Robertson, Justice John von Doussa and Justice Daniel Fatiaki) quash the committal of AG Moti QC on the ground that Magistrate Boe had violated procedural justice by refusing to allow AG Moti QC to make any submission or representation regarding the prosecution case against him. The Court of Appeal orders the matter to be returned to the Magistrates Court to be considered afresh by a different Magistrate.

August 23, 1999

Mr Bruce Kalotiti Kalotrip, a Port Vila Magistrate, holds a fresh preliminary inquiry into the criminal proceedings against AG Moti QC. After considering the material presented by the Public Prosecutor and the Defence, Magistrate Kalotrip decides as follows:

- (i) that there is no prima facie case disclosed against AG Moti QC;
- (ii) that he does not authorise the laying of a proposed information against AG Moti QC;
- (iii) that AG Moti QC be immediately discharged;
- (iv) that the prosecution of AG Moti QC was unjustified or oppressive; and
- (v) that the State must pay AG Moti QC's costs.

The Vanuatu Public Prosecutors do not pursue any appeal against Magistrate Kalotrip's decision to **dismiss the criminal case against AG Moti QC**. The Vanuatu prosecution is closed. Subsequently, the costs order was vacated by mutual consent.

August 21, 2000

Vanuatu Supreme Court Justices Coventry and Marum enter consent judgments between Salmon, Morgan, Roy and the Salmon Family and AG Moti QC in relation to all parties' claims and counterclaims for damages, costs and interest against each other. The judgments are based on a Deed of Mutual Release and Settlement which is signed by and on behalf of all members of the Salmon Family and AG Moti QC. All civil judgments in relation to the dispute between AG Moti QC and the Salmon Family are entered in favour of AG Moti QC.

Mr John Malcolm of Geoffrey Gee & Partners act for the Salmon Family as their legal representative in all civil proceedings and confirms that they were properly advised by him on the contents and legal effect of the Deed of Mutual Release and Settlement prior to its execution by them.

The Salmon Family do not appeal against the Vanuatu Supreme Court judgments.

7. A) Is DPP Bugg QC aware that further proof of what happened in the Vanuatu criminal proceedings against AG Moti QC is found in the affidavit of Vanuatu Public Prosecutor Nicholas Mirou sworn on November 18, 2003 and filed in the Supreme Court of Vanuatu?
- B) Is DPP Bugg QC aware that Mr Mirou's affidavit was accepted by the Vanuatu Chief Justice in a consent judgment dated April 15, 2004 concerning the enforceability of the legal costs order awarded to AG Moti QC?
- C) Is DPP Bugg QC aware that Mr Mirou swore in paragraph 7 of his affidavit as follows?

"The file retrieved from the archives was filed as *closed* due to the fact that ... [Mr Kalotrip] made a decision on 23rd day of August 1999. The matter was closed after ... [Mr Kalotrip] refused to commit Moti to stand trial at the Supreme Court on charges of a number of counts alleging sexual intercourse"

8. Is DPP Bugg QC aware that Mr Mirou further stated in an application dated November 13, 2003 that “no issue is taken as to the lawfulness” of the orders of Mr Kalotrip? Mr Mirou stated that:

“In the proper exercise of his administrative function ... [Mr Kalotrip] refused to commit Julian Moti. Nor did he authorize the laying of the proposed information against ... [AG Moti QC]. Also under the power vested to him by s.146(1) of the Criminal Procedure Code [CAP 136] (“CPC”) he discharged ... [AG Moti QC]”?

9. A) Has DPP Bugg QC inspected all the files of the Vanuatu courts and interviewed or arranged the interview of any person who has first-hand knowledge of the Vanuatu criminal and civil proceedings in relation to AG Moti QC?

B) If he has, will he confirm the accuracy or otherwise of the above sequence of events and judicial findings?

10. Can DPP Bugg QC explain why he considers that the Australian prosecution of AG Moti QC in 2006 for the same offences that he was charged with in Vanuatu is not “unjust and oppressive” when his prosecution in Vanuatu was judicially so characterized seven years earlier?

11. Can DPP Bugg QC confirm that he has carried out a thorough examination of the evidence produced in the Vanuatu prosecution and explain what “new evidence” has been produced since 1999 which would justify his prosecution of AG Moti QC in 2006 for the same criminal allegations?

12. Is it not the case that the Australian Federal Police investigation has produced no new evidence against AG Moti QC concerning the criminal allegations made in 1997/1998?

13. Is it not the case that the 2006 investigation of AG Moti QC by the Australian Federal Police has entailed a staged manipulation of witnesses’ statements which amount to at best, a biased, zealous investigation disinterested in the truth, and at worst, a deliberate perversion of the course of justice?

(ii) *Tainted and contaminated criminal investigation of AG Moti QC*

14. Is DPP Bugg QC aware that there has never been any DNA evidence which implicates AG Moti QC in any way in the commission of the alleged underage sexual offences, so that the statements of the key prosecution witness, Roy, are critical for Australia's initiation of its recent criminal pursuit of him?
15. Has DPP Bugg QC carried out any professional assessment of Roy's 1997/1998 statements to determine whether any reasonable and bona fide prosecutor could rely on her as a witness of truth?
16. Has DPP Bugg QC examined the circumstances in which Roy, then a 13 year old girl with a kindergarten education, made 6 separate statements in 1997/1998 in a foreign language, wherein she alleged that she was the victim of unlawful sexual intercourse with AG Moti QC?
17. Can DPP Bugg QC offer any explanation as to why Roy's statements were taken in English in 1997/1998 when her nationality is French and she consistently disclaims sufficient knowledge, comprehension, literacy and conversancy in any language other than French and elementary Bislama?
18. Can DPP Bugg QC offer any explanation as to why were Roy's statements in the English language and not in French, when French is one of the official languages of Vanuatu and there were many police officers available in Vanuatu to take her statements in French?
19. Can DPP Bugg QC inform us whether the Australian Federal Police or anyone acting on its behalf has carried out any forensic analysis of the 6 statements made by Roy in 1997/1998 to establish the authorship of each of those statements?
20. Is DPP Bugg QC not at all or sufficiently concerned that there is different handwriting in the 6 separate statements of the same witness, Roy?
21. Is DPP Bugg QC not at all or sufficiently concerned that Roy admitted in 2006 that only 1 of her 1997/1998 statements was in fact in her own handwriting?

22. Has DPP Bugg QC considered whether Roy received any undue or improper assistance from the Vanuatu police, the Vanuatu Ombudsman, Salmon, Morgan, Roy's older siblings, her brother-in-law or someone else in making her 1997/1998 statements?
23. Has DPP Bugg QC made a close examination of Roy's 1997/1998 statements, which show that they have been tainted (or otherwise contaminated) by her conversations with the Vanuatu police, the Vanuatu Ombudsman, Salmon, Morgan, her older siblings, her brother-in-law or someone else?
23. Would DPP Bugg QC agree with the proposition that the mere fact that on June 16, 2006 Roy adopted most of her 1997/1998 statements as "true and correct", does not relieve him personally from his legal and ethical obligations to diligently and carefully scrutinise those statements, especially in view of the range of material inconsistencies in those statements and the evidence of contamination?

(iii) *Illicit and questionable motives of the Salmon family*

24. Has DPP Bugg QC verified the accuracy or otherwise of the assertions contained in Australia's "Request for Provisional Arrest Pending Extradition" to Solomon Islands dated October 1, 2006, which are repeated in the 2006 statements of Roy and Salmon. The Request states that in 1997:

"The Salmon family were in financial difficulties at the time and Moti offered the complainant's father business opportunities ... Moti threatened to have the complainant's family deported from Vanuatu or to destroy her parents' business, if she returned to her family home or told her parents about the life she was going through with him."

25. Has DPP Bugg QC made the necessary inquiries with the Government of Vanuatu to corroborate the details and circumstances of the Salmon Family's immigration status in Vanuatu before, during and since 1997/1998?
26. Has DPP Bugg QC sought information from any person who may corroborate or impeach the statements of Roy and Salmon in relation to the Salmon Family's immigration status in Vanuatu before and during 1997/1998?
27. Has DPP Bugg QC properly considered that the Salmon Family's immigration status problems had nothing to do with AG Moti QC?

28. Has DPP Bugg QC sought information from Ms Roxanne Naylor, Managing Director of Kava Kompani Limited, who by letter dated December 3, 1996 advised the Vanuatu Immigration authorities that Salmon was no longer employed by her company and, therefore, the Salmon Family was not entitled to remain and reside in Vanuatu?
29. Has DPP Bugg QC obtained and inspected copies of relevant documentation from the Vanuatu Immigration and Labour authorities which confirm that the Salmon Family was liable to be deported from Vanuatu after expiry of their permits on April 30, 1997?
30. Has DPP Bugg QC obtained and inspected a copy of the order for removal of the Salmon Family which was served on Salmon on November 19, 1997?
31. Has DPP Bugg QC obtained a copy of the legal opinion written on November 19, 1997 by Mr Ham Bulu, the Attorney General of Vanuatu, advising the Immigration Department that the Salmon Family had been residing unlawfully in Vanuatu since August 1997 and that to grant Salmon an exceptional visa for 2 months would be ultra vires the applicable law?
32. Why have the Australian authorities not carried out a comprehensive examination of any member of the Salmon Family concerning their immigration status to determine whether Roy's and Salmon's statements about AG Moti QC have any element of truth?
33. Has DPP Bugg QC considered the possibility that a significant motivation for Roy to make an accusation against AG Moti QC was to ensure that the Salmon Family would be able to remain and reside in Vanuatu despite their illegal immigration status?
34. Has DPP Bugg QC considered whether Salmon had in fact persuaded or influenced Roy to make her accusations against AG Moti QC in December 1997 so as to prevent the deportation of the Salmon Family from Vanuatu?
35. Is DPP Bugg QC aware that that the Salmon Family was encouraged to make the accusations against AG Moti QC in December 1997 by Vanuatu's Ombudsman, Ms Marie Noelle Ferrieux-Patterson, when she promised to assist them by

intervening to prevent their deportation from Vanuatu if they would cooperate with her plans to destroy AG Moti QC's professional career?

36. Is DPP Bugg QC aware that the Salmon Family was permitted to remain in Vanuatu only because of the criminal allegations made against AG Moti QC?
37. Has DPP Bugg QC examined any of the underlying documents pertaining to AG Moti QC's alleged business relations with Salmon for the purpose of confirming the truth or otherwise of the statements by Salmon and Roy?
38. Has DPP Bugg QC undertaken the requisite inquiries to inform himself about the actual nature of the professional, legal and business relationship between AG Moti QC and Salmon in 1997?
39. Is DPP Bugg QC aware that a lawyer/client relationship prevailed between AG Moti QC and Salmon in 1997?
40. Is DPP Bugg QC aware that AG Moti QC's law firm represented Salmon in defending several suits brought by creditors as a result of Salmon's failure to pay debts?
41. Has DPP Bugg QC searched the records of the Vanuatu court registries and inspected filed copies of all the proceedings issued against Salmon including, inter alia, the documents in Civil Case No. 93 of 1997 concerning the suit against Salmon by Pacific Traders Limited?
42. Is DPP Bugg QC aware that AG Moti QC's business relations with Salmon did not in fact venture beyond the traditional solicitor/client relationship?
43. Is DPP Bugg QC aware that AG Moti's relations with Salmon became estranged in late 1997 only after Salmon had pledged AG Moti QC's credit without his prior knowledge and authority and ultimately when AG Moti QC refused to become the guarantor of Salmon's private and corporate debts?
44. Is DPP Bugg QC aware that in late 1997 Salmon was rescued from his impecuniosity and the prospects of the Salmon Family's deportation from Vanuatu by reason only of the allegations made by Roy against AG Moti QC?

45. Has DPP Bugg QC made a thorough assessment of the motivations of the Salmon Family in 2006 for repeating the same accusations which they had made against AG Moti QC in 1997/1998 and reflected on the perils attending the pursuit of a criminal prosecution without such assessment?

(iv) *Salmon's blackmail - another motive*

46. Has DPP Bugg QC considered the possibility that another significant motivation for Roy for making the accusations against AG Moti QC in 1997/98 was to obtain monies unlawfully from AG Moti QC?

47. Has DPP Bugg QC considered whether Salmon persuaded or influenced his daughter, Roy, in making her accusation in December 1997 in Vanuatu so as obtain monies unlawfully from AG Moti QC?

48. Is DPP Bugg QC aware that in mid March 1998 AG Moti QC and his law partner, Mr Dudley Aru, were authorised by the Vanuatu Public Prosecutor to institute a private prosecution of Salmon on twelve counts of extortion?

49. Has DPP Bugg QC inspected the public records of proceedings kept at the Supreme Court of Vanuatu registry in Port Vila, in relation to this prosecution of extortion, in criminal case No 13 of 1998?

50. Has DPP Bugg QC inspected copies of the following documents?

Letter dated March 12, 1998 from Mr Dudley Aru to the Acting Public Prosecutor, enclosing Mr Aru's affidavit of complaint concerning Salmon sworn on March 12, 1998;

Letter dated March 12, 1998 from the Acting Public Prosecutor to AG Moti QC appointing AG Moti QC and Aru as Private Prosecutors of Salmon;

Instrument of appointment of AG Moti QC by the Acting Public Prosecutor dated March 12, 1998;

Warrant of arrest for Salmon on twelve counts of extortion issued by Justice Saksak on March 12, 1998;

Summons long accused dated July 21, 1998 enclosing Complaint dated March 27, 1998 and draft Information dated July 20, 1998;

Official transcript of hearing notes prepared by Justice Tomkins on September 18, 1998; and

Reasons for verdict delivered by Justice Tomkins on September 18, 1998.

51. Is DPP Bugg QC aware that Justice Tomkins held that there was a prima facie case of extortion against Salmon?
 52. Is DPP aware ware that Justice Tomkins found Salmon not guilty on all counts of extortion because there was a “direct conflict of evidence” between the testimony of Aru and Salmon?
 53. Is DPP Bugg QC aware that Justice Tomkins was not prepared to hold that the charges of extortion were frivolous or vexatious?
 54. Is DPP Bugg QC aware that under the law of Vanuatu a private prosecutor has no automatic right to appeal against an adverse verdict?
- (v) *Vanuatu Ombudsman’s politically motivated investigation into AG Moti QC*
55. Has DPP Bugg QC carried out any enquiries as to the circumstances where Roy, made a criminal complaint about AG Moti QC to the Vanuatu authorities?
 56. Is DPP Bugg QC aware that the criminal complaint in Vanuatu against AG Moti QC was made by Roy to Heather Lini- Leo of the Office of the Vanuatu Ombudsman on December 15, 1997?
 57. Is DPP Bugg QC aware that Heather Lini-Leo was an investigator, witness and prosecutor in the criminal case against AG Moti QC in Vanuatu?
 58. Is DPP Bugg QC aware of the political conflict between the Office of the Ombudsman and the Government of Vanuatu between 1996-1998?
 59. Is DPP Bugg QC aware that on July 8, 1997 the Vanuatu Council of Ministers made a decision to arrange a petition requesting the President of Vanuatu to dismiss the Ombudsman from her Office?

60. Is DPP Bugg QC aware that in 1997 the Ombudsman, Marie-Noelle Ferrieux-Patterson, challenged the decision of the Vanuatu Council, and that Heather Lini-Leo acted as counsel for the Ombudsman in the litigation?
61. Is DPP Bugg QC aware that during 1997 AG Moti QC acted as counsel for about 42 politicians, including Government Ministers in Vanuatu, in relation to various matters concerning the Ombudsman, including challenging the constitutional validity of the Ombudsman Act No 14 of 1999?
62. Is DPP Bugg QC aware of the political attitude of the Office of the Vanuatu Ombudsman towards AG Moti QC in 1997/1998?
63. Has DPP Bugg QC examined the content of the first statement of Roy dated December 15, 1997, made to Heather Lini-Leo, wherein Roy stated that AG Moti QC told her the following?

“he knows B Sope, Serge Vohor and Willie Jimmy, and knows a lot of their secrets... He says that he will tell Politicians to deport father”

64. Has DPP Bugg QC considered the possibility that Heather Lini-Leo put these words in the mouth of Roy, a 13 year old girl, as part of the Ombudsman’s campaign to discredit and persecute Mr Moti?
65. Does DPP Bugg QC consider that it is credible that a 13 year old girl with a kindergarten education, has such political knowledge that she can inform the Office of the Ombudsman of a conversation with AG Moti QC wherein Moti refers to the names of 3 Vanuatu politicians, including the name of the Prime Minister of Vanuatu?
66. Is DPP Bugg QC aware that in 1999 the Vanuatu Police Commissioner Peter Bong was prepared to testify that the Ombudsman, Marie-Noelle Patterson, had pressured his officers to arrest and prosecute Mr Moti?
67. Is DPP Bugg QC aware that the same political overtones and unsubstantiated allegations or innuendos of political corruption in Vanuatu are found in the 2006 statements of Roy and Salmon?

68. Can DPP Bugg QC confirm whether the former Ombudsman, Marie-Noelle Ferrieux-Patterson , has continued her vendetta against AG Moti QC by assisting the Australian Federal Police in its criminal investigation into AG Moti QC?

(vi) *Civil Proceeding in Vanuatu –Roy’s complaints finally dealt with*

69. Has DPP Bugg QC inspected the Vanuatu court files regarding the civil proceedings in relation to the following cases?

Supreme Court Civil Case No.132 of 1998 (civil claims by Salmon family against AG Moti QC);

Supreme Court Civil Case No. 48 of 1998 (AG Moti QC’s counterclaims against the Salmon family); and

Transferred Magistrates’ Court Civil Case No 124 of 1998 (Motis Pacific lawyers counterclaims against the Salmon family).

70. Is DPP Bugg QC aware of the details of the 1998-2000 Vanuatu civil claims brought by the Salmon family against AG Moti QC in relation to Roy’s allegations of illicit sexual misconduct?

71. Is DPP Bugg QC aware of the details of the 1998-2000 Vanuatu claims brought by AG Moti QC and his law firm, Motis Pacific Lawyers, against the Salmon family to the Salmon family’s unpaid debts?

72. Is DPP Bugg QC aware that the civil proceedings against AG Moti QC related to claims of damage for the alleged crimes of unlawful sexual intercourse and indecent assault in Vanuatu and New Caledonia?

73. Is DPP Bugg QC aware that the civil proceedings in Vanuatu were eventually settled between the parties when the Salmon family’s Counsel, Mr John Malcolm (of Geoffrey Gee & Partners) and AG Moti QC’s Counsel, Mr John Purnell SC, were persuaded by the Vanuatu Court of Appeal to explore prospects for the resolution of the dispute having regard to the interests of all the parties?

74. Is DPP Bugg QC aware that following the filing and service of AG Moti’s request for further and better particulars on May 12, 2000 and AG Moti QC’s interrogatories on June 20, 2000, Mr Malcolm proposed the basis for settlement

of all claims which addressed Mr Purnell SC's concerns regarding the irrecoverability of any judgment debt and costs from the Salmon family given their acknowledged impecuniosity, as well as AG Moti QC 's professional status, career and reputation?

75. Is DPP Bugg QC aware that the negotiations of the terms and conditions for mutual termination of the civil proceedings took place over a period of time until August 21, 2000 when a 'Deed of Mutual Release and Settlement' was finally signed by the Salmon family?
76. Is DPP Bugg QC aware that the Deed of Mutual Release and Settlement was drawn up and settled by both Mr Purnell SC and Mr Malcolm and entered into by the parties (namely, AG Moti QC, Roy, Salmon and Morgan) after each of them was separately advised on the confidential and legal effect thereof by their respective Counsel?
77. Is DPP Bugg QC aware that pursuant to the Deed of Mutual Release and Settlement, the parties consented to the entry of the following judgments in favour of AG Moti QC in all civil proceedings?

Judgment in the Supreme Court Civil Case No 132 of 1998 entered by Justice Coventry on August 22, 2000;

Judgement in the Supreme Court Civil Case No 48 entered by Justice Marum on August 21, 2000; and

Judgment in Transferred Magistrates' Court Civil Case No 124 of 1998 entered on August 21, 2000.

78. Is DPP Bugg QC aware that by letters from Mr Malcolm dated June 15, 2000 and Salmon dated May 12, 2000, to the Law Council of Vanuatu, all complaints by the Salmon family against AG Moti QC relating to the allegations of illegal sexual conduct, were withdrawn?
79. Is DPP Bugg QC aware that the Vanuatu civil judgments which were issued in favour of AG Moti QC have never been appealed or set aside?

80. Is DPP Bugg QC aware that under the Mutual Deed and Release which was signed by Roy, all her complaints and allegations against AG Moti QC about unlawful sexual intercourse and indecent assault were finally settled?
81. Is DPP Bugg QC aware that the Deed of Mutual Release and Settlement was never repudiated by Roy after she attained the age of majority in 2002?
82. Is DPP Bugg QC aware that by Roy voluntarily entered into the Deed of Mutual Release and Settlement in 2000 under independent legal advice, and by failing to repudiate the said Deed in 2000, she is bound by its terms?
83. Is DPP Bugg QC aware that in relation to the Vanuatu civil claim, Roy has stated in paragraph 63 of her affidavit dated November 3, 2006 the following?
- “I recall that some time in 2000 I signed a document in relation to the matters in dispute between Moti and my family. At the time I signed the document, the criminal charges against Moti arising from my complaint had been dismissed; however, I still had a claim for damages against Moti. I was told something by my father and my solicitor and as a result signed the document.”
84. Is DPP Bugg QC aware that in relation to the Vanuatu civil claim, Salmon has stated in paragraphs 46 and 47 of his affidavit dated November 3, 2006 the following?
- “I do not understand the difference between the civil and criminal cases being conducted by John Malcolm.... While the criminal case was still going on, we were given four million vatu. That was after I signed a Deed of Settlement on John Malcolm’s advice. I did not understand what the purpose of the Deed was; I signed it because John Malcolm told me to. I do not know why we received four million vatu. I went to John’s office and collected a cheque for 500,000 vatu. These were part payments of the four million vatu.”
85. Has DPP Bugg QC interviewed Mr John Malcolm as to whether Salmon gave him extensive instructions concerning the civil proceedings over a three year period?
86. Are not the statements of Roy and Salmon a cunning, self serving attempt to obtain new compensation against AG Moti QC in Australia in relation to matters which have been finally settled in Vanuatu?

87. Is DPP Bugg QC aware that the civil judgments in Vanuatu are res judicata in relation to matters pertaining to civil dispute between AG Moti QC and Roy in relation to her allegations of physical and sexual abuse?

The doctrine of res judicata emphasise the importance of the notion of finality of judicial proceedings in the rule of law. In *Combined Dulabed and Malanbarra/Yidinji Peoples v Queensland* [2004] Federal Court of Australia 1097 Spender J, 25 August 2004 at [30] stated:

“Res judicata was described by Dixon J (as he then was) in *Blair v Curran* (1939) 62 CLR 464 ("Blair") at 532 as having effect where ‘the very right or cause of action claimed or put in suit has in the former proceedings passed into judgment, so that it is merged and has no longer an independent existence.’ In order to rely on res judicata it is necessary to show that the earlier judgment relied on was a final judgment between the parties and that there exists identity of parties and of subject matter: see *Carl Zeiss Stiftung v Rayner & Keeler Ltd* [1967] 1 AC 853 at 909-10 per Lord Reid. In *Jackson v Goldsmith* (1950) 81 CLR 446 at 466 Fullagar J said that the doctrine is essentially a ‘broad rule of public policy’ based on the judicial maxims directed at finality: ‘interest reipublicae ut sit finis litium’ and ‘nemo debet bis vexari pro eadem causa”

88. Is DPP Bugg QC aware that the Vanuatu civil judgments may be recognised, registered and enforced under applicable Australian law, and that they would effectively prevent any entitlement of Roy and the Salmon family to any relief in Australia against AG Moti QC?
89. Can the DPP confirm that Roy and the Salmon family have not been misled by the Australian Federal Police about the true legal effect of their non-entitlement to any further monetary relief in Australia?
90. Does DPP Bugg QC consider that it is an abuse of State power for public prosecutors to ignore the finality of both the civil and criminal proceedings of a foreign jurisdiction in a case where those proceedings relate to the same issues, subject matter and parties that forms the basis of the Australian prosecution?

(vi) *The bogus Australian allegations of corruption in the Vanuatu case*

91. Is DPP Bugg QC aware that the Australian authorities have accused AG Moti QC of corrupting the magistrate Bruce Kalotiti Kalotrip who dismissed the criminal

charges against AG Moti QC on August 23, 1999? The Australian Government statement dated October 1, 2006, which accompanied the Australian Government's request for the provisional arrest of AG Moti QC pending extradition states as follows?

"On 23 August 1999 Magistrate Bruce Kalotiti conducted a new preliminary enquiry (and) ...ordered that there was no prima facie case disclosed requiring MOTI to be committed to the Supreme Court for trial and discharged MOTI. The Magistrate did not give reasons for his decision.

Following dismissal of the criminal matter, allegations arose that MOTI had paid for and sponsored Bruce Kalotiti to attend a course at the University of Western Sydney, Australia, in return for the charges being dismissed. At the request of the Vanuatu authorities, a search warrant was executed by the Australian Federal Police in the University of Western Sydney. During the search, documents seized showed that MOTI sponsored Bruce Kalotiti's attendance at the University.

The Office of the Commonwealth Director of Public Prosecutions is of the view that the discharge at committal of MOTI in Vanuatu does not give rise to a defence of *autrefois acquit* and is not a bar to MOTI being prosecuted in Australia for the offence."

92. Is DPP Bugg QC aware that the allegation of corruption against AG Moti QC in relation to the Vanuatu criminal proceeding has been widely reported by the media in Australia and overseas, and that it continues to be repeated in media stories about AG Moti QC?
93. Is DPP Bugg QC aware that following the publication of the allegations of corruption in the media, Mr Bruce Kallotiti Kalotrip publicly denied on October 2, 2006, that he had been corrupted by AG Moti QC?
94. Has DPP Bugg QC seen a copy of the sworn affidavit of Mr Bruce Kallotiti Kalotrip dated April 30, 2007, which has been filed in the High Court of the Solomon Islands in Civil Case No 452 of 2006, namely the *Queen v Public Service Commission, ex parte Julian Ronald Moti QC*? (Copy of Kalotrip's affidavit is **Attachment A**).

95. Is DPP Bugg QC aware that Mr Kalotrip in his affidavit provides a detailed summary of the history of the case, the conduct and statements of counsel in the preliminary hearing before him, and his dealings with AG Moti QC's former law firm in respect of his postgraduate studies in Australia?
96. Is DPP Bugg QC aware that Mr Kalotrip's affidavit is supported by seven exhibits sourced from court documents?
97. Is DPP Bugg QC aware that in Mr Kalotrip's affidavit he makes the following statement at paragraph 19?

"Contrary to what was reported in the international news media in October last year, I can honestly say that I was never "bribed" by Moti or anyone else to compromise my judicial duties when I presided in Moti's preliminary inquiry. I made my decision at the conclusion of that preliminary inquiry strictly on the basis of materials and submissions presented to me by all of the Australian Counsel representing both the Prosecution and Moti. I have made public statements describing my "outrage" to the allegations of "corruption" levelled against me by the Australian Government and condemning their audacity to presume my criminal complicity in such enterprise without even bothering to ascertain the truth from me."

98. Is DPP Bugg QC aware that in Mr Kalotrip's affidavit he states that "the Australian Federal Police have never interviewed me at any time in connection with their probe into Moti's discharge at the preliminary inquiry I conducted on August 23, 1999"?
99. Is DPP Bugg QC aware that in Mr Kalotrip's affidavit he states that "I have never been charged with the commission of any alleged offences in the Republic of Vanuatu or elsewhere in connection with my judicial role in Moti's preliminary inquiry"?
100. Is DPP Bugg QC aware that Mr Kalotrip was entitled not to give detailed reasons for his decision in the preliminary hearing and that this was the usual practice in Vanuatu in accordance with the Supreme Court of Vanuatu decision in *Public Prosecutor v Hollingson Issachar Vanuatu* (1994)?

101. Is DPP Bugg QC aware that the underlying reasons for Mr Kalotrip's decision can be found by referring to the written submissions of Australian counsel for AG Moti QC,
102. Is DPP Bugg QC aware that the prosecutors who appeared before Mr Kalotrip provided no oral or written submissions going to the merits of the case?
103. Has DPP Bugg QC or anyone acting on his behalf interviewed any of the Vanuatu Public Prosecutors concerning the criminal proceedings brought against AG Moti QC?
104. If the Vanuatu Public Prosecutors have not been interviewed, can DPP Bugg QC provide any explanation for this failure, given that the Australian authorities are now asserting concurrent jurisdiction?
105. Is DPP Bugg QC aware that none of the prosecutors in Vanuatu (including the Australian prosecutor Mr Terry Gardiner) appealed against the decision of the magistrate dismissing the criminal proceedings against AG Moti QC?
(Note that on September 8, 1999 Prosecutor Heather Lini-Leo applied for leave for an order of certiorari to remove the case into the Supreme Court to quash the decision of Senior Magistrate Kalotrip, but this unmeritorious application was never proceeded with and was abandoned. See questions 637 -658 below).
106. Apart from the Vanuatu prosecution case having no legal merits, can DPP Bugg QC offer any reasoned explanation as to why the prosecutors in Vanuatu did not appeal against the decision of the Vanuatu magistrate to dismiss the case against AG Moti QC in August 1999?
107. Is DPP Bugg QC aware that the Public Prosecutor of Vanuatu, Nicholas Mirou, in Civil Case No 197 of 2003 stipulated that "no issue is taken as to the lawfulness" of the order of the magistrate refusing to commit AG Moti QC in that this was "in the proper exercise of his administrative function"?
108. Has DPP Bugg QC considered that the allegation of corruption in the case of Mr Moti was made by political opponents of AG Moti QC, who manipulated the Vanuatu Attorney-General's Department to make a mutual assistance request of the Australian Government?

109. Does DPP Bugg QC agree with the proposition that in an ordinary case of a criminal investigation into corruption in relation to a judicial proceeding, there would be a thorough investigation into the factual background of the case, the history of the legal proceedings, and the circumstances surrounding any decision by a judge, magistrate or jury?
110. Can DPP Bugg QC offer any explanation as to why this has not happened in the case of the corruption allegations concerning AG Moti QC?
111. Why has DPP Bugg QC or someone acting on his behalf not interviewed any person who could provide evidence as to the conduct of the civil and/or criminal claims brought against AG Moti QC in Vanuatu? (Knowledgeable persons include Ian Barker QC, former President of the NSW Bar Association and former AG of the Northern Territory, and John Purnell SC, former President of the ACT Bar Association).
112. In light of the affidavit of Senior Magistrate Kalotrip, does not DPP Bugg QC agree with the proposition that the allegation of corruption against AG Moti QC is bogus?
113. Would DPP Bugg QC confirm whether these defamatory corruption allegations have provided a policy justification for instituting criminal proceedings in Australia seven years after the charges were dismissed by a Vanuatu magistrate?

(D) AUSTRALIAN INVESTIGATION & PROSECUTION OF AG MOTI QC

- (i) Knowledge of Australian authorities of the Vanuatu case concerning AG Moti QC*
114. Is DPP Bugg QC aware that Senator Ellison, in an official press release dated October 3, 2006 stated: "The AFP became aware of the (AG Moti QC's) allegations some time ago. The AFP immediately investigated this matter"?
115. Is DPP Bugg QC aware that the Australian law enforcement agencies and relevant Australian Government Ministers have deliberately avoided making a public statement as to when the Australian authorities first became aware of the criminal allegations against AG Moti QC?

116. Is DPP Bugg QC aware that the Australian Government has known of the Vanuatu criminal proceedings concerning AG Moti QC since 1998?
117. Is DPP Bugg QC aware that when AG Moti QC was arrested and bailed in Vanuatu on March 20, 1998, he was offered consular assistance by the Australian High Commission in Port Vila?
118. Is DPP Bugg QC aware that there was widespread news coverage of the Vanuatu criminal proceedings relating to AG Moti QC during the period 1998-99?
119. Is DPP Bugg QC aware that the criminal case against AG Moti QC attracted extensive publicity, particularly because AG Moti QC was a well known lawyer in the Pacific region, who had established the first indigenous law firm in Vanuatu in 1994 and in the Solomon Islands in 1995?
120. Is DPP Bugg QC aware that the decision of Vanuatu Magistrate Bruce Kalotiti Kalotrip to dismiss the criminal proceedings against AG Moti QC in August 1999 was widely reported in the Vanuatu, Solomon Islands and Pacific media?
121. Is DPP Bugg QC aware of the contents of front page story in the Vanuatu newspaper, the Nasara, dated August 28, 1999, entitled "Charges against Moti 'unjustified and oppressive'"?
122. Is DPP Bugg QC aware that the Australian diplomatic mission in Port Vila would have sent to the Australian Department of Foreign Affairs and Trade in Canberra copies of various news reports concerning the Vanuatu prosecution of AG Moti QC?
123. Is DPP Bugg QC aware that such news reports are distributed to numerous Australian Government departments and agencies, including the Attorney-General's Department and the Australian Federal Police?
124. Is DPP Bugg QC aware that the Vanuatu criminal case concerning AG Moti QC, especially the Vanuatu Court of Appeal decision dated April 23, 1999, has been widely available on the Internet website, hosted by the Pacific Law Institute, since the date of that decision?

125. Is DPP Bugg QC aware that since 1999 the Vanuatu criminal matters concerning AG Moti QC could be found on page 1 of any Google search of the phrase “Julian Moti?”
126. Can DPP Bugg QC offer any explanation as why the Australian authorities took until 2005/2006 to assert criminal jurisdiction, in a matter that is now described by Senator Ellison and Commissioner Keelty as of high priority?
- (ii) *There is no bona fide complainant for the Australian prosecution*
127. Is DPP Bugg QC aware of Senator Ellison’s Press Release dated October 4, 2006 which stated the following?
- "The investigation into the allegations against Mr Moti commenced in early 2005, which was when the AFP first received a referral in this matter, well before Mr Moti's appointment as the Solomon Islands Attorney-General was announced."
128. Is DPP Bugg QC aware that Senator Ellison in a TV interview dated October 5, 2006, stated the following?
- “Finally, it was around about the beginning of last year, the Vanuatu authorities indicated that they had finished with Mr Moti and would pursue him no further. It was then that the Australian Federal Police commenced their own investigations.”
129. Does DPP Bugg QC agree with the proposition that Senator Ellison’s statement that the Vanuatu authorities had finished with Mr Moti in 2005 a misleading statement since the Vanuatu case concerning AG Moti QC closed in August 1999?
130. Does DPP Bugg QC agree with the proposition that Senator Ellison’s statement that the Australian Federal Police received a referral in 2005 a red herring, given that the Australian authorities have known since 1998 of the criminal allegations against Mr Moti?
132. Can DPP Bugg QC give a precise date of the referral and the author of that referral?

133. Can DPP explain what were the circumstances surrounding the referral?
134. Can DPP inform us whether the referral to the Australian Federal Police was in writing or made orally?
135. Since the Australian authorities knew in 1998 of the criminal allegations against AG Moti QC, can DPP Bugg QC explain why it was considered necessary for there to be a referral in 2005?
136. If Roy is not a bona fide complainant, does that mean that the underlying real complainant is the Government of Australia?
137. If so, can DPP Bugg QC explain why the Australian Federal Police is investigating a matter that has been finally dealt with in both its criminal and civil aspects?
138. Is DPP Bugg QC aware that the Vanuatu civil judgments in the case of AG Moti QC covered both the allegations relating to illegal sexual intercourse in Vanuatu and New Caledonia?
139. Can DPP Bugg QC explain how Roy is a bona fides complainant in Australian criminal proceedings against AG Moti QC in respect of the same matters that have been finally settled under criminal and civil judgments in Vanuatu?
140. Can DPP Bugg QC explain how Roy is a bona fides complainant in Australian criminal proceedings against AG Moti QC, when she has already received her right to substantial justice under the Constitution and law of Vanuatu?
141. Has DPP Bugg QC taken into account the legitimate interests of Roy in his decision to commence a prosecution against AG Moti QC for alleged offences against Roy?
142. Is DPP Bugg QC aware that Roy in her June 16, 2006 and November 3, 2006 affidavits has provided detailed allegations of physical and psychological harm arising from AG Moti QC's alleged illegal conduct?
143. Can DPP Bugg QC explain what forensic purpose is served by new detailed allegations of physical and psychological harm made in Roy's affidavit dated June 16, 2006 and November 3, 2006, apart from forming the basis of a civil compensation claim against AG Moti QC in Australia?

144. Is DPP Bugg QC aware whether the Australian Federal Police or any person acting on behalf of the Australian Federal Police have held out the prospect of or promised Roy any entitlement to civil compensation under Australian law against AG Moti QC?
145. Would not DPP Bugg QC agree with the proposition that the promise of civil compensation under Australian law is tantamount to a reward inducing the testimony of Roy for the purpose of the Australian criminal proceedings, given that Roy's complaints about AG Moti QC have been finally dealt with under the provisions of the 1999 Deed of Mutual Release and Settlement?
146. Will DPP Bugg QC investigate whether any office of the Australian Federal Police has held out such expectation of hope, promise, or reward to Roy?
- (iii) *Australian prosecution of AG Moti QC is a violation of the double jeopardy principle*
147. Is DPP Bugg QC aware that Mr John Purnell SC has made the following observation concerning AG Moti QC and the double jeopardy principle?

“Clearly in the correct technical sense Mr Moti was not “acquitted” of these charges as the magistrate found the case against him to be so pathetic as not to found a prima facie case and to be unjustified or oppressive. Does this mean then that in this factual matrix a valid extradition can take place? On a strict technical interpretation of s.50FC a responsible argument can be made for extradition but is this the real purpose of the legislation? Does this mean that the reality is that Mr Moti is again being tried in respect of conduct that a fair minded person would regard he has previously faced and successfully challenged and ought not face again?”

The Office of the Commonwealth Director of Public Prosecutions has expressed the view that “the discharge at committal of Mr Moti in Vanuatu does not give rise to a defence of autrefois acquit and is not a bar within the meaning of section 50 FC of the Australian federal Crimes Act 1914 to MOTI being prosecuted in Australia for offences against section 50 BA of the Crimes Act 1914.”(Affidavit of Wendy Barber dated November 16, 2006).

Section 50FC of the Australian Federal Crimes (Child Sex Tourism) Act specifically refers to double jeopardy in these terms:

“If a person has been convicted or acquitted in a country outside Australia of an offence against the law of that country in respect of any conduct, the person cannot be convicted of an offence against this part in respect of that conduct.”

Whatever the legal position may be in Australia, the relevant question is whether the prosecution of AG Moti QC is a violation of concepts of double jeopardy under Solomon Islands law and/or international law.

148. Is DPP Bugg QC aware of section 6(2) of the Solomon Islands Extradition Act 1996? This section provides that a person shall not be extradited from the Solomon Islands to a designated Commonwealth country for a criminal offence if it appears that:

“if charged with that offence in Solomon Islands he would be entitled to be discharged under any rule of law relating to previous acquittal or conviction.”

149. Does DPP Bugg QC agree with the proposition that the Australian prosecution of AG Moti QC is a violation of the underlying purposes of the double jeopardy rule, as identified by Mr Justice Black in *United States v Green*?

The rationale of the rule against double jeopardy is stated by Mr Justice Black for the Supreme Court of the United States in *Green v United States* (1957) 355 U.S. 184 at pp 187-8:

“The underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal compelling him to live in a continued state of anxiety and insecurity, as well as enhancing the possibility that even though innocent he may be found guilty.”

150. Would DPP Bugg QC agree with the proposition that the core of the double jeopardy problem is the possibility that an innocent person may be convicted? (see Martin Friedland, Double Jeopardy, Clarendon Press, Oxford 1969, p 4).

151. Can DPP Bugg QC offer an explanation as to why a person, such as AG Moti QC, should be worse off in relation to the application of the principle of double jeopardy, in a case where the Vanuatu prosecution case is so hopeless that it does not pass the committal stage, so that there is no criminal trial?
152. Since the Vanuatu prosecutorial authorities did not appeal the dismissal of the charges against AG Moti QC, and thereby considered that the case was closed in 1999, would this not have amounted to an estoppel against a second prosecution in Vanuatu, in the absence of new evidence of the alleged crimes?
153. Is it not the case that there is no new credible evidence against AG Moti QC as a result of the Australian Federal Police investigation and that the so-called new evidence is bogus and concocted?
154. How does DPP Bugg QC justify the commencement of an Australian prosecution in relation to the same criminal matters concerning AG Moti QC that, in accordance with the view of the Vanuatu legal system, were finally dealt with in Vanuatu in 1997?

(iv) Unexplained delay in the Australian criminal investigation – spurious excuses

155. Is DPP Bugg QC aware of section 10 (3) of the Extradition Act of the Solomon Islands that states as follows?

“ (3) On any such application the High Court may, without prejudice to any other jurisdiction of the court, order the person committed to be discharged from custody if it appears to the court that –

- a) by reason of the trivial nature of the offence of which he is accused or was convicted; or
- b) by reason of the passage of time since he is alleged to have committed it, or to have become unlawfully at large, as the case may be; or
- c) because the accusation against him is not made in good faith in the interests of justice,

it would, having regard to all the circumstances, be unjust or oppressive to extradite him.”

156. Is DPP Bugg QC aware that superior courts in a number of jurisdictions in the Commonwealth have made the following observations concerning similar statutory provisions?

The provision gives the courts a very wide discretion to consider the facts and merits of the case, and to consider ‘all the circumstances’, not just those to do with the alleged offences; where it is clear that the charge could not possibly succeed, in that the evidence was insufficient to send the person for trial, a person may be discharged;

The term “unjust” is directed primarily at the risk of prejudice to the accused in the conduct of the trial, while the term “oppressive” is ‘directed to hardship to the accused resulting from changes in his circumstances that have occurred during the period to be taken into consideration’ (*Kakis v Governor of the Republic of Cyprus* [1978] 2 All ER 634 at 638, Per Lord Diplock);

In relation to the expression “lack of good faith”, the courts have examined the circumstances surrounding the laying of charges and the position of the informant and complainant; the expression “bad faith” refers not only to the ulterior motives of the prosecution in making the accusation (*Re Osman*, Unreported Queens Bench Division, England, 20 June 1990), but also to cases where an accusation which is made by a complainant is no longer being made in good faith (*Re Murat Callis*, Unreported, Extradition File No 5874, Case No CO/275/92, Judgement 19 November 1993, High Court, London, Sedley J);

The word “accusation” in relation to lack of good faith is broad enough to encompass “the accusation of a witness or witnesses and the offence charged in consequence.” The good faith of the complainant may be examined to determine the issue (*Saifi v Governor of Brixton Prison* [2001] 1 WLR 1134 at 1157, per Rose LJ);

It is the facts relating to a request that render a charge “trivial”, not the objective seriousness of the offence (*Fernandez v Governor of Singapore* [1971] 2 All ER 691); the extent of the penalty applicable is not determinative of the question whether a charge is trivial, ‘but rather what is alleged and what is charged.’ (*Ex parte Maher*[1983] 2 Qd R 695 at 697, per Douglas J);

Unexplained delay attributed to the prosecution may constitute grounds for exercising the discretion where such a lapse of time would be unjust – the impact of delay on the accused must be assessed (*Kakis v Governor of the Republic of Cyprus* [1978] 2 All ER 634 at 638, per Lord Russel and Lord Scarman);

Where as a result of the passage of time (not brought about by the applicant) injustice or oppression resulted then irrespective of whether the requesting state was or was not blameworthy, the applicant would be entitled to be discharged. This does not mean that “the fact that the requesting state had been guilty of culpable delay was not a matter which the court was entitled to take into consideration” especially if the case was close to the borderline as to whether the applicant was entitled to be discharged” (*R v Governor of Brixton Prison and Another, ex parte Osman (No 4)* (1992) 1 All ER 579 at 587, per Woolf L.J

157. Is it not the case that the Australian authorities are not only responsible for the delay in the investigation of AG Moti QC, but have been culpable in causing that delay?
158. Is DPP Bugg QC aware that the first Australian official explanation as to its delay in investigating AG Moti QC was made in the context of a news article entitled “Moti case re-opened during the riot inquiry,” dated October 3, 2006 in the Australian newspaper, wherein it was alleged that Senator Ellison was unable to explain why the Australian Federal Police had taken more than 7 years to launch their investigation into AG Moti QC?
159. Is DPP Bugg QC aware that on October 3, 2006 Senator Ellison gave a vague explanation in a press statement in the following terms?

“The AFP became aware of the (Moti) allegations some time ago. The AFP **immediately** investigated this matter and sought further information to complete a brief of evidence. Any allegation that this investigation is politically motivated is baseless, as the investigation commenced well before the election.”
160. Is DPP Bugg QC aware that it took two days before Senator Ellison could tell the media which year the Australian Federal Police commenced its investigation into Mr Mot QC?

161. Is DPP Bugg QC aware that on October 4, 2006, Senator Ellison in a Press statement stated the following?

“The investigation into the allegations against Mr Moti commenced in early 2005 which was well before Mr Moti’s appointment as the Solomon Island’s Attorney General.”

162. Is DPP Bugg QC aware that on October 5, 2006, Senator Ellison in an interview with ABC Lateline stated the following?

“Finally, it was around about the beginning of last year (2005), the Vanuatu authorities indicated that they had finished with Mr Moti and would pursue him no further. It was then that the Australian Federal Police commenced their own investigations.”

163. Is DPP Bugg QC aware that on October 5, 2006 the Australian newspaper adopted Senator Ellison’s views in an article entitled “Moti case not political”, wherein the reporters stated that the AFP had not been slow to act in the Moti case, because it had to wait until 2004 for the Vanuatu legal proceedings to be completed?

164. Is DPP Bugg QC aware that on October 31, 2006 in evidence before the Senate Standing Committee on Legal and Constitutional Affairs, Australian Parliament, Commissioner Keelty gave the following explanation as to the timing of the Australian investigation?

“On 14 March 2001 the Attorney-General’s Department received a request from the Vanuatu government in relation to certain matters regarding Mr Moti. The mutual assistance request was referred to the AFP by the Attorney-General’s Department on 19 April 2004. A search warrant was executed in furtherance of that mutual assistance request on 7 December 2004.

Documents seized under that warrant were forwarded to Vanuatu under the mutual assistance request on 26 October 2004. On 14 January 2005 the matter was referred to AFP to assess whether there was sufficient evidence to commence prosecution under child sex tourism legislation.

On 2 February 2005 verification of case law was required by the AFP legal area and the Attorney-General's Department. **The Vanuatu police advised that the prosecution in Vanuatu was then closed.**

On 16 March 2005 the matter was accepted by the AFP for investigation. On 17 March 2005 the referral to the Commonwealth Director of Public Prosecutions was made in terms of clarification of the double jeopardy situation. On 30 March 2005 we received that advice from the Commonwealth Director of Public Prosecutions I outlined earlier and the investigation was allowed to proceed. On 29 April 2005 a request for mutual assistance was sent to the Commonwealth Director of Public Prosecutions. It was forwarded to the Attorney- General's Department on 11 July 2005. On 9 February 2006 the Attorney-General's Department and the AFP made a decision to forward the mutual assistance request to Vanuatu. It was sent on 19 April 2006.

On 7 June 2006 the Vanuatu Attorney-General's department approved the mutual assistance request and invited the AFP to assist in the investigation. On 12 June 2006 the AFP travelled to Vanuatu to facilitate the obtaining of evidence under the mutual assistance request. On 9 August 2006 the Commonwealth DPP advised that there was a prima facie case in relation to Mr Moti. On 11 August 2006 a first instance warrant was sworn for Mr Moti's arrest. The time line finishes on 11 August 2006 and the first instance warrant being sworn for his arrest."

165. Has DPP Bugg QC verified the accuracy of this time line as stated by Commissioner Keelty?
166. Can DPP Bugg QC offer any explanation as to why Commissioner Keelty in the above statement refers to 18 dates in relation to 18 steps, but fails to give any specific date as to when the Vanuatu police advised that the Vanuatu prosecution had been closed?
167. Can DPP Bugg QC inform us as to the exact date when the Vanuatu police advised the Australian Federal Police that the prosecution in Vanuatu was closed?
168. Can DPP Bugg QC inform us as to the name of the person in the Vanuatu police who gave such advice?

169. Was the advice oral or written?
170. Has DPP Bugg QC seen a copy of the advice of the Vanuatu police?
171. Was the police officer who gave such advice a Vanuatu police officer named Inspector Alan Bani? (Note Inspector Bani has very close professional ties and loyalties to the Australian Federal Police. He was responsible for the development of the Pacific Transnational Crime Coordination Centre and has received a major award from the Australian High Commissioner in Vanuatu).
171. Is not a reasonable inference from the timeline in Commissioner Keelty's statement that the Vanuatu police advised him that the prosecution in Vanuatu of AG Moti QC was closed after February 2, 2005? Where does this date come from?
173. Is DPP Bugg QC aware that the current Vanuatu Police Commissioner Patu Navoko Lui has been reported in various Australian newspapers as stating that he had regarded the case against AG Moti QC as "cleared, finished " after it was dismissed by a Vanuatu magistrate in 1999?
174. If Vanuatu Police Commissioner Lui believed that the Vanuatu case against AG Moti QC was closed, can DPP Bugg QC offer any explanation as to how the Australian Federal Police could have received contrary advice from the Vanuatu police?
175. Does not DPP Bugg QC agree with the proposition that the prosecutorial authorities in Vanuatu are the most authoritative persons who can inform the Australian Federal Police or his Office as to the date when their prosecution of AG Moti QC was closed?
176. Can DPP Bugg QC offer any explanation as to why the Australian Federal Police did not make any enquiries with the Vanuatu Public Prosecutors as to the date they decided that the AG Moti QC matter was closed in Vanuatu?
177. Is DPP Bugg QC aware of the sworn affidavit of Vanuatu Public Prosecutor Nicholas Mirou dated November 18, 2003, which was submitted to the Supreme Court of Vanuatu in Civil Case No No. 197 of 2003, and which is a publicly available document?

178. Is DPP Bugg QC aware that in that affidavit Prosecutor Mirou stated the following?

“the file retrieved from the archives was filed as closed due to the fact that (the magistrate) made a decision on 23rd day of August 1999. The (AG Moti QC) matter was closed after (the magistrate) refused to commit Mot to stand trial on charges of a number of counts alleging sexual intercourse”?

179. In light of the above sworn statement of the Vanuatu Public Prosecutor, does not DPP Bugg QC agree with the proposition that Commissioner Keelty has misled the Senate Standing Committee on Legal and Constitutional Affairs of the Australian Parliament?

180. Can DPP Bugg QC offer any explanation of the relevance of a 2001 Vanuatu mutual assistance request concerning alleged ancillary offence of corruption by AG Moti QC to the making of a decision by Australian authorities to assert concurrent criminal jurisdiction over the alleged offences of unlawful sexual intercourse?

181. Is it not legal nonsense to suggest that Australia should refrain from commencing an investigation into an alleged criminal offence against Australian law because Vanuatu is interested in investigated some alleged offence relating to its administration of justice?

182. Is this excuse for delay a sham?

183. Is DPP Bugg QC concerned about the unexplained Australian investigatory delays relating to the Australian investigation of AG Moti QC?

184. Why did the Australian Federal Attorney-General’s Department which received a Vanuatu mutual assistance request relating to AG Moti QC on March 14, 2001, not act on that request until April 19, 2004 when it passed the request to the Australian Federal Police?

185. Is it normal practice for the Australian Attorney-General’s Department to sit on a mutual assistance request for three years in relation to an individual who it now informs the world’s media is a person of high national and international interest?

186. Why did the Australian Federal Police receive a request relating to AG Moti QC on April 19, 2004 and then not act on that request until December 7, 2004?
187. Is it normal practice for the Australian Federal Police to sit on a request for nearly nine months in relation to an individual who it now informs the world's media is a person of high national and international interest?
188. Is it not the case that the mutual assistance request of the Australian Federal Police in relation to the execution of a search warrant could have taken literally hours to complete (not nine months) because it was simply a request to obtain documents and student records from a university in Sydney?
189. Can DPP Bugg QC explain the one year delay from the Australian Federal Police formulating a request for mutual assistance on April 29, 2005, and the mutual assistance request being sent to Vanuatu by the Australian Attorney-General's Department on April 19, 2006?
190. What happened in April 2006 to launch the Australian Attorney-General's Department into action mode in the case of AG Moti QC?
191. Was it the April 18/19 riots in Honiara in Solomon Islands?
192. What explanation exists for the inordinate delays by the Australian authorities in dealing with the AG Moti QC matter, apart from the suggestion that the Australia had no interest in investigating AG Moti QC until he was a person of political interest to the Australian Government?
- (v) *Prejudicial and oppressive delay – AG Moti QC would not receive a fair trial in Australia*
193. Has DPP Bugg QC given any consideration to the fundamental principle of the rule of law as expressed in article 6(1) of the European Convention on Human Rights and article 14(3)(c) of the International Covenant on Civil and Political Rights?
194. Does DPP Bugg QC agree with the proposition that in relation to the prosecution of criminal charges, AG Moti QC is entitled to "a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law?"

195. Does DPP Bugg QC agree with the proposition that inordinate delays in criminal investigations may provide grounds for a stay in prosecution?
196. Has DPP Bugg QC given any consideration to the international legal requirement that an accused person be tried without undue delay obliges a State (i) to charge a person promptly to fulfil that requirement, and (ii) to investigate criminal allegations promptly to fulfil that requirement?

(See Mirielle Delmas-Marty (ed), The European Convention for the Protection of Human Rights, Martinus Nijhoff, 1992; Stephanos Stavros, The Guarantees for Accused Persons Under Article 6 of the European Convention of Human Rights, Martinus Nijhoff, 1993).

197. Has DPP Bugg QC given any consideration that the delayed criminal investigation by the Australian Federal Police has caused grave risk of prejudice to a fair trial of AG Moti QC in Australia?
198. Is DPP Bugg QC aware that the delays in the commencement and execution of the Australian criminal investigation have prejudiced AG Moti QC in denying him an opportunity of gathering exculpatory evidence and other evidence which may undermine the credibility of the prosecution's witnesses?
199. Is DPP Bugg QC aware that three of AG Moti QC's witnesses have died since the closure of the Vanuatu criminal proceedings thereby prejudicing him in the deployment of his defence?
200. Has DPP Bugg QC given any consideration to whether the delay by the Australian Federal Police in investigating the criminal allegations against AG Moti QC has been so inordinate and oppressive that it constitutes a bar to prosecution, or provides discretionary grounds for refusing to prosecute AG Moti QC on public interest grounds?
201. Does DPP Bugg QC consider the fact that the Australian criminal investigation into AG Moti QC was not commenced until seven years after Australia first knew of the criminal allegations in 1998 as oppressive delay?
202. Does DPP Bugg QC consider the fact that the Australian criminal investigation was not commenced until after six years following the dismissal of the criminal proceedings in Vanuatu in 1999 as oppressive delay?

203. Does DPP Bugg QC consider the fact that the Australian investigation took 23 months to complete from January 2005 to November 2006, in circumstances where the Australian Federal Police appeared to take no substantive investigatory action until June 2006, as inordinate or oppressive delay?
204. Is it not the case that the Australian authorities delay in investigating the criminal allegations against AG Moti QC has violated AG Moti QC rights under the International Convention on Civil and Political Rights?
- (vi) *Prejudicial publicity – AG Moti QC would not receive a fair trial in Australia*
205. Is DPP Bugg QC aware that there are tens if not hundreds of thousands of documents and articles on the Internet which are highly defamatory and prejudicial to the prospect of AG Moti QC receiving a fair trial in Australia?
206. Is DPP Bugg QC aware that many of these articles appear to be sourced from the Australian Government or Australian law enforcement agencies?
207. Is DPP Bugg QC aware that prior to traveling to the Solomon Islands in September 2006 to assume his new responsibility as Attorney General, AG Moti QC was so concerned about the media's campaign against his appointment, that he launched defamatory proceedings in the High Court of the Solomon Islands against the Melanesian Communications Pty Ltd, trading as the Solomon Star, Hon Fred Fono, MP, Leader of the Opposition, Rt Hon Sir Peter Kenilorea MP, Mr John Keniapisia, and Mr Duran Angiki?
208. Is DPP Bugg QC aware that Mr Moti QC's writs for defamation and slander related to news articles and radio broadcasts over a period of August 25, 2006 to September 27, 2006, which vilified his appointment by distorting the history of the Vanuatu criminal allegations against AG Moti QC?
209. Is DPP Bugg QC aware that the Australian media continue to peddle lies about the status and history of the criminal proceedings in Vanuatu which are highly prejudicial to the prospect of AG Moti QC receiving a fair criminal trial in Australia?
210. Is DPP Bugg QC aware that one well publicised false statement is the statement by Hon Fred Fono dated August 25, 2006 wherein he stated the following?

“when the criminal case (against AG Moti QC in Vanuatu) was thrown out of the court on a technicality, the girl launched a civil case against him that was suddenly settled, out of court under a deed of arrangement.”

211. Is DPP Bugg QC aware that there have been a number of articles in the Australian media which have suggested that AG Moti QC is a corrupt individual, in his personal and professional capacities?
212. Is DPP Bugg QC aware that there are a number of statements made by various Ministers of the Australian Government and Commissioner Keelty which are highly damaging to AG Moti QC’s prospects of obtaining a fair trial in Australia?
213. Is DPP Bugg QC aware that on October 6, 2006, Minister Downer stated the following?

“In the case of Solomon Islands Government – how weak is Australia if we think that the real objective is always to please politicians in other countries, regardless of their behaviour. What a pitiful sort of approach to regional relations and diplomacy that would be. Where there are circumstances which are as serious as this, when the Attorney General, the first law officer of a country which we’re spending - we spent around 800 million dollars helping and trying to get back on it’s feet and quite successfully has done so - this first law officer is facing very serious charges in Australia - we’re not going to be quiet for the sake of diplomacy or so that somebody in the region doesn’t criticise us. **I’ll be frank with you, I don’t care what they say about Australia or what they say about the Australian Government – we are dead right about this – we are dead right, and we are going to be very, very determined, no matter what obstacles are put up, to make sure that people who face serious child sex charges be brought to justice.** If this man wasn’t the Attorney General of the Solomon Islands, the media in Australia would be screaming at us to be active and make sure somebody was brought back to face charges, but because he is the Attorney General the proposition here is that we should be endlessly polite about it. Well I think not, I think that’s just a bad judgment.”

214. Is DPP Bugg QC aware that on October 11, 2006 Commissioner Keelty in a National Press Club speech in Canberra, made the following comment, in relation to AG Moti QC’s travel on a PNG Defence plane from Port Moresby to Honiara?

“Who organised the charter flight last Saturday to spirit Moti [suspended]Solomons Attorney-General Julian Moti] away from PNG. Who paid for the charter? **Who is supporting the continued corruption in these countries? What if Moti was not a politician? What if he was accused of another type of crime? Albeit that it would be hard to imagine a more deplorable crime than the one alleged. What if he was not a person who was a politician and in fact was a person who committed a terrorist activity?”**

215. Is DPP Bugg QC aware that on October 17, 2006, Minister Downer made the following statement in the Australian House of Representatives?

“I know the shadow minister does not know anything about the Solomon Islands Prime Minister, but people who do know about him will know a lot about his background, and we do. In this particular case, when somebody like that kicks our High Commissioner out of the Solomon Islands for talking with the opposition, you would think that all members of this parliament would say that that was a shameful thing to do and would stand up for Australia

....

Mr Sogavare chooses to appoint as his Attorney- General somebody who, as it turns out, is wanted by the Australian Federal Police. The Commonwealth Director of Public Prosecutions thinks charges should be brought against this person. Not only is that relevant in a legal sense but there is more to it than that. The allegations against this person— and they are just allegations until they are tested in court—I **think are especially egregious. I think they are incredibly serious allegations.** But there are two countries which have not helped to send this person back to Australia, and we got into an argument with them. Surprise, surprise! **Not even for one minute do I regret getting into an argument with somebody about something as serious as that. I am a father of four children. I know a lot about children. I care a lot about children,** and I think allegations like that—and it is just an allegation; it is not proven—should be tested in court. **I feel strongly about people who try to protect that kind of person.”**

216. Has DPP Bugg QC given careful consideration as to the effect that such statements by such prominent Australian persons will have on AG Moti QC’s prospects of obtaining a fair trial in Australia?

217. Is DPP Bugg QC aware that AG Moti QC has been subject to the most intense, prejudicial publicity concerning his character, antecedents, political views and alleged crimes?
218. Is DPP Bugg QC aware that the Australian authorities have repeatedly accused AG Moti QC of corrupting the magistrate in the Vanuatu case, and that this accusation has been widely circulated in the media in Australia and overseas?
219. Is DPP Bugg QC aware that the questionable photograph referred to as exhibit VMOT10018 to Roy's affidavit dated June 16, 2006 was published in the Vanuatu media in 2006 and is available on the internet? (The suspicious origin of this photograph is raised in questions 462- 470 below).
220. Is DPP Bugg QC aware that this questionable photograph was at all relevant times in the possession and sole custody of the Australian Federal Police who were investigating AG Moti QC?
221. Is not the publication of this questionable photograph by the Australian Federal Police or its agents a violation of the basic rules of natural justice in that its prejudicial effect far exceeds its probative value?
222. Is DPP Bugg QC aware that the PNG Defence Board of Inquiry Report into AG Moti QC's travel by PNG Defence plane from PNG to Solomon Islands has been published on the Internet in contempt of the PNG courts, and that this is another instance of prejudicial publicity which will prevent AG Moti QC from obtaining a fair trial in Australia? (see questions 637 -661 which deal with the PNG Report).
- (vii) Prejudice and oppression – it would be unfair for AG Moti QC to be tried in Australia*
223. Has not the failure of the Australian authorities to promptly assert concurrent criminal jurisdiction over the alleged AG Moti QC's offences created an expectation that Australia would not prosecute AG Moti QC which he has detrimentally relied upon?
224. Is DPP Bugg QC aware that after the dismissal of the criminal proceedings in Vanuatu in August 1999, AG Moti QC was entitled to believe that he had been cleared of the criminal charges and could get on with his life?

225. Is DPP Bugg QC aware that following the conclusion of the Vanuatu criminal proceedings, AG Moti QC reclaimed his national, regional and international reputation as a leading lawyer in commercial, constitutional and international law matters?
226. Is DPP Bugg QC aware that in 2001 AG Moti QC was offered the position of a Senior Legal Officer with the United Nations Commission on Trade Law in Vienna, Austria?
227. Is DPP Bugg QC aware that in 2003 AG Moti QC was appointed to the International Law Association Committee on Compensation for Victims of War?
228. Is DPP Bugg QC aware that universities in India and Australia have relied on the veracity and propriety of the decisions of the Vanuatu judicial and prosecutorial authorities, before appointing AG Moti QC as Visiting Professorial Fellow, Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi, India, Visiting Professor, Gujarat National Law University, Gandhinagar, Gujarat, India, and Adjunct Professor of Law at Bond University?
229. Is DPP Bugg QC aware that eminent national and international persons in Australia and other countries, including a Governor-General, State and Appeal Court Presidents, both current and former, a former Chief Justice of an Australian Supreme Court, a former Solicitor General, heads of tertiary institutions, respected judges from the Pacific region, and a Chief Secretary of the United Nations, have relied on the veracity and propriety of the decisions of the Vanuatu judicial and prosecutorial authorities, before agreeing to act as referees for AG Moti QC in respect of his position as the Attorney-General of the Solomon Islands?
230. Is DPP Bugg QC aware that successive Governments of the Solomon Islands have relied on the veracity and propriety of the decisions of the Vanuatu judicial and prosecutorial authorities, before deciding to appoint AG Moti QC as a trusted legal adviser of the Prime Minister, Finance Minister and other Ministers?
231. Is DPP Bugg QC aware that successive Governments of the Solomon Islands have relied on the veracity and propriety of the decisions of the Vanuatu judicial and prosecutorial authorities, before awarding a number of honours to AG Moti QC, such as in 2001 the Cross of the Solomon Islands, in 2003 in recommending his

appointment as Queens Counsel, and in 2006 in appointing him as Attorney-General of the Solomon Islands?

232. Is DPP Bugg QC aware that as a consequence of the decision of his Office in August 2006 to approve a criminal prosecution, AG Moti QC has suffered the following deprivations?

AG Moti QC has been unlawfully incarcerated in Papua New Guinea and unlawfully imprisoned in Solomon Islands;

AG Moti QC's employment as Attorney-General of the Solomon Islands was suspended without pay;

AG Moti QC has been deprived of his economic livelihood;

AG Moti QC has been denied the right to travel, thereby undermining his ability to practise as an international lawyer;

AG Moti QC has been deprived of access to his savings, in that without a court order, banks based in Australia froze substantial funds in his credit cards on the ground of "national security";

AG Moti QC's national, regional and international reputation has been destroyed by massive, often ill-informed and defamatory media and Internet coverage of his alleged crimes, antecedents, and character;

AG Moti QC's physical and mental health, has suffered serious damage; and

AG Moti QC's aged parents have suffered personal hardship and psychological harm.

232. Is it not the case that to return AG Moti QC to Australia would be both "unjust and oppressive", unjust because Roy's corrupt motive in continuing to press her complaint, and oppressive because of the hardship in removing the applicant against his will from the Solomon Islands?

(viii) Australia's political agenda in the case of AG Moti QC

233. Is DPP Bugg QC aware that section 6(1) of the Solomon Islands Extradition Act sets out the following well recognised grounds for refusing extradition?

“(a) that the offence of which that person is accused or was convicted is an offence of a political character;

(b) that the request for extradition, (though purporting to be made on account of the extraditable offence), is in fact made for the purpose of punishing him on account of his race, religion, nationality, or political opinion;

(c) that he might, if extradited, be prejudiced at his trial or punished, detained or restricted in his personal liberty by reason of his race, religion, nationality, or political opinions.”

234. Is DPP Bugg QC aware of the following material suggesting that the Australian criminal investigation of AG Moti QC has been driven by political considerations?

AG Moti QC's political views, particularly his advocacy of indigenous rights in the Pacific and his fierce criticism of Australian foreign policy in the Pacific region, arguing that Australia is using globalisation as a vehicle for colonialism, particularly in its misuse of the export of the rule of law and its manipulation of advisory justice;

AG Moti QC's legal view that the Australian Government sponsored Facilitation of International Assistance Act 2003 of the Solomon Islands is unconstitutional and that the “principle of co-operative intervention” is contrary to international law;

AG Moti's legal advice that the Solomon Islands should question the legality of the arrangements permitting RAMSI's presence in the Solomon Islands, by seeking a ruling on the legality of those arrangements from the International Court of Justice;

The timing of the commencement of the Australian criminal investigation into AG Moti QC in January 2005, which occurred weeks after AG Moti QC was first asked in December 2004 to be the Attorney-General of the Solomon Islands;

The back peddling of the Australian investigation into AG Moti QC after he was not appointed as Attorney-General of the Solomon Islands in 2005 and took up an academic career in India;

The acceleration of the Australian investigation into AG Moti QC in June 2006, especially after the election of a new Government in the Solomon Islands in April 2006;

The Australian Government's campaign to destroy Solomon Island's Government Commission of Inquiry into the Honiara riots, which was set up by Prime Minister Sogavare of the Solomon Islands, with the legal advice of AG Moti QC;

The Australian Government's attempts to undermine the Solomon Islands Government of PM Sogavare by facilitating the making of defamatory, malicious and false allegations against AG Moti QC;

The relentless and massive public propaganda campaign against AG Moti QC which was accelerated after the Solomon Islands Government declared Mr Patrick Cole, the Australian High Commissioner, persona non grata, on September 12, 2006;

The Australian Government's public criticism of AG Moti QC's appointment as Attorney-General of the Solomon Islands, which was an illicit and unprecedented attack on an official of a foreign country, which is a member of the Commonwealth and with whom Australia has diplomatic and ostensibly friendly relations;

The public statements made by senior Australian leaders (including Minister Downer, Senator Ellison and Commissioner Keelty) attacking AG Moti QC thereby suggesting an official Australian Government view that AG Moti QC must be guilty of the alleged offences;

The particulars of the Australian Government's request of the Papua New Guinea Government for the arrest of AG Moti QC which indicate that AG Moti QC's extradition is being sought because he is a public official of a foreign state and a constitutional post holder;

The circumstances attending to the illegality of the execution of the warrant issued in PNG for the arrest of AG Moti QC, and the illicit role of the Australian Federal Police in the extradition process in PNG;

The failure of the Australian authorities to negotiate in good faith and properly deal with the offer of PM Sogavare to return AG Moti QC to Australia to face the charges;

The attempt by the Australian Government through Commissioner Castles (who was also an employee of the Australian Federal Police and subject to the direction of Commissioner Keelty) to illicitly use the deportation process in the Solomon Islands to return AG Moti QC to Australia;

AG Moti QC's grounds for renouncing his Australian citizenship and claiming political asylum, and the attempt by the Australian authorities to prevent him renouncing his citizenship; and

The fabricated statements relied on by Australia to request AG Moti QC's extradition from the Solomon Islands and Papua New Guinea, which includes a series of innuendoes of corruption against various former Ministers in the Government of Vanuatu.

(ix) Australia's investigation of AG Moti QC – a politically driven case

235. Is DPP Bugg QC aware that in December 2004 AG Moti QC was first offered the position of Attorney-General of the Solomon Islands, while the Australian investigation into AG Moti QC is said to have commenced in January 2005?
236. Can DPP Bugg QC inform us as to whether any substantial investigatory steps were taken by Australian authorities between January 2005 and June 2006 in relation to AG Moti QC?
237. Can DPP Bugg QC offer any explanation as to why the Australian Federal Police put the investigation into AG Moti QC on the "backburner" until June 2006 when it arranged for the taking of its first witness statement, namely from Roy?
239. Is DPP Bugg QC aware that the Australian Federal Police accelerated its investigation in June 2006 at a time when AG Moti QC was advising the Solomon Islands Government on the terms of reference of the inquiry into the April 2006

Honiara riots, an inquiry which the Australian Government, RAMSI and the Australian Federal Police have publicly opposed?

240. Is DPP Bugg QC aware that In one Australian newspaper it was reported that PM Howard had described the proposed riots inquiry as “corrupt”?
240. Is DPP Bugg QC aware that the decision of his Office to prosecute AG Moti QC on August 9, 2006, was made five days after the Judicial Commission of the Solomon Islands received notification from PM Sogavare of his nomination of AG Moti QC as the Attorney-General of the Solomon Islands?
241. Is DPP Bugg QC aware that the Australian Federal Police investigation into AG Moti QC was so rushed that its key witness Roy stated in her June 16, 2006 that she did not have time to initialise each page of her personal records, which were allegedly then placed in a sealed envelope?
242. Why did DPP Bugg QC make a decision to prosecute AG Moti QC on August 9, 2006, prior to the obtaining of any witness statement from Morgan, Salmon or any other of the prosecution witnesses?
243. Why did DPP Bugg QC make a decision to prosecute AG Moti QC without interviewing or causing to interview witnesses who could throw light on the 1997-1999 Vanuatu prosecution?
244. Why did DPP Bugg QC make a decision to prosecute AG Moti QC without interviewing or causing to interview any person who could independently corroborate or impeach the testimony of its witnesses?
245. What was the reason for the rush to make a decision to prosecute AG Moti QC , given that the Australian authorities knew that AG Moti QC was teaching law at a prestigious Indian university in New Delhi and that AG Moti QC could be easily located and arrested?
246. What was the reason for the Australian authorities not acting immediately on the issue of an arrest warrant for AG Moti QC dated August 11, 2006?
247. Why did the Australian Government not seek the arrest of AG Moti QC while he was in India from August 18, 2006 until his departure from India to the Solomon Island on September 27, 2006?

248. Is it not the case that Commissioner Keelty has claimed that he had Mr Moti QC under surveillance in India? (See Commissioner Keelty's answers to questions at his National Press Club Speech in Canberra on October 11, 2006).
249. Was the surveillance by the Australian Federal Police of AG Moti QC known to the Indian authorities, and if it wasn't known, did the AFP breach the territorial sovereignty of India?
250. Given the Australian authorities knowledge that AG Moti QC frequently visits Australia each year to see his aged parents and sister in Australia, why did the Australian authorities not wait until AG Moti QC returned to Australia to execute the arrest warrant?
251. Is DPP Bugg QC aware that in the Australian Government request of the Papua New Guinea Government for the provisional arrest of AG Moti QC dated 28 September 2006 the following statement is made?

"Reason for request for provisional arrest

MOTI was previously residing in the Solomon Islands where he worked as a Barrister and had a business, Pacific Lawyers. Australian authorities believe that MOTI has recently been appointed as the Attorney-General of the Solomon Islands.

Australia does not have an extradition treaty with the Solomon Islands. If MOTI travels to the Solomon Islands it is unlikely that Australia would be able to seek his extradition, **particularly given the position which MOTI will hold in the Solomon Islands.**

This opportunity to have MOTI provisionally arrested pending the receipt of a formal request may not present itself to Australia again."

252. Are not the official statements made by the Australian Government to the Papua New Guinea Government, namely that "MOTI has recently been appointed as Attorney General to the Solomon Islands" and "If MOTI travels to the Solomon Islands it is unlikely that Australia would be able to seek his extradition, particularly given the position which MOTI will hold in the Solomon Islands",

evidence that AG Moti QC is being targeted because of his appointment as a state official?

253. What was the urgency expressed in the statement in support of the Australian provisional arrest, that AG Moti QC must be arrested in PNG because “the opportunity to have MOTI provisionally arrested pending the receipt of a formal request may not present itself to Australia again”?

254. Is not this statement of the Attorney-General’s Department misleading because AG Moti QC could have been arrested in India or any other country, which Australia has extradition arrangements?

255. Is not this Australian statement misleading because the Australian Government knew that AG Moti QC, as Attorney General of the Solomon Islands, travels frequently to countries with which it has extradition arrangements?

256. Is not this Australian statement misleading because the Australian Government knew that AG Moti QC would be likely to travel to Australia and could be arrested there?

(x) *AG Moti QC is not a fugitive from justice of India in relation to the Australian arrest warrant*

257. Is DPP Bugg QC aware that on October 3, 2006 Minister Downer made the following comment?

“Mr Moti has been in (inaudible) country in recent months and we haven’t been successful in getting him extradited from those countries, or in tracking him down in order to get him extradited from those countries – to put it more accurately. So that’s about it.”

258. Is DPP Bugg QC aware that on October 11, 2006, Senator Ellison made the following statement to the Australian Parliament?

“He was previously in India. We made a request to the Indian authorities. He left India. We understand that he was attempting to return to the Solomon Islands and transited Papua New Guinea.”

259. Is DPP Bugg QC aware that the suggestion that the Australian Government made a request of the Indian authorities to arrest AG Moti QC prior to his departure from India, and that AG Moti QC slipped through Indian government hands, is false?
260. If the Australian Government had unsuccessfully sought the provisional arrest of AG Moti QC from India prior to his departure, would not this important fact have been contained in the Australian Government's request for the provisional arrest of AG Moti QC in Papua New Guinea?
261. Is it not a fact that there is no such reference to India in the Australian Government's request of the Papua New Guinea Government for the provisional arrest of AG Moti QC dated September 28, 2006?
262. Is DPP Bugg QC aware that no request was made by the Australian authorities to India to arrest AG Moti QC while he was in India in August and September 2006, prior to his departure from India to travel to Solomon Islands via Singapore and Papua New Guinea?
263. Is DPP Bugg QC aware that the Interpol Red Notice in relation to AG Moti QC was allegedly issued in Paris on September 27, 2006 (French standard time) but that it had not been disseminated at the time that AG Moti QC had departed from India at 8.00am (Indian standard time) on September 28, 2006, or at the time that AG Moti had arrived in Singapore at 4.30pm (Singapore time) on September 28, 2006? (see page 95, paragraph 11.8 of the Internet version of the PNG Defence Board of Inquiry Report for the alleged date of the Interpol Red Notice. Was this Interpol Red Notice backdated?)
264. Is DPP Bugg QC aware that an Australian request for a provision arrest warrant was made to India only **after** AG Moti QC disappeared in Port Moresby on September 30, 2006?
265. Is DPP Bugg QC aware that since 2005 AG Moti QC has been resident in New Delhi, India, wherein he took up prestigious appointments as Visiting Professorial Fellow, Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi, India, and Visiting Professor, Gujarat National Law University, Gandhinagar, Gujarat, India?

266. Is DPP Bugg QC aware that the High Commission of Australia to India knew of the home and university contact details for AG Moti QC in New Delhi, India?
267. Is DPP Bugg QC aware that AG Moti QC was a well known figure in university circles, having facilitated on January 15, 2006 a milestone co-operative agreement between Gujarat National Law University in India and Bond University Law Faculty in Australia?
268. Is DPP Bugg QC aware that on September 19, 2006 AG Moti QC was appointed by the Judicial Services Commission as Attorney-General of the Solomon Islands?
269. Is DPP Bugg QC aware that pursuant to that appointment and at the request of PM Sogavare, AG Moti QC travelled from India to the Solomon Islands to attend to his duties and responsibilities as the Attorney-General?
270. Is DPP Bugg QC aware that as a consequence of the arrest of AG Moti QC in Port Moresby on Friday September 29, 2006, the Solomon Islands Government was deprived of its legal adviser for the Parliament sittings on Monday October 2, 2006?
271. Is it not the case that AG Moti QC was not fleeing from justice when he was illegally arrested in Port Moresby on September 29, 2006, but was in the process of travelling to the Solomon Islands to carry out his constitutional and legal responsibilities as Attorney-General?
- (xi) *Australia's failure to inform the Solomon Islands Government of the 2006 arrest warrant*
272. Why did the Government of Australia not inform the Government of the Solomon Islands that an arrest warrant had been issued in relation to AG Moti QC, prior to the public announcement of the appointment of Moti QC as Attorney General?
273. Is DPP Bugg QC aware that two days after AG Moti QC appointment as Attorney-General had been announced, the Sydney Morning Herald published " on September 23, 2006 an article under the by-line "Top law officer facing arrest", which included the following passage?

“The Howard Government is considering seeking the extradition of Australian citizen Julian Moti who was appointed the new Attorney-General of the Solomon Islands on Thursday. Sources said that he would be arrested if he attempted to travel through Australia. This follows reports that he was scheduled in the next few days to transit Brisbane en route to Honiara from India.

It is believed that because of a wave of publicity about his past - including 1997 charges in Vanuatu of statutory rape of a 13-year-old girl which were dismissed by a magistrate - he was intending to announce that he would not take up the job.

Sources told the Herald that the Australian Federal Police had already initiated extensive inquiries about the circumstances in which the charges in Vanuatu were dismissed as well as into alleged incidents in Australia.

Australia expressed deep concern and disappointment this week at the appointment of Mr Moti as Attorney-General amid deteriorating relations between Canberra and the government of the Prime Minister, Manasseh Sogavare.”

274. Is DPP Bugg QC aware that the Solomon Islands Government, through its Consul General in Sydney, made inquiries about the truth of the Sydney Morning Herald story and was informed by the Australian Federal Police, that no arrest warrant had been issued by the Australian authorities?
275. What reason existed for the Australian authorities to lie about the existence of the arrest warrant, except to cause maximum damage to the reputation of the Solomon Islands Government?
- (xii) *Australia’s warning to AG Moti QC not to travel to the Solomon Islands to work as Attorney General*
276. Was the September 23, 2006 article in the Sydney Morning Herald an attempt by the Australian authorities to warn AG Moti QC not to travel to the Solomon Islands to work as Attorney-General?
277. Is it the case that only after the Australian authorities confirmed that AG Moti QC was definitely departing from India to work as Attorney General of the Solomon

Islands, that then and only then did they make the decision to intercept and extradite him?

278. Is not the timing of the Interpol Red Notice suspicious, suggesting that it was designed to prevent AG Moti QC from travelling to the Solomon Islands?
279. Can the Australian authorities provide any rationale explanation why the Australian Federal Police failed to arrange for the issue of an Interpol Red Notice until allegedly September 27, 2007, given that the Australian arrest warrant was issued on August 11, 2006? (The Red Notice was not disseminated until September 28, 2007, indicating that it might have been backdated, given that Red Notices are disseminated immediately once issued through the ICPO-Interpol communications network).
280. Did the Australian authorities delay acting on the Australian arrest warrant until after the announcement of AG Moti QC's appointment as Attorney-General so as to maximise damage to the Sogavare Government?

(xiii) Australia's failure to act in good faith in bail negotiations concerning AG Moti QC

281. Is DPP Bugg QC aware that in early October 2006 while AG Moti QC was claiming political asylum in the High Commission of the Solomon Islands in Port Moresby, PM Sogavare offered a compromise solution to the diplomatic conflict between his Government and the Australian Government concerning AG Moti QC?
282. Is DPP Bugg QC aware that one of Australia's most senior lawyers, in his capacity as Honorary Legal Adviser to PM Sogavare, was instructed to negotiate a settlement of the dispute between the Governments of the Solomon Islands and the Government of Australian concerning AG Moti QC?
283. Is DPP Bugg QC aware that the Government of Solomon Island's offer was communicated to Ms Joanne Blackburn, First Assistant Secretary, Criminal Justice Division, Australian Federal Attorney- General's Department, by email dated October 6, 2006? The Solomon Islands offer stated:

"1 Moti unconditionally undertakes to appear in Australia as requested to be charged or at any committal or other proceeding for the prosecution of the Vanuatu offences as a regular domestic prosecution.

- 2 Moti will accept service by delivery or e mail as good service of any document, including warrant or charges.
- 3 Australia discontinues current and any further extradition requests or proceedings.
- 4 Without going in to validity of the purported cancellation and confiscation of current Australian passport, Moti to be issued forthwith substitute passport.
- 5 Prosecution to consent to nominal bail without reporting obligations throughout the criminal process to verdict, and not to oppose bail application on grounds of risk of absconding or any other ground.
- 6 Press releases confined to bare facts of this agreement to resolve the extradition request controversy. No further releases on alleged facts or other issues pertaining to Moti, the alleged offences, or their prior prosecution in Vanuatu.
- 7 Moti to have overseas unrestricted travel rights.”

284. Is DPP Bugg QC aware that the bail conditions which the Solomon Islands Government sought for its Attorney-General were similar to the bail conditions that had been given to AG Moti QC in 1997 by the Vanuatu courts, while AG Moti QC was a private citizen, in relation to the same criminal allegations?

The bail conditions granted by Vanuatu Magistrate Jerry Boe, to AG Moti QC were as follows:

“That Julian Moti be granted leave by this court to travel overseas to attend to his professional jobs;

That his passport(s) be immediately surrendered to him for this purpose; and

That where the defendant is travelling overseas, he must inform the Police of his departure time, date and returning time and date. He must provide his place of residency, including phone and fax overseas.”

285. Is DPP Bugg QC aware that AG Moti QC fully complied with the bail conditions in Vanuatu from March 16, 1997 until his discharge on August 23, 1999?

286. Is DPP Bugg QC aware that the response of Ms Joanne Blackburn dated October 6, 2006 to the offer of the Solomon Islands Government was as follows?

“Thank you for providing details of your proposal, as initially discussed with Andrew Walter on the evening of Thursday 5 October, and confirmed in your email below on Friday 6 October. We have considered the proposal, in consultation with other relevant Commonwealth agencies. I can advise that the Australian Government welcomes the indication that Mr Moti intends to submit himself to the jurisdiction of the Australian courts in response to the warrant issued for his arrest. If Mr Moti is subject to restrictions on his travel out of Papua New Guinea as a result of the extradition request which has been made by Australia, Mr Moti should submit himself to the Papua New Guinea authorities and make arrangements with those authorities, consistent with their extradition laws, to consent to the extradition request and arrange his immediate return to Australia in response to the extradition request. The Australian Government will work with the Papua New Guinea authorities to facilitate Mr Moti's return travel to Australia. Decisions about bail are a matter for the Prosecutor and are made in the context of an application being heard by a court.”

287. Is DPP Bugg QC aware that the Honorary Legal Adviser to PM Sogavare replied by email dated October 6, 2006 to Ms Joanne Blackburn was as follows?

“The (Australian) Government either has not read the proposal carefully or has rejected it. On either approach, I am disappointed that it chooses not to engage in bona fide discussions to end the impasse?”

288. Is DPP Bugg QC aware that on October 13, 2006, the Honorary Legal Adviser to PM Sogavare repeated the offer previously made to Ms Joanne Blackburn, in the following terms?

“I confirm the previous offer for return is renewed. I notice in today's Australian that Minister Ellison says - Australia remains totally resolute in its pursuit of Mr Moti and we will continue to pursue every avenue available to bring him to justice in Australia

I suggest both through you and to the Solomon's Island Prime Minister that this proposal attains that object by sensible agreement that might be concluded today. It appears the best way to the demands of Australia to exercise

jurisdiction based on mere citizenship.”

289. Is DPP Bugg QC aware that on October 14, 2006 the Honorary Legal Adviser to PM Sogavare emailed Ms Joanne Blackburn as follows?

“I am at a loss to understand why the offer does not meet the Minister's stated objective. It looks from today's reports that avoidable international confrontation is the preferred alternative.”

290. Is DPP Bugg QC aware that the Australian Government position was further detailed in November 2006 where the following public statement was made?

“It would not be possible, however, for the Australian Government to accept any offer to return Mr Moti which attached conditions relating to his bail, reporting requirements or right to travel. Decisions about these issues are clearly the responsibility of the courts and judicial system in Australia”

300. Is not the official position of the Australian Government on the issue of bail in the case of AG Moti QC, a pedantic, formalistic position, ignoring the underlying reality that this issue has arisen in the context of extradition?

301. Is it not the case that extradition takes place on the basis of certain conditions, such as death penalty undertakings, torture undertakings and speciality undertakings, the terms of which are contained in extradition agreements and are negotiated by governments?

302. Is it not a normal part of extradition for governments to obtain the consent of their local prosecutors on various matters as the price to be paid for obtaining jurisdiction over individuals who are wanted for prosecution and are located in foreign countries?

303. Is it not the case that there is no rule of law or convention preventing the Australian Government obtaining DPP Bugg QC's agreement not to oppose bail in proceedings in Australia?

304. Is not the position at common law that the judiciary position on bail is predicated on information furnished by the prosecutor and the defence?

305. Is the position at common law that where the prosecutor and the defence have agreed to the terms of bail in advance, courts will invariably give their judicial seal of approval?
306. Is it not misleading for the Attorney-General's Department to suggest that a negotiated agreement between the Australian Government and the Solomon Islands Government on such a matter as bail would be a violation of the constitutional separation of powers between the Government of Australia and Australian courts?
307. Is the obstinate refusal of the Australian Attorney-General's Department to negotiate the question of bail an indication that there is some hidden Australian political agenda in investigating and prosecuting AG Moti QC?
- (xiv) *Australian Federal Police investigation of AG Moti QC – a staged manipulation of the truth*
308. Has DPP Bugg QC inspected a copy of the front page of the Vanuatu-based Nasara newspaper of August 28, 1999, whereinafter the dismissal of the Vanuatu criminal proceedings, Australian counsel for AG Moti QC, Mr Ian Barker QC, stated the following?
- “This was an abysmal investigation involving a concocted story, tainted and unsworn statements followed by a completely unmeritorious prosecution. ... Mr Moti is a well-known and highly respected international lawyer. We trust the better judgment of the Prosecution not to abuse their powers by reinventing new charges, having failed miserably to get past the post twice already.”
309. Given the observations of such well respected Australian counsel in 1999, should not DPP Bugg QC have acted with more caution before instituting a new criminal prosecution against AG Moti QC based largely on the same witnesses and the same evidence in relation to the same alleged criminal events?
310. Should not DPP Bugg QC have sought to obtain statements from numerous witnesses who could shed light on the alleged criminal incidents in 1997 and the alleged criminal proceedings in 1998/1999 before rushing into a decision to prosecute AG Moti QC?

311. Is the Office of the Federal Director of Public Prosecutions a dupe of the Australian Federal Police in relation to the AFP reckless investigation of AG Moti QC?
312. Is DPP Bugg QC aware of the challenges for the Australian Federal Police in 2006 to obtain “new evidence” of a crime allegedly committed nine years previously?
313. Is DPP Bugg QC aware that the Australian Federal Police investigatory challenges including the following?

Vanuatu prosecution brief containing statements of witnesses (especially the alleged victim, Roy) which were contradictory and inconsistent on material matters, coupled with bizarre and unbelievable observations;

Vanuatu magistrate’s decision that there was no prima facie case against AG Moti QC in 1999, a decision that the Public Prosecution did not appeal;

Vanuatu criminal investigation that was closed in 1999 due to the paucity and unreliability of the evidence;

Passage of time, where the Australian authorities had failed to take any substantive investigatory step since the Vanuatu prosecutors and police had closed the case in 1999; and

Absence of any corroborative evidence of the alleged victim– ie it was Roy’s word against AG Moti QC.

314. Is DPP Bugg QC aware that to deal with these “investigatory obstacles” the Australian Federal Police or persons acting on its behalf took the following “improper measures” from June to December 2006?

Made unsubstantiated allegations that AG Moti QC had corrupted the Vanuatu magistrate in return for the dismissal of the case against him in 1999;

Created a new “corroborating witness”, namely Mr David Salmon, a witness who had never previously made a statement for either the civil or criminal proceedings in 1998-2000, albeit that Mr David Salmon was an available witness for the Vanuatu prosecution and for the Salmon family from 1997 onwards;

Arranged for its witnesses to make new “improved” statements eight years later by:

Removing portions of previous statements that were externally and internally inconsistent, and/or explaining away bizarre statements;

Giving a more detailed description about alleged incidents, events, conversations, and sexual behaviour for the purpose of artificially bolstering the credibility of the prosecution case;

Making unsubstantiated statements attacking the credibility of potential defence witnesses of AG Moti QC; and

Placing Mr David Salmon, the brother of the alleged victim, as a potential witness who could corroborate the opportunity of AG Moti QC to commit the alleged crimes.

315. Is DPP Bugg QC aware that the 2006 investigation by the Australian Federal Police into AG Moti QC entailed a staged manipulation of witnesses statements, which amount to at best a biased, zealous investigation disinterested in the truth, and at worst a deliberate perversion of the course of justice?

(xv) *Australia’s investigation and prosecution of AG Moti QC – a fraud and malicious sham*

316. How does DPP Bugg QC justify the decision to prosecute Mr Moti QC in light of the following prosecutorial obligations:

Duty to assist the court to arrive at the truth including a duty to “seek impartially to have the whole of the relevant evidence placed before the court”: *Whitehorn v The Queen* (1983) 152 CLR 657 at 663 per Deane J;

Duty to conduct himself/herself in a manner which will maintain promote and defend the interests of justice: Prosecution Policy of the Commonwealth, par [6.1];

Duty to present their case properly and fairly: *Regina v Teasdale* [2004] NSWCCA 91 at [20] per Tobias JA; and

Duty to assess the evidence of its witnesses to determine whether their evidence is unreliable, untrustworthy or incapable of belief: *Whitehorn v the Queen* (1983) 152 CLR 657 at 674 per Dawson J; and

Concept of the prosecutor as a “minister of justice”.

a) *No prima facie evidence*

317. Is DPP Bugg QC aware that Section 9 (4) of the Solomon Islands Extradition Act relevantly provides the following?

“Where an authority to proceed has been issued in respect of the person arrested and the court of committal is satisfied after hearing any evidence tendered in support of the request for extradition of that person or on behalf of that person, that the offence to which the authority relates is an extraditable offence and is further satisfied –

a) where that person is accused of the offence, that the evidence would be sufficient to warrant his trial for that offence if it had been committed within the jurisdiction of the court;

the court shall, unless his committal is prohibited by any provision of this Act, commit him to custody to await his extradition thereunder, but if the court is not so satisfied or if the committal of the person is so prohibited, the court shall discharge him from custody.”

Wendy Anne Barber, a Principal Legal Officer in the Director of Public Prosecutions for the Commonwealth of Australia, who is responsible for the prosecution of AG Moti QC, stated in paragraph 19 of her affidavit dated November 16, 2006 that:

“In my opinion the evidence contained in the affidavits of the witnesses referred to in paragraph 12 of the affidavit of Scott Anthony Dixon, is sufficient to warrant the trial of MOTI on each of the offences.”

318. Has not Scott Anthony Dixon, who is a member of a team of Australian Federal Police agents investigating the alleged offence of AG Moti QC, stated in paragraph 12 of his affidavit dated 13 November 2006 that the evidence of the

commission of the offences is contained in the affidavits of the following witnesses which are contained in the extradition request?

Roy affidavit dated November 3, 2006;

Salmon affidavit dated November 3, 2006;

Morgan affidavit dated November 3, 2006;

Michael Leong affidavit dated November 9, 2006; and

Heiariki David Salmon affidavit dated October 27, 2006.

319. Can DPP Bugg QC explain why the Australian extradition request to Solomon Islands dated December 4, 2006 **does not include the following statements as part of the extradition materials?**

Roy's statement dated June 16, 2006;

Roy's statements dated December 15, 1997, December 31, 1997, January 9, 1998, February 5, 1998, February 18, 1998, and March 23, 1998;

Salmon's statements dated February 16, 1998 and March 24, 1998;

Morgan's statement dated March 24, 1998; and

Michael Leong's statement dated February 9, 1998;

320. Will DPP Bugg QC explain whether Ms Wendy Barber's opinion on the sufficiency of evidence is based merely on the affidavits enclosed in the extradition request, or is it also based on the statements of the above mentioned witnesses which are not contained in the Australian Government extradition request of the Solomon Islands Government?
321. Will DPP Bugg QC examine the file concerning AG Moti QC to see whether his officers, including Wendy Anne Barber, have adequately reflecting on the quality and sufficiency of all the evidentiary material required to support a prima facie case?

322. Can DPP Bugg QC provide any explanation why Ms Wendy Barber has failed in her most essential function in not adequately scrutinising the 1997/1998 statements of Roy, which are so riddled with inconsistencies, bizarre statements and tainted material, that no prosecutor could reasonably believe that there was evidence in 2006 sufficient to warrant the trial of AG Moti QC for any offence?

b) Suppression of inconsistencies

323. Has DPP Bugg QC given any attention to the numerous and material inconsistencies which are found in the prosecution witnesses' statements?

324. Has DPP Bugg QC analysed its witnesses' statements to ascertain the inconsistencies between the following?

Roy's six statements of 1997 and 1998;

Roy's six statements of 1997 and 1998, and Morgan's statement dated March 24, 1998;

Roy's six statements of 1997 and 1998, and Salmon's statements dated February 16, 1998 and March 24, 1998;

Roy's six statements of 1997 and 1998, and her statements of June 16, 2006 and November 3, 2006;

Morgan's statement dated March 24, 1998 and Salmon's statements dated February 16, 1998 and March 24, 1998;

Morgan's statement dated March 24, 1998 and her statement dated November 2, 2006; and

Salmon's statements dated February 16, 1998 and March 24, 1998, and his statement dated November 3, 2006.

326. Is DPP Bugg QC aware that a compilation of all the inconsistencies found in the above statements would fill dozens of pages?

327. Is DPP Bugg QC aware that its witnesses in their 2006 statements have removed large portions of material contained in their 1997/1998 statements?

328. Is DPP Bugg QC aware that the excision of large sections of previous statements made by its witnesses was designed to suppress inconsistencies in those statements?
329. Is DPP Bugg QC aware that the excision of large sections of previous statements has provided an opportunity for its witnesses to revise their statements so as to artificially boost their coherence and credibility?

Example of a deleted statement – the first sexual experience of Roy

330. Is DPP Bugg QC aware that Roy states the following in her statement dated March 23, 1998?

I wanted to explain the first time I experience sex, it was during the month of January 1997 after my birthday on 21st of January 1997, it was on 26.01.97 I think it was I was at the house of Jean Vincent Do a good friend of my brother David. We were together their that night and suddenly these temptation of making love came to me as I and Jean Vincent were playing together. So we tried to make sex, we kiss and Jean Vincent slept on top of me, as he was trying to push his penis into my vagina. I felt pain so I push him away and never I had sex with him again.”

331. Is DPP Bugg QC aware that Jean Vincent Do, who was a trainee pilot aged 21 in 1998, stated the following in his affidavit dated March 20, 1998?

“Yes it is true that I have tried to have sex with Puaita but she was feeling some pain and she pushed me out. I did not feel my penis entering her at all. I was trying to push it in but she pushed me out. This incident happened in January 1997.”

332. Can DPP Bugg QC offer any explanation as to why the statement made by Roy about her first sexual experience has not been included in her June 2006 and November 2006 statements?
333. Can DPP Bugg QC offer any explanation as to why there no reference in any of the extradition materials from Australia to the existence of an affidavit of Jean Vincent Do dated March 20, 1998, which formed part of the Vanuatu prosecution brief?

334. Was the reference to Roy's first sexual experience not included in the Australian extradition materials because it is inconsistent with the flawed Australian prosecution theory that Roy was an innocent girl left by her parents in the care and custody of AG Moti QC who then took advantage of that trust?

A revised statement to overcome alibi evidence of AG Moti QC - date of first alleged sexual act

335. Is DPP Bugg QC aware that Roy in her first statement (dated December 15, 1997) to the Vanuatu Ombudsman identified May 8, 1997 as the first date of alleged sexual intercourse with AG Moti QC? Roy stated the following:

"On 08.05.97 was the first time to have sexual intercourse with him. On that date he came to pick us at the house....On 08.05.97 was my second time to have sex. Julian Moti was much more older than the boy I first experienced sex with."

336. Is DPP Bugg QC aware that AG Moti QC had an impeachable alibi, which was confirmed by passport and immigration records, namely that he was in Sydney on May 8, 1997, which is Mothers Day?

337. Is DPP Bugg QC aware that Roy in her sixth statement (dated March 23, 1998) changed the date of the first alleged sexual intercourse with AG Moti QC to May 1, 1997? Roy stated the following:

"I Puaita wish to make additional statement with the Police just to correct some of the mistakes I made in my statement with the Ombudsman, and to add on some which I forgot to mention. The date 08.05.97 be change to 01.05.97, the first time I have sex with Julian Moti and the same change dated 08.05.97 to 01.05.97 my second time to have sex."

338. Is DPP Bugg QC aware that Roy has never given any explanation as to why she changed the date of her first alleged sexual experience with AG Moti QC from May 8 to May 1? (Note that Roy has a distinct memory of the date of first sexual experience of January 26, 1997 with Jean Vincent Do).

339. Is DPP Bugg QC aware that Roy in her November 3, 2006 statement makes the following observation concerning the date of the first alleged sexual intercourse with AG Moti QC?

“On May 1, 1997, a week before my sister’s (Ariitaimai) birthday on 8 May, Moti came to my parents house to collect Heiraraki and me.... .”

340. Has not Roy in her November 3, 2006 statement given a date marker (namely, her sister’s birthday) as a basis for her memory of the date of the first alleged sexual intercourse with Mr Moti?
341. Given that Roy would have known the date of her sister’s birthday in 1997, and that she now says that her first alleged sexual contact with AG Moti QC occurred a week before her sister’s birthday, what explanation does Roy have for being mistaken as to the date of the alleged sexual contact?
342. If Roy was confused in 1997/98 about the date of her first alleged sexual act with AG Moti QC, why can she remember the date of this alleged first sexual offence with more precision in 2006?
343. Why is there no explanation as to why she got the wrong date in her first statement of December 15, 1997, but yet nine years later she can remember the date with a higher level of certainty?

Withdrawal of allegations of physical assault

344. Is DPP Bugg QC aware that Roy in her statement dated March 23, 1998 accused AG Moti QC of assaulting her in her face?

“He started to be rough when I didn’t want to make love with me. He slap me everytime I refused him. He used his hands. I continue to refuse him after he slaps me. ... He assaulted me several times for refusing sex but I wouldn’t go to a doctor for any of these body harms...”

345. Is DPP Bugg QC aware that based on the allegations of assault, AG Moti QC was initially committed on April 17, 1998 by Senior Magistrate Boe in the following terms?

“Count 2: Under an offence under s 91 of the Penal Code that he Julian Moti between the month of June 1997 forced the girl Puaita Salmon to have sex with her, by slapping her for every time she refuse to have sex with him.” (See *Public*

Prosecutor v Moti , Supreme Court of Vanuatu, Judge Marum, CR No 12 of 1998, Judgment dated September 11, 1998, at p 1).

346. Is DPP Bugg QC aware that the accusation that AG Moti QC physically abused Roy by slapping her is repeated in the civil suit?

347. Is DPP Bugg QC aware that in Civil Case No 132 of 1998 [Puaita Salmon (by her next friend Nicole Morgan) v Julian Moti] John Malcolm, Counsel acting on behalf of Roy filed in the Vanuatu Supreme Court a document entitled 'Further Particulars' dated June 19, 1998, which stated the following in paragraph 6?

"The Defendant slapped the Plaintiff on numerous occasions during the period usually for refusing sexual intercourse."

348. Is DPP Bugg QC aware that in paragraph 3 of Roy's affidavit dated June 16, 2006, she makes the following observation?

"The contents of that statement (ie my December 15, 1998 statement) are true and correct subject to the following additions:

Page 3, paragraph 1 – it says that he slaps me - Julian never raised a hand to me except on one occasion when he tried to strangle me during an argument. The pressure and threats were only psychological. However, he did use physical force to hold me down during sex on some occasions."

349. Has not Roy in paragraph 3 of her affidavit dated June 16, 2006 withdrawn the accusation that AG Moti QC physically assaulted her on numerous occasions by slapping her?

350. How can DPP Bugg QC believe in the veracity of Roy when she changes her story which goes to the heart of one of the criminal charges that AG Moti QC faced in 1998/1999 and was initially committed, and provided one of the heads of damages for her civil claim in Vanuatu against AG Moti QC?

351. Is DPP Bugg QC aware that the Australian Federal Police has manipulated Roy to withdraw her accusation of physical assault because it does not fit into its false paedophile profile that the Australian Federal Police has created and sought to apply to AG Moti QC?

Changing the details to overcome Roy's bizarre statements about AG Moti QC genitalia and about sexual frequency

352. Is DPP Bugg QC aware that in Roy's statement dated December 31, 1997 she devotes the entire statement to a physical description of allegedly AG Moti QC's genitalia, including the following?

"A strange thing about Julian is that he has three (3) balls. I could not remember the exact date but there was one particular time when we were together and he told me that he had three (3) balls. I did not believe him, so he took my hand and made me to touch his balls and feel them. I felt his balls and there were three."

353. Is DPP Bugg QC aware that on August 22, 1999 Dr Frank Spooner, general medical practitioner of Port Vila, made the following written report?

"Re Julian Moti

This is to certify that I have examined the above named person today and confirmed that he is well endowed in regard to his genitals and has only two testicles. There is nothing abnormal about his genital organs."

354. Is DPP Bugg QC aware that the defence counsel who appeared before Mr Kalotrip on August 23, 1999, submitted a copy of Dr Spooner's written report as part of its defence of AG Moti QC?

355. Is DPP Bugg QC aware that in AG Moti QC's defence written submissions dated August 23, 1999, which were placed before Senior Magistrate Kalotrip, it was argued that Ms Salmon's statement about the three balls was "bizarre"?

356. Is DPP Bugg QC aware that Roy has attempted nine years after her statement about AG Moti QC's balls and seven years after the defence counsel's submissions, sought to amend her previous statement?

357. Is DPP Bugg QC aware that in paragraph 8 of Roy's June 2006 statement, she makes the following "improved statement"?

"Julian told me he had three balls and I thought he was joking. You could not see by looking that he had three testicles but he made me feel them and I am sure that I could feel three, but one of the testicles was much smaller."

358. Can DPP Bugg QC offer any explanation as why Roy can remember the size of an alleged third ball of AG Moti QC, nearly nine years after she gave her first description of the alleged third ball?
359. What prompted the witness Roy to give an amended version of AG Moti QC's alleged genitalia?
360. Is this not a self serving statement made by a witness to modify the legal consequences of making a previously bizarre statement?
361. Is DPP Bugg QC aware that in Roy's statement dated March 24, 1998, she swears the following?

"these was the worst weekend I had in my life. Every night he had sex with me four to five times and the Sunday night, Monday 13/10/97 we ca Roy me backe to Vanuatu **he had sex with eight(8)times**, he wanted to have sex with me 10 times he said but I was so tired and off to sleep..... I wanted to say that I love Julian Moti very much."

362. Is not the 1998 statement by Roy about the frequency of alleged sexual intercourse with AG Moti QC bizarre, highly improbable and evidence suggesting that she is making up a story?
363. Is DPP Bugg QC aware that in paragraph 25 of Roy's statement dated November 3, 2006, she makes the following revised statement concerning the frequency of alleged sexual intercourse with AG Moti QC?

"I had sexual intercourse with him almost every night, often at least 2 or 3 times a night. There were less than 10 occasions that Moti and I did not have sexual intercourse when Moti was living at home in Vanuatu. **By sexual intercourse, I mean that Moti put his penis in my vagina.**"

364. Is not the 2006 statement by Roy intended to provide an explanation as to the meaning of the term 'frequency of alleged sexual intercourse'? Is it not a forensic attempt to give a new and artificial meaning to what is a well known and popular notion of frequency of sex?

In examining the bizarre statements of Roy, DPP Bugg QC may consider the comments of Lord Nicholls in *In re H (sexual abuse: standard of proof)* [1996] AC 563 at 586?

"...the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability. Fraud is usually less likely than negligence ... Ungood-Thomas J expressed this neatly in *In re Dellow's Will Trusts* [1964]1 WLR 451, 455: "The more serious the allegation the more cogent is the evidence required to overcome the unlikelihood of what is alleged and thus to prove it."

365. Has DPP Bugg QC given detailed consideration to the inherent improbability of many of the bizarre statements of Roy and as to whether her improbable statements provided additional reasons for not believing in her as a witness of truth?

Withdrawal of complaint

366. Is DPP Bugg QC aware that in Roy's statement dated February 5, 1998, she stated that she has made allegations against AG Moti QC which she "withdraw and unconditionally retract", and that her decision has been made "without any parental pressure and influence from anyone"?
367. Is DPP Bugg QC aware that in Roy's statement dated February 18, 1998, she stated that the statement she made on February 5, 1998 was not of her "free will" and that she is revoking the statement and ask(ing) the police to continue with the investigation"?
368. Is DPP Bugg QC aware that in Roy's affidavit dated June 16, 2006, she made the following statement?

"The document attached to this affidavit and marked with barcode VMOTiooo6 is a true copy of a one page handwritten letter signed by me on 5/2/1998. This is a request I made in my own handwriting to have the charges against Moti withdrawn and I has also been signed by my father.

The contents of that letter are not true and correct. I was pressurised to withdraw my complaint but I cannot remember the details of who and why. I am sure my father would remember.”

369. Is not Roy’s statement that she has no memory of the details about signing a document which she now admits was in her own handwriting a case of selective memory of giant proportions, especially given her dozens of new paragraphs in her 2006 affidavits containing salacious sexual allegations that she did not mention in her 1997/1998 statements?

Other examples of inconsistencies

Knowledge of when Roy’s parents found out about an alleged illegal sexual crime against their daughter

370. Is DPP Bugg QC aware that in paragraph 19 of Roys affidavit dated November 3, 2006, she stated the following?

“About 10 days after the incident at Moti’s house on 1 May 1997, I told my mother that I had had sexual intercourse with Moti. ***I was present when my mother told my father.***”

371. In contrast, is DPP Bugg QC aware that in paragraph 16 of Morgan’s statement dated November 3, 2006, she states the following?

“I recall an occasion when Puaita told me that she had lost her virginity. I think Puaita was living at Moti’s house at this time. I was in shock when Puaita told me this... ***I do not remember telling Ariipaea that Puaita had lost her virginity.***”

372. Is DPP Bugg QC aware that in Roy’s statement dated December 15, 1997, she stated the following?

“***On 28.11.97***, I told my father everything.”

373. In contrast, is DPP Bugg QC aware that in Salmon’s statement dated March 24, 1998, he stated the following:

“I flew to Hawaii to attend the first world symposium meeting on the 8th of May to the ***22nd of May***. Around about that time I realise that something was wrong

with my daughter Puaita... Then I started to question her she admits that she was having an affair with Julian. I told her to stop but she said that she was in love with Julian.”

374. What logical explanation exists for the inconsistencies between Roy and her parents as to the date and circumstances as to the parents finding out that AG Moti QC was allegedly having an affair with Roy?

Motivation and circumstances in which Roy allegedly moved into AG Moti QC’s house in Vanuatu

375. Can DPP Bugg QC explain why Roy alleges in her 1997/1998 statement that she loves AG Moti QC very much, ran away from her home to live with him, and threatened suicide if she had to leave him, while in her 2006 statement she says that she did not love AG Moti QC, was pressured by AG Moti QC to live with him, and makes no reference to any threat of suicide?

376. Is DPP Bugg QC aware that in Morgan’s statement dated March 24, 1998, she stated the following?

“I never notice anything betwin my daughter Puaita and Julian (AG Moti QC) until July when **my daughter ran away** and stay with him in his house at Malapoa...She said that she will committed suicide if se stop her from living with Julian Moti”

377. Is DPP Bugg QC aware that in paragraphs 14 and 15 of Morgan’s statement dated November 3, 2006, there is a different explanation as to the motivation and circumstances of Roy allegedly moving into AG Moti QC house?

“Moti promised me that he would look after the children while they were at his house. At some time Heirariki and Puaita moved in to Moti’s house at Malapoa. I am not sure when this occurred but possibly it was May 1997. At this time I did not know there was any sexual relationship between Puaita and Moti.”

378. Is DPP Bugg QC aware that in Salmon’s statement dated March 1998, he made the following observation?

“My daughter ran away to his house. I tried to reason her many times but she would not listen. She threat to kill herself if I tried to stop her.”

379. Is DPP Bugg QC aware that in Salmon's statement dated November 3, 2006, a different explanation is given as to the motivation and circumstances of Roy allegedly moving into AG Moti QC's house?

"Moti told me that he would take care of Heirariki and Puaita. He was going to help them with their education. Moti asked me if they could stay at his house as he had a car and could drive them to school when he was there. **I agreed to this arrangement....**Eventually Puaita began living with Moti. I did not think they were having sexual intercourse"

380. Can DPP Bugg QC explain why the parents of Roy (Morgan and Salmon) have changed their allegations made in 1998 that Roy ran away from her family home to live with AG Moti QC, to their 2006 allegations that AG Moti QC requested and obtained the permission of her parents for Roy to live with AG Moti QC?

381. How can the change in the Australian prosecution witnesses' statements engender any reasonable belief in their veracity?

382. How can DPP Bugg QC believe in the credibility of Roy's story that she lived with AG Moti QC for nearly five months in the small town of Port Vila, without any independent witness to verify this allegation?

383. A) Is DPP Bugg QC aware that the current Police Commissioner of Vanuatu, Patu Navoko Lui, is of the view that it would have been impossible for Ms Roy to have lived with AG Moti QC for a period of five months, without this becoming a matter of notoriety in Port Vila?

B) Is DPP Bugg QC aware that no independent evidence was produced in the Vanuatu civil or criminal proceedings corroborating the allegation that Roy was living in AG Moti QC's house?

384. Is not Roy's story of living with AG Moti QC in Vanuatu a fabrication?

c) *Concealed or suppressed explanations and material*

385. Is it not the case that Roy has provided no explanation as to why her 1997/98 statements were made in the English language, and not in her native French language?

386. Were Roy's statements made in 1997/1998 in the English language translated to her in the French language, and if so, by whom? (For example, her statement dated March 23, 1998 is made to the police, but there is no evidence that the police officer who witnessed the statement translated it into French. Indeed, the section on the police form marked "Interpreter/Interprete" is blank).
387. Why were Roy's 1997/98 statements not in her own handwriting? (Roy now admits in her June 2006 affidavit that one of the six statements, namely the document dated February 5, 1998 was in her handwriting).
388. Who accompanied Roy when she made each of the six 1997/98 statements?
389. What were the roles of Salmon, Morgan, Roy's elder sister, and any other person in the making of these statements?
400. What were the circumstances leading Roy to make a complaint against AG Moti QC in December 1997, nearly two months after Roy allegedly left AG Moti QC's house?
401. Why was Roy aggrieved as a result of the 1999 criminal judgment and 2000 civil judgments in Vanuatu?
402. Why has Roy decided to become a witness in the Australian case against AG Moti QC?
403. Why does Roy's November 3, 2006 statement contains description of criminal incidents, conduct and events, which are not found in any of her statements made in 1997/98?

Morgan and Heather Lini Leo

404. Why has Morgan (the de facto wife of Salmon and mother of Roy), failed to disclose in her affidavit dated November 3, 2006, that she has made two previous statements in 1997 and 1998 concerning the same criminal allegations against AG Moti QC?

405. Why has Morgan failed to state in her 2006 affidavit for the Australian prosecution that she has substantially revised her 1998 statement 9 years after making those statement?
406. Why is there no reference in any of the Australian extradition materials to the existence of an affidavit of Heather Lini-Leo dated April 14, 1998, which formed part of the Vanuatu prosecution brief?
407. Has DPP Bugg QC examined the affidavit of Heather Lin-Leo dated March 24, 1998 which stated the following?

“The first time to meet Ms Salmon’s mother was on Monday 22 December 1997 at about 8.00am. This was in the Ombudsman’s Office where she made a statement in French.”

408. Why has Morgan failed to disclose that she was first interviewed by the Ombudsman on December 22, 1997 and that she made her first statement in the French language concerning AG Moti QC on that occasion?
409. Why was Morgan’s original statement of December 22, 1997, which was in her native French language, not supplied to AG Moti QC’s defence counsel in Vanuatu?
410. Has DPP Bugg QC seen a copy of the French language statement of Morgan dated December 22, 1997?
411. Did the Ombudsman or one of her staff conceal the French language statement of Morgan dated December 22, 1997?
412. Is DPP Bugg QC aware that the Australian Federal Police have not carried out a forensic analysis of Morgan’s statement dated March 24, 1998?
413. Has Morgan concealed the fraudulent nature of her statement dated March 24, 1998, in so far as the following matters?

Signature of Morgan on the statement of March 24, 1998 is different from the handwriting in the statement;

Handwriting in the statement of Morgan of March 24, 1998 corresponds with the handwriting in Roy's statement dated March 23, 1998, which Roy has admitted is not her handwriting;

Spelling mistakes in Mogan's statement dated March 24, 1998 are similar to the spelling mistakes in Roy's statement dated March 23, 1998. Noticeable examples are: "pleses"(places); "reach man" (rich man); and "pragnant" (pregnant);

March 24, 1998 statement is in the English language, albeit that Morgan's language is French, and there is no evidence that in 1997-1999 could read English, or that the statement was translated to her.

Salmon

414. Can DPP Bugg QC offer any explanation as to why Salmon, has failed to disclose in his affidavit dated November 3, 2006, that he has made two previous statements concerning the same criminal allegations against AG Moti QC, namely his statements dated February 16, 1998 and March 24, 1998, which formed part of the Vanuatu prosecution brief?
415. Why has Salmon failed to state that he has revised his 1998 statements, eight years after making those statements?

d) New Australian evidence – recently invented or concocted stories

Bogus new evidence of Roy

416. Is not the key to an understanding of how the Australian Federal Police or persons acting on its behalf manipulated Roy's evidence, found in Roy's statement dated June 16, 2006 which was sworn in Vanuatu?
417. Is it not the case that in Roy's statement dated June 16, 2006, Roy has affirmed the contents of her previous statement dated 15/12/1997 as being true and correct, but then stated that this is "subject to the following alterations" and that "she can improve on the information" by adding the following information?
418. Is it not the case that in Roy's statement dated June 16, 2006, Roy has affirmed the contents of her previous statement dated 31/12/1997 as being true and correct, but then stated that she would like to "add the following information"?

418. Is it not the case that in Roy's statement dated June 16, 2006, Roy has affirmed the contents of her previous statement dated 9/1/1998 as being true and correct, but then stated that she would like to "add the following information"?
419. Is it not the case that in Roy's statement dated June 16, 2006, Roy has affirmed the contents of her previous statement dated 23/3/98 are true and correct, apart from certain alterations, and that she would also like to "add the following information"?
420. Has not Roy in paragraph 3 of her June 16, 2006 provided the following justification for revising her 1997/1998 statements?

"My English and understanding of certain things at the time was not as good as it is now and I can improve on the information in these statements."

421. Is not this a preposterous excuse for revising a statement in that it implies that Roy did not have the opportunity of providing a full statement in relation to the Vanuatu criminal proceedings?
422. Is not paragraph 3 of Roy's statement of June 16, 2006 dishonest in that it implies that Roy was under some pressure to give her 1997/98 statements in the English language?
423. Is not the "language excuse" a contrived excuse for Roy to provide a substantially revised statement in 2006?
424. Is it not the case that Roy had ample opportunity to give detailed statements to the police and to her lawyer in Vanuatu in her native language of French?
425. Is not the French language one of the official languages of Vanuatu?
426. Is not the French language widely spoken in the Vanuatu police force?
427. Was not the first statement of Roy in December 1997 made at the office of the Ombudsman, who at that time was headed by a fluent French native speaker?
428. How can the failure of the Vanuatu authorities to take Roy's statements in French (her native language) in 1997/1998 and Roy's increased skill in the English

language since 1998 provide an excuse to provide a more detailed statement in English in 2006?

429. Is it not oppressive and unfair to allow Roy to make an “improved statement” in that it has allowed the prosecution to obtain forensic advantages arising from the passage of time and increased knowledge of the defence case?
430. Has not Roy in paragraph 21 of her affidavit dated June 16, 2006 provided another audacious reason why she is justified in revising her 1997/1998 statements, namely, the following?

“I also obviously have psychological damage

Now that I am an adult I am free from manipulation and influence. I have learned honesty is the best thing.”

431. Is this statement of Roy dishonest in that in the context in which it is made it implies that when she made her 1997/98 statements she was subject to “manipulation and influence” of AG Moti QC?
432. Is it not the case that there is no evidence that AG Moti QC had any influence over the content of her 1997/98 statements about the alleged crime?
433. Is it not the case that Roy made six statements over a three month period, where the only persons who may have influenced those statements were those who were present during the taking of the statements, which included members of the Salmon family, officers of the Ombudsman and/or police officers?
434. Is it not the case that there is no legitimate justification for the additions and alterations to Roy’s 1997/1998 statements?
435. Would not DPP Bugg QC agree that this is not the case of a young alleged victim who was so traumatised by a criminal act that she could not give a complete statement in 1997/98?
436. Is DPP Bugg QC aware that Roy has stated in her June 16, 2006 affidavit that she has improved her 1997/98 statements by “**add(ing) the following information**”?

Paragraph 4 (65 lines added to her December 13, 1997 statement);

Paragraph 12 (12 lines added to her December 31, 1997 statement);
Paragraph 12 (29 lines added to her January 9, 1998 statement); and
Paragraph 21 (13 lines added to her March 23, 1998 statement).

437. Is DPP Bugg QC aware that the following paragraphs in Roy's November 3, 2006 affidavit (which consists of 63 paragraphs) are new or substantially new, in that they are not found in any of her 6 statements made in 1997/98?

Paragraph 14 (4 of 6 lines are new)
Paragraph 16
Paragraph 17
Paragraph 18
Paragraph 19
Paragraph 20
Paragraph 21
Paragraph 22 (2 of the 4 lines are new)
Paragraph 23
Paragraph 25
Paragraph 26
Paragraph 27
Paragraph 28
Paragraph 29 (7 of 9 lines are new)
Paragraph 30
Paragraph 31
Paragraph 32
Paragraph 33
Paragraph 34 (1 of 4 lines is new)
Paragraph 35
Paragraph 36 (2 of 6 lines are new)
Paragraph 37
Paragraph 38 (12 of 13 lines are new)
Paragraph 40 (8 of 10 lines are new)
Paragraph 41
Paragraph 42
Paragraph 43
Paragraph 44 (3 of 5 lines are new)
Paragraph 45 (4 of 8 lines are new)
Paragraph 46 (1 of 6 lines is new)
Paragraph 48 (6 of 8 lines are new)

Paragraph 49
Paragraph 50
Paragraph 51
Paragraph 52 (2 of 6 lines are new)
Paragraph 54 (1 of 2 lines is new)
Paragraph 56 (8 of 17 lines are new)
Paragraph 58
Paragraph 59 (5 of 8 lines are new)

438. Is DPP Bugg QC aware that a significant portion of Roy's statement of November 3^r, 2006 contains new details about the alleged criminal incidents which are not found in her 1997/1998 statements?
439. Can DPP Bugg QC provide any explanation as to why its witness Roy failed to mention alleged important factual matters in 1997/1998, but that she has a memory of these events in 2006?
440. Can DPP Bugg QC provide any explanation as to how Roy can remember alleged events and conversations in more detail in 2006 than in 1997/98?
441. A) Can DPP Bugg QC provide any explanation why Roy, in her six 1997/98 statements and her June 16, 2006 statement, did not make any allegation that her brother Heriariki Salmon stayed at AG Moti QC's house in Vanuatu in 1997, while in her latest statement dated November 3, 2006 she states that her brother lived in AG Moti's house in 1997?
- B) Can DPP Bugg QC provide any explanation why Roy, in her six 1997/98 statements and her June 16, 2006 statement, did not make any allegation that her brother Heriariki Salmon witnessed three alleged incidents in AG Moti QC's house in Vanuatu in 1997, while in her latest statement dated November 3, 2006 she states that her brother witnessed three alleged incidents in 1997 in AG Moti QC's house? (Roy has a new distinct memory of her brother's presence at 3 alleged incidents)
442. Would not DPP Bugg QC agree that the magnitude, nature and seriousness of the amendments and additions to the 1997/98 statement of Roy raise serious questions as to her reliability as a witness of truth?

Morgan

443. Is DPP Bugg QC aware that the following paragraphs in Morgan's November 3, 2006 statement are new, in that they are not found in her March 24th, 1998 statement?

Paragraphs 2-7

Paragraph 8

Part of paragraphs 9-11

Paragraphs 12

Part of paragraph 13

Paragraphs 14

Most of paragraph 15

Paragraph 16

Most of paragraph 17

Paragraphs 18

Most of paragraph 19

Paragraph 20-37

444. Is DPP Bugg QC aware that a substantial portion of Morgan's statement of November 3, 2006 deals with alleged events and conversations which were never referred to in her 1998 statement?

445. Can DPP Bugg QC provide any explanation as to why its witness Morgan failed to mention alleged important factual matters in 1998, but that she has a memory of these events in 2006?

446. Can DPP Bugg QC provide any explanation as to how Morgan can remember alleged events and conversations in more detail in 2006 than in 1998?

447. Would not DPP Bugg QC agree that the magnitude, nature and seriousness of the changes to the 1998 statement of Morgan raise serious questions as to her reliability as a witness of truth?

Salmon

448. Is DPP Bugg QC aware that the November 3, 2006 affidavit of Salmon consists of 48 paragraphs which contain additional material not found in his affidavits dated February 16, 1998 and March 24, 1998?

449. Is DPP Bugg QC aware that the following paragraphs in Salmon November 3rd, 2006 statement are new or substantially new, in that they are not found in her March 24th, 1998 statement?

Paragraph 8 (3 lines)

Paragraph 9

Paragraph 10 (5 ½ lines)

Paragraph 11

Paragraph 16

Paragraph 17

Paragraph 18 (5 lines)

Paragraph 19

Paragraph 20

Paragraph 21

Paragraph 22 (4 lines)

Paragraph 23

Paragraph 24

Paragraph 25 (6 lines)

Paragraph 29 (1 line)

Paragraph 30 (1 line)

Paragraph 31 (1 line)

Paragraph 32 (2 ½ lines)

Paragraph 33

Paragraph 34

Paragraph 35

Paragraph 37 (4 lines)

Paragraph 38

Paragraph 39 (8 lines)

Paragraph 40

Paragraph 41

Paragraph 44

450. Is DPP Bugg QC aware that a substantial portion of Salmon's November 3, 2006 statement provides details of alleged events which are not contained in his 1998 statement?

451. Can DPP Bugg QC provide any explanation as to why its witness Salmon failed to mention alleged important factual matters in 1998, but that he has a memory of these events in 2006?
452. Can DPP Bugg QC provide any explanation as to how Salmon can remember alleged events and conversations in more detail in 2006 than in 1998?
453. Is DPP Bugg QC aware that in relation to the Vanuatu civil claim, Salmon has stated in paragraphs 46 and 47 of his affidavit dated November 3, 2006 the following?

“I do not understand the difference between the civil and criminal cases being conducted by John Malcolm.... While the criminal case was still going on, we were given four million vatu. That was after I signed a Deed of Settlement on John Malcolm’s advice. I did not understand what the purpose of the Deed was; I signed it because John Malcolm told me to. I do not know why we received four million vatu. I went to John’s office and collected a cheque for 500,000 vatu. These were part payments of the four million vatu.”

454. Has DPP Bugg QC sought to check the veracity of Salmon’s statement from Mr John Malcolm, who acted as the Vanuatu solicitor and attorney of the Salmon family over a three year period in relation to the civil proceedings?
455. Is not the feigned ignorance of Salmon concerning the civil settlement between the Salmon family and AG Moti QC indicative of a self interested, lying witness, who wishes his daughter and himself to benefit from the largesse of the Australian Federal Police?
456. Would not DPP Bugg QC agree that the magnitude, nature and seriousness of the changes to the 1998 statement of Salmon raise serious questions as to his reliability as a witness of truth?

Heiariki David Salmon

457. Is DPP Bugg QC aware that Heiariki David Salmon (the older brother of Roy, who was born in June 1981) did not make any statement in Vanuatu in 1997/2000 for either the criminal or civil proceeding involving AG Moti QC, yet he appears as a “new witness” in the Australian prosecution in 2006?

458. Why is there no reference in any of the extradition materials to the fact that Heiariki David Salmon was living with his parents in Vanuatu during 1996-1999 and was under their parental control, and that he did not make a statement for either the criminal or civil proceedings relating to AG Moti QC?
459. Is it not dishonest for Heiariki David Salmon to swear an affidavit dated October 27, 2006 for the purpose of the Australian criminal prosecution and fail to provide any explanation as to why he did not make a statement between 1997 and 2000 for either the criminal or civil proceedings in Vanuatu?
460. Is it not incredulous that in Roy's six statements made in 1997/1998 and in Morgan's 1998 statement there is no reference to Heiariki David Salmon living in AG Moti QC's house, while in the new November 2006 affidavits of Roy and Morgan, these deponents swear that Heiarikii Salmon lived at AG Moti QC's house in 1997?
461. Is it not self serving that Roy states in her November 2006 affidavit that while David Salmon was in AG Moti QC's house, he was in a position to observe certain alleged improper incidents?

Photographic Evidence

462. Is DPP Bugg QC aware that the photograph referred to as exhibit VMOT10018 to Roy's affidavit dated June 16, 2006, was never produced as part of the Vanuatu prosecution brief in the criminal case against AG Moti QC or referred to (for example, in interrogatories) in the Vanuatu civil case brought against AG Moti QC in Vanuatu in the period 1997-2000?
463. Can DPP Bugg QC offer any explanation as to why if this photograph existed in 1997-2000, it was not used in the Vanuatu criminal and/or civil proceedings concerning AG Moti QC?
464. Is DPP Bugg QC aware that Roy, the Australian Federal Police, the Vanuatu Police or anyone else has not offered any explanation as to the how this photograph was "found" or offered any details of its chain of custody?
465. If this photograph is authentic, where is the original of the photograph?

466. Is this photograph a digitally remastered photograph which has been “created” by the Australian authorities?
467. Is this photograph another example of the manipulation of facts by the Australian Federal Police?
468. Is DPP Bugg QC aware that this photograph was contained in an unsealed package attached to the affidavit of Roy?
469. Is DPP Bugg QC aware that this questionable photograph, which was in the possession, custody or control of the Australian Federal Police, was deliberately leaked by the Australian Federal Police or its agents to the Vanuatu media in order to cause maximum prejudice to AG Moti QC?
470. Is not the publication of this questionable photograph a violation of the basic rules of natural justice in that its prejudicial effect far exceeds its probative value?

e) Other manipulation of sworn statements?

Witness Roy's 2006 signature does not correspond with her name

471. Is DPP Bugg QC aware that the sworn statement of Roy dated June 16, 2006, is made in the name of the deponent Puita Salmon, but that the signature which is attached to that affidavit is different to the signature of Roy affixed to her statements made in 1997/1998?
472. Is DPP Bugg QC aware that the sworn statement of Roy dated June 16, 2006, is made in the name of the deponent Puita Salmon, but that the signature which is affixed to that affidavit appears to be made in a different name, namely Roy?
473. Is DPP Bugg QC aware that the statement of Roy dated November 3, 2006, is made in the name of the deponent Puita Salmon, but that the signature which is attached to that affidavit is different to the signature of Roy affixed to her statements made in 1997/1998?
474. Is DPP Bugg QC aware that the statement of Roy dated November 3, 2006, is made in the name of the deponent Puita Salmon, but that the signature which is affixed to that affidavit appears to be made in a different name, namely Roy?

475. Can DPP Bugg QC offer any explanation as to this “highly unusual, if not dishonest and improper” method of signing affidavits in a name other than the name of the deponent?

Mrs Jenny Daniel compelled to sign a statement

476. Has DPP Bugg QC examined the methodology and the legality of the Australian Federal Police investigation into AG Moti QC, particularly in relation to its dealings with the legal system of Vanuatu?

477. Is DPP Bugg QC aware of a person called Mrs Jenny Daniel, who was employed by AG Moti QC as his occasional housekeeper at his home in Port Vila, Vanuatu during the period 1997-99?

478. Is DPP Bugg QC aware that in June 2006 Inspector Alan R Bani and Merilyn George, local Vanuatu police officers attached to the Transnational Crime Unit in Port Vila approached Mrs Jenny Daniel at her workplace in Port Vila, demanding that she give them an interview as to her knowledge of AG Moti QC?

479. Is DPP Bugg QC aware that the questioning of Mrs Jenny Daniel was made at the request of, with the knowledge of, and under the direction of the Australian Federal Police pursuant to its investigation of AG Moti QC?

480. Is DPP Bugg QC aware that Mrs Jenny Daniel was questioned during her work hours in the Bislama language as to her knowledge of the relationship between AG Moti QC and Roy, and the living arrangements of AG Moti QC at his house in Port Vila during 1997?

481. Is DPP Bugg QC aware that during this interview Mrs Jenny Daniel informed the Vanuatu police that AG Moti QC was often overseas during 1997, and that she had little, if any information, to give to the police officers about Roy?

482. Is DPP Bugg Q Caware that on the next day (that is after the unannounced, informal interview), Inspector Alan Bani and Inspector Merilyn George returned to Mrs Jenny Daniel’s place of work, but this time accompanied by persons who appeared to be Australian police officers?

- 482A. Is DPP Bugg QC aware that the Vanuatu police officers demanded that Mrs Jenny Daniel come with them to the State Prosecutor's office to sign a statement?
483. Is DPP Bugg QC aware that the Vanuatu police officers demanded that Mrs Jenny Daniel sign a typewritten statement that was in the English language, even though her interview was in the Bislama language and her knowledge of the English written language is weak?
484. Is DPP Bugg QC aware that Mrs Jenny Daniel was not allowed to read her statement before she signed it?
485. Is DPP Bugg QC aware that no person translated Mrs Jenny Daniel's English statement to her prior to her signing it?
486. Is DPP Bugg QC aware that Mrs Jenny Daniel felt so intimidated by the experience that she complained subsequently to third parties, including her then employer, about the interview and the taking of her statement?
487. Is DPP Bugg QC aware that Mrs Jenny Daniel signed the statement because she felt compelled to do so?
488. Is DPP Bugg QC aware that Mrs Jenny Daniel found the attitude of the Vanuatu and Australian police officers intimidating?
489. Why was Mrs Jenny Daniel compelled to sign a statement, in circumstances where she was known to be extremely vulnerable, working in a low paying job as a cleaner, and being a widow?
490. Is DPP Bugg QC aware that subsequently Mrs Jenny Daniel requested a copy of her statement, but no such copy has been forthcoming?
491. Is DPP Bugg QC aware that Mrs Jenny Daniel considers that her life and livelihood is threatened by those Vanuatu police officers who are working at the direction of the Australian Federal Police in relation to the investigation of AG Moti QC?
492. Will DPP Bugg QC interview or arrange for the interview of Mrs Jenny Daniel (without the presence of the Australian Federal Police) to ascertain whether the Australian Federal Police or persons acting on their behalf have engaged in illegal conduct in Vanuatu in the taking of her statement?

493. Will DPP Bugg QC produce a copy of Mrs Jenny Daniel's statement, which has not appeared in any of the extradition papers submitted to the Government of the Solomon Islands?

494. What steps will DPP Bugg QC take to ensure that his office is not a party to a perversion of the course of justice in relation to AG Moti QC?

f) Gross Australian investigatory failures

Failure to carry out any background investigation into Salmon

495. Has DPP Bugg QC carried out or arranged for the carrying out of any investigation into the background of Salmon concerning his character, reputation and business activities?

496. Has DPP Bugg QC inspected or arranged for the carrying out of any inspection of the court records in Vanuatu concerning Salmon?

497. Is DPP Bugg QC aware that on the Internet Salmon describes himself as "Prince Ariipaea (Paea) Salmon of Vanuatu", "Chief of the Santo Island in the South Pacific Republic of Vanuatu", and "Tahitian Prince"?

498. Is DPP Bugg QC aware that no person can be both a Tahitian Prince and a Vanuatu Prince?

499. Is DPP Bugg QC aware that the above named titles can only be legitimately obtained through hereditary family lines, and that Salmon has no legal entitlement to such titles?

500. Is DPP Bugg QC aware that Salmon does not hold of any of the titles that he purports to use in his business activities?

501. Is DPP Bugg QC aware that Salmon has reputation of being a con man who uses his family as a vehicle for extortion on innocent persons?

502. Does not the proposed Australian prosecution of AG Moti QC provide a vehicle for Salmon to extort more money from AG Moti QC?

Failure to interview persons who have knowledge of the Vanuatu proceedings

503. Why has the Australian Federal Police or someone acting on behalf of the Federal Police failed to interview the followings persons in relation to the Vanuatu criminal and/or civil proceedings concerning AG Moti QC? The following persons have not been interviewed:

Mr Kalotrip, Senior Vanuatu magistrate who dismissed the criminal case against AG Moti QC;

Mr Mr Ian Barker QC, and Mr David Chaiken, Australian counsel for AG Moti QC at the Vanuatu hearing before Kalotrip;

Mr John Purnell SC, Australian counsel for AG Moti QC in the Vanuatu civil proceedings;

Mr Dudley Aru, who was a Partner in Motis Pacific Lawyers in 1997-1999, and is now the Acting Attorney-General of Vanuatu;

Ms Ramona Wilson, who was managing partner of Motis Pacific Lawyers, after AG Moti QC permanently left Vanuatu soon after the dismissal of the complaint in August 1999; and

Mr Ronald Warsal, an employee of Motis Pacific Lawyers, who dealt with the Vanuatu civil claims.

Failure to interview AG Moti QC

504. Is DPP Bugg QC aware that since the criminal allegations against AG Moti QC were first published in Vanuatu in 1998, AG Moti QC has travelled to Australia on numerous times each year, for the purposes of employment (such as teaching law at Bond University in Queensland), or for personal reasons (such as visiting his aged parents in Sydney)?

505. Is DPP Bugg QC aware that since January 2005, the date when the Australian Federal Police alleges that its investigation into AG Moti QC commenced, the Australian Federal Police has made no attempt to contact AG Moti QC, let alone interview him, concerning the criminal allegations?

506. Is DPP Bugg QC aware that AG Moti QC could have been interviewed in Sydney in July 2006, after the statement of Roy had been taken in June 2006?
507. What possible operational reason exists for failing to interview AG Moti QC about stale criminal allegations which have previously been dismissed in Vanuatu?
508. Given the nature of AG Moti QC's work, namely as an international lawyer, international academic, and government advisor, and the obvious effect of the issue of a warrant of arrest on AG Moti QC's national and international reputation, is not the Australian Federal Police's failure to interview AG Moti QC motivated by a hidden agenda, which has nothing to do with the pursuit of truth?
509. How does DPP Bugg QC justify the gross unfairness of the Australian Federal Police investigation into AG Moti QC?

Failure to interview any witness who may cast doubt on the Australian case

510. Can DPP Bugg QC offer any explanation as to why the Australian Federal Police fail to give AG Moti QC an opportunity of presenting material and witnesses to the Australian authorities prior to the arranging of the issue of an arrest warrant on August 11, 2006?
511. Why has the Australian Federal Police failed to approach any independent witnesses who could present relevant material concerning the criminal allegations against AG Moti QC made in Vanuatu in 1998, and/or the Vanuatu criminal prosecution?
512. Is it not the case that the Australian Federal Police has acted in the most unprofessional manner in the way that it conducted its investigation, in that it has deliberately avoided interviewing any person who could show that the case against AG Moti QC is a sham?

Dudley Aru

513. Is DPP Bugg QC aware that Mr Dudley Aru is the current Acting Attorney-General of Vanuatu, and was previously the Solicitor General?
514. Is DPP Bugg QC aware that Mr Aru was the law partner of AG Moti QC in 1997-98 in Vanuatu and that he has personal and professional knowledge of the criminal and civil litigation concerning the Vanuatu case about AG Moti QC?
515. Is DPP Bugg QC aware that Mr Aru was the complainant against Mr Ariipaea Salmon in 1999 wherein he alleged that Mr Salmon had sought to extort money from AG Moti QC in exchange for the withdrawal of the complaint of his daughter?
516. Is DPP Bugg QC aware that the Australian Federal Police have failed to interview Mr Aru so as to be informed of the proceedings in Vanuatu concerning AG Moti QC and the Salmon family?
517. Does not DPP Bugg QC agree that although it was proper for Mr Aru not to be involved in the decision as to whether the Vanuatu Attorney-General's Department should accept the Australian mutual assistance request concerning AG Moti QC, that this did not mean that he should not have been interviewed ?
518. Can the DPP Bugg QC offer any explanation as to why the Australian authorities failed to request Vanuatu to arrange an interview with Mr Dudley Aru?
519. Is not the failure of the Australian authorities to interview Mr Aru concerning AG Moti QC's case another example of the incompetence or bad faith in which the Australian Federal Police has carried out this investigation?

Mr Arvind Lal and Mrs Sophia Lal's testimony concerning the New Caledonia trip

520. Can DPP Bugg QC offer any explanation as to why the Australian Federal Police failed to interview Mr Arvind Lal and Mrs Sophia Lal, who Roy has alleged are witnesses concerning their visit to New Caledonia in 1997 and which has formed the basis of the New Caledonia criminal counts against AG Moti QC?

521. Is DPP Bugg QC aware that a legal representative of the Solomon Islands Government has interviewed both Mr Arvind Lal and Mrs Sophia Lal concerning their knowledge of AG Moti QC?
522. Is DPP Bugg QC aware that the following information has been confirmed by Mr and Mrs Lal?

Mr Arvind Lal

523. Is DPP Bugg QC aware that Roy in her 2006 affidavits (albeit not in her 1997/1988 affidavits) has alleged that AG Moti QC has financed Mr Arvind Lal?
524. Is DPP Bugg QC aware that AG Moti QC has never financed Mr Arvind Lal's business and that the suggestion of Roy that Mr Arvind Lal owes AG Moti QC a financial debt is a lie?
525. Is DPP Bugg QC aware that Mr Arvind Lal is a substantial and well respected businessman in Vanuatu, who is owner and managing director of Pacific Autronics Ltd, which is a leading spare parts supplier, has one of the largest auto mechanical workshops in Port Villa, and employs over 30 ni-Vanuatu and 4 expatriates in its businesses?
526. Is DPP Bugg QC aware that Mr Arvind Lal is a respectable family man, married to Sophie Lal, and that they have three children, two studying at universities and the other child studying at high school?
527. Is DPP Bugg QC aware that Mr Arvind Lal is prepared to testify that the statement by Roy that she was living with AG Moti QC in Port Vila in 1997 is a lie?
528. Is DPP Bugg QC aware that Mr Arvind Lal is prepared to testify that at no time did he observe that Roy was living with AG Moti QC at his house in Port Vila, although he frequently visited AG Moti QC's house in Malapoa?
529. Is DPP Bugg QC aware that there were a number of occasions during the period of May to October 1997 that the Lal family had dinner at AG Moti QC's house without the Salmon family, including Roy, being present?

530. Is DPP Bugg QC aware that Mr Arvind Lal is prepared to testify that at no time in 1997 did he hear from Roy or any member of the Salmon family, or from anyone else, that Roy was living with AG Moti?
531. Is DPP Bugg QC aware that Mr Arvind Lal is prepared to testify that Roy has lied about the living arrangements and other circumstances concerning the visit by the Lals to New Caledonia in 1997?
532. Is DPP Bugg QC aware that Mr Arvind Lal is prepared to testify to the following concerning the circumstances and the actual visit to Noumea in October 1997 by AG Moti QC, Mr Arvind Lal, Mrs Sophia Lal and Roy?

AG Moti QC and Arvind Lal had planned to visit Noumea for the purposes of a business trip to promote Solomon Taiyo, which is canned tuna fish from the Solomon Islands. Prior to the visit to Noumea, Mr Arvind Lal and his wife had dinner at AG Moti QC's house with the Salmon family. During that dinner Arvind Lal and AG Moti QC had a conversation about the proposed Noumea trip. Overhearing this conversation at that dinner, Roy expressed a wish to visit Noumea and go on this trip. Morgan agreed to Roy's wish on the basis that Sophia Lal went as her guardian. Sophia stated that she would like to visit Noumea and that she would look after Roy.

The Salmons agreed that Roy could go to Noumea. Subsequently Roy, Sophia Lal, Arvind Lal and AG Moti QC travelled to Noumea and stayed at the Le Meridien Hotel. During this trip, Arvind Lal and AG Moti QC shared the same room, while Sophia Lal and Roy stayed in a separate room.

At no time during the visit to Noumea did Arvind Lal witness any improper conduct by AG Moti QC towards Roy. At no time during the visit to Noumea (or afterwards in 1997) did Arvind Lal hear any complaint from Roy or anyone else that AG Moti QC had acted improperly towards Roy.

During the visit to Noumea, AG Moti QC and Arvind Lal were kept busy at various business meetings, while Sophia Lal looked after Roy and took her out shopping.

During the trip to Noumea Arvind Lal, AG Moti QC, Sophia Lal and Roy had dinner with some acquaintances of Mr Moti QC. At that dinner Roy was not presented as the girlfriend of AG Moti QC

Sophia Lal

533. Is DPP Bugg QC aware that Mrs Sophia Lal is prepared to testify that at no time did she observe that Roy was living with AG Moti QC at his house in Port Vila, although she visited AG Moti QC's house on a number of occasions in Malapoa?
534. Is DPP Bugg QC that Mrs Sophia Lal is prepared to testify that Roy has lied in her 2006 affidavits wherein Roy states that she told Sophia Lal that she was having sex with AG Moti QC? (Note that Roy does not make this allegation in her 1997/1998 affidavits, but makes this allegation for the first time in 2006)
535. Is DPP Bugg QC aware that Mrs Sophia Lal is prepared to testify that at no time did she hear from Roy or any member of the Salmon family, or from anyone else, that Roy was living with AG Moti QC?
536. Is DPP Bugg QC aware that Mrs Sophia Lal is prepared to testify that Roy has lied about the living arrangements and other circumstances concerning the visit to New Caledonia in 1997?
537. Is DPP Bugg QC aware that Mrs Sophia Lal is prepared to testify to the following concerning the visit to Noumea in October 1997 by AG Moti QC, Roy, Arvind Lal and Sophia Lal?

AG Moti QC and Arvind Lal had planned to visit Noumea for the purposes of a business trip to promote Solomon Taiyo, which is canned tuna fish from the Solomon Islands. Prior to the visit to Noumea, Mr Arvind Lal and Mrs Sophia Lal had dinner at AG Moti QC's house with the Salmon family. During that dinner Arvind Lal and AG Moti QC had a conversation about the proposed Noumea trip. Overhearing this conversation at that dinner, Roy expressed a wish to go on the trip. Morgan agreed to Roy's wish on the basis that Sophia Lal went as her guardian. Sophia stated that she would like to visit Noumea and that she would look after Roy.

The Salmons agreed that Roy could go to Noumea. Subsequently Roy, Sophia Lal, Arvind Lal and AG Moti QC travelled to Noumea and stayed at the Le Meridien Hotel. During this trip, Arvind Lal and AG Moti QC shared the same room, while Sophia Lal and Roy stayed in a separate room.

At no time during the visit to Noumea did Sophia Lal witness any improper conduct by AG Moti QC towards Roy. At no time during the visit to Noumea (or afterwards in 1997) did Sophia Lal hear any complaint from Roy or anyone else that AG Moti QC had acted improperly towards Roy.

During the trip to Noumea Arvind Lal, AG Moti QC, Sophia Lal and Roy had dinner with some acquaintances of Mr Moti QC. At that dinner Roy did not state that she was nineteen years of age and was not presented as the girlfriend of AG Moti QC. Roy talked to Sophia during the dinner, while Arvind La and AG Moti QC talked business with their clients.

(E) OTHER VIOLATIONS OF HUMAN RIGHTS AND NATIONAL AND INTERNATIONAL LAWS?

(i) Unauthorised Australian Investigation in Vanuatu

538. Is DPP Bugg QC aware that on October 11, 2006 Commissioner Keelty made the following statement in a radio interview with the Australian Broadcasting Commission?

“It had absolutely nothing to do with the intended appointment of Moti as Attorney-General in Solomon Islands. And indeed all of our activities, particularly the work that we've done with the young female victim, or the alleged victim, was even before the Sogavare Government was put in place.”

539. Is it not the case that Commissioner Keelty is asserting that the Australian Federal Police Officer(s) have been working with Roy, before PM Sogavare was appointed, as Prime Minister, that is before May 4, 2006?

540. Is it not the case that Commissioner Keelty has informed the Australian Senate that the Australian request for mutual assistance of Vanuatu in relation to AG Moti QC was made on April 19, 2006?

541. Is it not the case that Commissioner Keelty has informed the Australian Senate that “on June 7, 2006 Vanuatu Attorney-General’s Department approved the mutual assistance request (concerning AG Moti QC) and invited the AFP to assist in the investigation (of AG Moti QC). On 12 June 2006 the AFP travelled to

Vanuatu to facilitate the obtaining of evidence under the mutual assistance request.”?

542. Is it not the case that Roy made a statement in Vanuatu on June 16, 2006 which was sworn in Port Vila before Jack P Semena, Commissioner of Oaths?
543. Is it not the case that the Australian Federal Police has been working with Roy on the territory of Vanuatu, at least four weeks before getting permission from the Vanuatu Attorney-General’s Department to carry out an interview with Roy?
544. Is DPP Bugg QC aware that the Mutual Assistance in Criminal Matters (“MACM”) Act 2002 of Vanuatu exclusively regulates the taking of evidence in Vanuatu for the purpose of an investigation of a criminal proceeding in a foreign country? (see ss 2, 3 and 12 of the MACM Act)
545. Has not Commissioner Keelty admitted that the Australian Federal Police has violated the spirit of the MACM Act of Vanuatu by interviewing or arranging to interview Roy prior to obtaining the consent of the Vanuatu Government?
546. Has not the AFP violated the sovereignty of the Republic of Vanuatu by engaged in an unauthorised investigation in Vanuatu?

(ii) Interview with Roy– a violation of rights

547. Is it not the case that Roy made a statement in Vanuatu on June 16, 2006 which was sworn in Port Vila before Jack P Semena, Commissioner of Oaths?
548. Why was the statement of Roy dated June 16, 2006, which was taken in Vanuatu, headed “In the Matter of the Foreign Evidence Act 1994”?
549. Given that the statement of Roy dated June 16, 2006 was taken pursuant to the MACM Act of Vanuatu, why is there a reference to an Australian law, namely the Foreign Evidence Act 1994?
550. Why was the statement of Roy taken in Vanuatu without using the normal procedures as provided by section 14 of the MACM Act, namely the taking of evidence before a judge?

551. Why were the protections and safeguards provided by section 14 of the MACM Act avoided when taking of the evidence of Roy?
552. Is it the case that Roy had no legal representative present when her evidence was taken in Vanuatu?
553. In circumstances where Roy had previously made six statements in 1997 and 1998 concerning AG Moti QC, and where the Vanuatu courts dismissed the prosecution case against AG Moti QC because of the admissibility and quality of her evidence, should not Roy have had independent legal advice before making a sworn statement concerning the same matter?
554. In circumstances where Roy had signed a Deed of Mutual Release and Settlement in respect of AG Moti QC, that that Deed formed the basis of consent judgments in Vanuatu between AG Moti QC and AG Moti QC, and that Roy was bound by that Deed, why did Roy not receive any independent legal advice before making her sworn statement ?
555. Is it not the case that Roy in her statement dated June 16, 2006 makes no reference to being warned about the risk of prosecution in Vanuatu for perjury?
556. Given the criminal and civil litigation history of this matter, should not Roy have been warned that a false statement by her could be the basis for a prosecution in Vanuatu for perjury? (See Penal Code 1981 ss 74-76; s 27(3) of the MACM Act).
557. Given the criminal and civil litigation history of this matter, should not Roy have been warned of other legal risks under Vanuatu law, namely the risk of criminal prosecution for conspiracy to make a false statement and/or conspiracy to pervert the course of justice? (See Penal Code s 79)
558. Is it the case that the Australian Federal Police investigators had no interest in the legal rights of Puaita Salmon, but were only interested in obtaining her evidence by whatever means?
- (iii) *Illegal arrest of QC in Papua New Guinea?*
559. Is DPP Bugg QC aware that on October 5, 2006 AG Ruddock stated the following?
- “Mr Moti was brought before a court (in Papua New Guinea) he was bailed and then the situation has been that he decamped into a foreign mission claiming

diplomatic immunity. Now it seems to me on a following of all of those steps that we have acted appropriately and properly and in exactly the same way that we would act if we received a request from Papua New Guinea - not that we have recently, or any other country, numbers of whom we have received requests from.” (Official transcript of interview, on Attorney-General’s website)

560. Is DPP Bugg QC aware that on October 5, 2006 Senator Ellison stated the following?

“I understand that Prime Minister Somare (of PNG) has said that due process has not been followed and that this is politically motivated and I reject that out of hand. I mean, we have **followed the process to the letter of the law.**”(see transcript of interview with Tony Jones, Lateline, ABC TV, 5 October 2006).

561. Is DPP Bugg QC aware that AG Moti QC was arrested at 5.30 am on the morning of Friday September 29, 2006 in the transit lounge of Jackson airport in Port Moresby, by officers of the Transnational Crimes Unit of the Papua New Guinea (PNG) police?

562. Is DPP Bugg QC aware that the PNG police officers of the Transnational Crimes Unit who arrested AG Moti QC, were acting at the direction or on the instructions of Australian Government funded advisers?

563. Is DPP Bugg QC aware that at the time of AG Moti QC’s unlawful interception in PNG no warrant for the arrest of AG Moti QC had been issued in PNG?

564. Has DPP Bugg QC seen a copy of the notice of motion of Detective Constable Michael Liriope of the Transnational Crimes Unit of the PNG police concerning AG Moti QC?

565. Is DPP Bugg QC aware that Detective Constable Liriope states in his application that he will apply for a warrant of arrest for AG Moti QC at 8.00 am on September 29, 2006?

566. Has DPP Bugg QC seen a copy of the decision of Mr A Kopi wherein he granted the motion for the issue of an arrest warrant of AG Moti QC at a hearing that took place at 9.30 am on September 29, 2006?

567. Is DPP Bugg QC aware that the arrest of AG Moti QC was illegal because he was arrested at 5.30 am on September 29, 2006 which occurred prior to the granting of the warrant of arrest at 9.30 am or soon after?
568. Is DPP Bugg QC aware that the legal position in Papuan New Guinea and in Australia is similar in that a foreign arrest warrant and/or an Interpol red notice have no automatic legal effect in a local jurisdiction?
569. Is DPP Bugg QC aware of the well accepted principle of common law and international law that the arrest of AG Moti QC on the basis of an Australian arrest warrant, without any co-existing local warrant in Papua New Guinea, was illegal?

(see *Diamond v Minter* [1941] 1 KB 656; Clive Nicholls QC, Clare Montgomery QC and Julian Knowles, The Law of Extradition and Mutual Assistance, Cameron, May 2002, p 65; Alun Jones, Jones on Extradition, Sweet & Maxwell, 1995, p 171; Anne Warner La Forest, La Forest's Extradition to and from Canada, Law Book Company, 1991, p 126)

570. Is DPP Bugg QC aware that the illegal arrest of AG Moti QC was a deliberate and conscious violation of the rights of AG Moti QC under the Constitution of Papua New Guinea which tainted all subsequent proceedings? (see principles set out in various Papua New Guinea court judgments and in the well known Irish Supreme Court decision of *State (Trimbole) v. Governor of Mountjoy Prison* [1985] I.R. 550).
571. Has not the Australian Government sought to conceal the fact of the illegality of AG Moti QC's illegal arrest in Papua New Guinea by refraining in its public comments from referring to the actual detailed facts of the arrest?
572. Is DPP Bugg QC aware that in the PNG Force Board of Inquiry Report there is no discussion of the detailed facts concerning the illegal arrest of AG Moti QC, but a mere assertion of legality, without the citation of any legal principle or legal authority to support this conclusion? (see pages 4-7 of Internet version of the Report).
573. Did Australian Government funded advisers influence the contents of the PNG Defence Board of Inquiry Report concerning the illegal arrest of AG Moti QC so as to avoid embarrassment to the Australian Government?

(iv) *Violations of the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons*

574. Is DPP Bugg QC aware that in the Australian Government request of the Papua New Guinea Government for the provisional arrest of AG Moti QC dated September 28, 2006 the following statement is made?

“Reason for request for provisional arrest

MOTI was previously residing in the Solomon Islands where he worked as a Barrister and had a business, Pacific Lawyers. Australian authorities believe that MOTI has recently been appointed as the Attorney-General of the Solomon Islands.

Australia does not have an extradition treaty with the Solomon Islands. If MOTI travels to the Solomon Islands it is unlikely that Australia would be able to seek his extradition, particularly given the position which MOTI will hold in the Solomon Islands.

This opportunity to have MOTI provisionally arrested pending the receipt of a formal request may not present itself to Australia again.”

575. Is DPP Bugg QC aware that on September 21, 2006 the Government of the Solomon Islands publicly announced that AG Moti QC had been appointed as Attorney-General of the Solomon Islands?

576. Is DPP Bugg QC aware that the Australian Government had actual or constructive notice that AG Moti QC was an official of the Government of Solomon Islands at the time of his arrest in Papua New Guinea on September 29, 2006?

577. Is DPP Bugg QC aware that the Australian Government and the Papua New Guinea Government are parties to the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including the Diplomatic Agents (“the IPP Convention”)? (The IPP Convention was ratified by Australian on June 20, 1977, and by Papua New Guinea on September 30, 2003. The IPP Convention is also part of customary international law).

578. Is DPP Bugg QC aware that Article 1(1)(b) includes in the definition of an “International Protected Person” the following?

“any representative or official of a State, or any official or other agent of an international organisation of an intergovernmental character, who, at the time when and in the place where a crime against him, his official premises, his private accommodation or his means of transport is committed, is entitled pursuant to international law to special protection from any attack on his person, freedom or dignity’.

579. Is DPP Bugg QC aware that on September 29, 2006 AG Moti QC was an internationally protected person under article 1 of the IPP Convention in that he was an “official of a State...who was entitled pursuant to international law to special protection from any attack on his person, freedom, dignity”?

580. Is DPP Bugg QC aware that it is an offence under article 2 of the IPP Convention for a person to intentionally commit the following?

“ (a) murder, kidnapping or **other attack upon the person or liberty of an internationally protected person**; (b) a violent attack upon the official premises, the private accommodation or the means of transport of an internationally protected person likely to endanger his person or liberty; (c) a threat to commit any such attack; (d) an attempt to commit any such attack; and (e) an act constituting participation as an accomplice in any such attack shall be made by each State Party a crime under its internal law.”

581. Is DPP Bugg QC aware that on September 30, 2006, AG Moti QC renounced his Australian nationality on the ground that the Australian Government had abandoned its international legal responsibilities to him as a national of Australia?

582. Is DPP Bugg QC aware that on September 30, 2006 AG Moti QC claimed political asylum in the High Commissioner of the Solomon Islands, after he was reliably informed that his life was under threat if he stayed in his hotel in Port Moresby?

583. Is DPP Bugg QC aware that while AG Moti QC was being accommodated in the High Commission of the Solomon Islands in Port Moresby, attempts were made by various persons to extract him from the High Commission?

584. Is DPP Bugg QC aware that the arrest of AG Moti QC constitutes a violation of IPP Convention for the following reasons?

AG Moti QC was at all relevant times a state official and holder of a constitutional position by virtue of his appointment as the Attorney-General of the Solomon Islands;

AG Moti QC was detained and arrested in violation of the law of Papua New Guinea;

AG Moti QC was detained and arrested in the transit lounge at Jackson Airport, Port Moresby, by offices of the Papua New Guinea police at the request of the Australian Government, without the official knowledge or consent of the Papua New Guinea Government;

AG Moti QC was subsequently remanded on bail based on a misconceived application under the provisions of a repealed extradition legislation of Papua New Guinea:

The detention, arrest, imprisonment and remand of AG Moti QC on Friday September 29, 2006 prevented him carrying out of his legal and constitutional responsibilities as an official of the Government of the Solomon Islands, in circumstances where AG Moti QC was travelling to the Solomon Islands to brief Cabinet on a matter of high constitutional importance, namely a vote of no confidence in the Government of the Solomon Islands which was scheduled to take place on Monday October 2, 2006; and

AG Moti's life was threatened while he was in Papua New Guinea and attempts were made to extract him from his place of asylum, namely the High Commission of the Solomon Islands in Port Moresby.

585. Is DPP Bugg QC aware that Papua New Guinea complied with its international obligations under article 3 of the IPP Convention by arranging safe accommodation and safe transit for AG Moti QC to fly to the Solomon Islands, thereby prevention the commission of further crimes in Papua New Guinea under the IPP Convention?

586. Will the Australian Government explain how it complied with its international obligations under the IPP Convention in its treatment of AG Moti QC as a state official of the Solomon Islands Government while he was in Papua New Guinea?

(v) *Illegal Arrest of AG Moti QC by RAMSI in Solomon Islands?*

587. Is DPP Bugg QC aware that on October 10 2006 AG Moti QC arrived at Munda, New Georgia Islands, and was illegally arrested by Australian military personnel from the Regional Assistance Mission to the Solomon Islands (RAMSI)?

588. Is DPP Bugg QC aware that on October 11' 2006 Commissioner Keelty publicly called on the Solomon Islands to deport AG Moti QC, rather than wait for extradition proceedings because Moti was an Australian national, whose passport had been cancelled by the Australian Government?

589. Is DPP Bugg QC aware that Commissioner Keelty's comments amounted to an oral direction to the Solomon Islands Police Commissioner Shane Castles to take all steps to facilitate AG Moti QC's deportation?

590. Is DPP Bugg QC aware that on October 11th 2006, Shane Castles was a seconded officer of the Australian Federal Police and was subject to a legal obligation under Australian law to comply with the oral or written directions from the Commissioner of the Australian Federal Police, namely Commissioner Keelty?

591. Is DPP Bugg QC aware that on October 11th, 2006 AG Moti QC appeared in Honiara court charged by the Solomon Islands Police Force with "entering into Solomon Islands without a permit" contrary to section 6(1)(b) of the Immigration Act 1978?

592. Is DPP Bugg QC aware that the thrust of this charge was that AG Moti QC was not a citizen of the Solomon Islands, or was otherwise lawfully entitled under the provisions of section 7 of the Immigration Act [Cap 60] to enter and reside in Solomon Islands?

593. Is DPP Bugg QC aware that it was well known by the then Solomon Islands Police Commissioner Shane Castles that AG Moti QC had been appointed Attorney-General of the Solomon Islands on September 19th, 2006 and was statutorily exempt from the requirement of section 6(1)(b) of the Immigration Act?

594. Is DPP Bugg QC aware that by virtue of section 7(1)(e) of the Immigration Act, AG Moti QC was a “person employed in the services of the Government of the Solomon Islands” who was “entering Solomon Islands in the course of his duty” on October 10, 2006, and was, therefore statutorily exempted from the requirement of section 6(1)(b) of the Immigration Act?
595. Is DPP Bugg QC aware that AG Moti QC was also charged with the offence of entering Solomon Islands while not in the possession of a valid passport contrary to section 12(1) of the Passport Act?
596. Is DPP Bugg QC aware that the thrust of this charge was that AG Moti QC’s Australian passport had been cancelled, so that he was not entitled to enter the Solomon Islands?
597. Is DPP Bugg QC aware that this charge was misconceived because the Minister responsible had granted AG Moti QC an Exemption Order dated October 8th, 2006, so that AG Moti QC was entitled to enter the Solomon Islands without a passport?
598. Is DPP Bugg QC aware that the Exemption Order was transmitted to RAMSI officers in Munda, and that they deliberately withheld its production and use, for the purpose of ensuring that AG Moti QC was illegally detained, arrested and imprisoned, and eventually deported?
599. Is DPP Bugg QC aware that AG Moti QC spent 10 days in gaol before being granted bail on October 20th, 2006?
600. Is DPP Bugg QC aware that in respect of the passport related charge, a Nolle Prosequi dated 8th December, 2006 under the authority of the Director of Public Prosecutions was filed on 11th December, 2006 pursuant to an Exemption Order made by the Minister responsible dated October 8th, 2006?
601. Is DPP Bugg QC aware that the December 2006 trial of AG Moti QC’s immigration charges was adjourned by Magistrate Seneka, when AG Moti QC, a foreigner, demanded the production of the Director of Public Prosecutions’ certificate of leave for the institution of immigration charges under the Immigration Act?

602. Is DPP Bugg QC aware that Public Prosecutor Mike McColm informed the Court that the requisite DPP certificate did not exist?
603. Is DPP Bugg QC aware that the Crown conceded defeat, acknowledging that AG Moti QC was lawfully entitled to enter and reside in Solomon Islands in his capacity as the Attorney General and as a public officer employed by the Government of the Solomon Islands?
604. Is DPP Bugg QC aware that the Crown also tendered documents stating that AG Moti QC had valid permits to enter, reside and work in Solomon Islands issued by the Immigration and Labour Departments since 1995?
605. Is DPP Bugg QC aware that on December 12th, 2006 the Acting Director of Public Prosecutions made an application to discontinue the immigration charge against AG Moti QC?
606. Is DPP Bugg QC aware that on December 13th, 2006, Magistrate Seneka made the following ruling?
- “Notice of Discontinue Proceedings accepted and all charges against Mr Moti are hereby dismissed and he is discharged. Should the Police wish to recharge the Accused they must appeal this charge to have it reopened to have the charge(s) again.”
607. Is DPP Bugg QC aware that despite the decision of the court, on December 14th, 2006, Commissioner Castles publicly questioned the authenticity of AG Moti QC’s residence and work permits, in an attempt to smear AG Moti QC and undermine the rule of law in the Solomon Islands?
608. Is DPP Bugg QC aware that following the unsuccessful and sordid attempt to bring immigration charges against AG Moti QC, on December 15th, 2006, the Solomon Islands Government received a formal extradition request in relation to AG Moti QC?
609. Is DPP Bugg QC aware that because of the statutory criminal and civil immunity enjoyed by RAMSI under the Facilitation of International Assistance Act 2003, AG Moti QC can not sue RAMSI officers under the law of the Solomon Islands?

(vi) *Unlawful suspension of AG Moti QC*

610. Is DPP Bugg QC aware that while AG Moti QC was claiming asylum in the Solomon Islands High Commission in Port Moresby, on October 3, 2006 the Solomon Islands Judicial and Legal Services Commission (“the JLSC”) under the auspices of the Chief Justice, Sir Albert Palmer, convened a meeting and recommended to the Public Service Commission (“the PSC”) that AG Moti QC be suspended from his constitutional office without pay?
611. Is DPP Bugg QC aware that on October 3, 2006, the JLSC publicized its decision to recommend that AG Moti QC be subject to disciplinary action by the PSC?
612. Is DPP Bugg QC aware that in making its recommendation, the JLSC relied on a document described as a warrant of arrest issued by an Australian magistrate in relation to AG Moti QC?
613. Is DPP Bugg QC aware that any reliance by a Solomon Islands court or public body on a purported foreign arrest warrant is misconceived for the following reasons?

there is a presumption that, in the absence of statutory authority, a foreign warrant of arrest has no legal status in the Solomon Islands;

a foreign warrant for arrest of a person is a hearsay document which is inadmissible in criminal, civil, disciplinary or administrative proceedings in another State;

a foreign warrant of arrest is territorial in nature and does not purport to have any extraterritorial effect; and

extradition documents, including a foreign warrant of arrest, may not be transmitted to a third person, such as to the Chief Justice, when he has no specific function under the Solomon Islands extradition law.

614. Is DPP Bugg QC aware that on October 4, 2006, the PSC publicized its decision to suspend AG Moti from his constitutional post?
615. Is DPP Bugg QC aware that the PSC suspension of AG Moti QC was made indefinitely and “without pay”, without any pretence of natural justice, prior to

the arrival of AG Moti QC in Solomon Islands, and whilst the hearing and determination of matters concerning the legality of AG Moti QC's detention, arrest and imprisonment was still pending before the courts in Papua New Guinea?

616. Is DPP Bugg QC aware that the Chairman of the PSC, Edmund Andresen, admitted in an affidavit dated April 4, 2007, that at the time when the PSC made its deliberations to suspend AG Moti QC "it did not have access to legal advice from the Attorney General's Chambers or any lawyer"?
617. Is DPP Bugg QC aware that Edmund Andresen also admitted that the suspension decision was taken while AG Moti QC was overseas and "was not afforded an opportunity to answer the allegations and the reasons for the suspension"?
618. Is DPP Bugg QC aware that on October 6, 2006 PM Sogavare wrote to the Minister of Public Service pointing out that the PSC suspension of AG Moti QC was made in total disregard of the procedures and applicable law?
618. Is DPP Bugg QC aware of the relevant law of the Solomon Islands in regard to suspension?

Regulation 55 of the Public Service Commission Regulations state that if an officer has been or is to be charged with any criminal offence, no decision on any question of misconduct shall be taken pending the conclusion of the legal proceedings and any consequent of the legal proceedings and any consequent appeal subject to provisions of regulation 66. It is the Secretary of the Public Service, and not the PSC, which can conduct an independent investigation of the charge(s), and in any event if it suspends an officer, the officer will continue to receive at least half of his salary or wages.

619. Is DPP Bugg QC aware that the PSC did not have the power to suspend AG Moti QC, yet the PSC refused to revoke their unlawful decision?
620. Is DPP Bugg QC aware that the PSC decision to suspend AG Moti QC without pay is evidence of malice?
621. Is DPP Bugg QC aware that on or about October 6 to 10, 2006, the Secretary of the Public Service, after receiving submissions from AG Moti QC's lawyers,

advised that the decision of the PSC to suspend AG Moti QC was “null and void” and that AG Moti QC’s appointment remained intact?

622. Is DPP Bugg QC aware that on October 10, 2006, the Chairman of the PSC wrote to the then Solicitor General, Nathan Moshinsky QC, seeking his advice on its decision to suspend AG Moti QC?
623. Is DPP Bugg QC aware that on October 11, 2006 Nathan Moshinsky provided written advice, stating that AG Moti QC had never been appointed as Attorney General because “he has not taken up his duties or signed a service agreement”? Accordingly Moshinsky advised that the the PSC was “free to reverse its decision and to withdraw the offer”?
624. Is DPP Bugg QC aware that Solicitor General Moshinsky’s advice was grossly negligent in that Moshinsky gave his advice without ascertaining from the Solomon Islands Government whether AG Moti QC had accepted the offer of appointment and commenced his duties?

Is DPP Bugg QC aware that AG Moti QC had accepted the offer of appointment and had commenced his duties?

625. Is DPP Bugg QC aware that, according to the affidavit of the Chairman of the PSC dated April 4, 2006, the PSC did not respond to nor act upon the Solicitor General’s advice?
626. Is DPP Bugg QC aware that on November 15, 2006, the High Court of the Solomon Islands declined to hear AG Moti QC’s urgent application for the granting of leave to apply for a review of the Public Service Commission decision to suspend AG Moti QC? (Civil Case No. 452 of 2006).
627. Is DPP Bugg QC aware that the High Court’s refusal to grant leave was on the spurious ground that the application had not complied with court forms, in relation to the naming of the parties, albeit that this form had been used and sanctioned by the Court of Appeal?
628. Is DPP Bugg QC aware that subsequently AG Moti QC applied for leave for constitutional redress before Chief Justice Sir Albert Palmer, but that despite the obvious urgency of the application, and the Honourable Chief Justice agreeing

that the High Court had erred in law in its ruling of November 15, 2006, declined to make any order, and merely reserved the matter for one month?

629. Is DPP Bugg QC aware that in January 2007 a different Justice of the High Court granted AG Moti QC leave without a hearing, by examination of documents only?
630. Is DPP Bugg QC aware that in March 2007 AG Moti QC's urgent application for the matter to be heard before the Court of Appeal (which sits only occasionally because it consists of visiting judges from overseas), was refused by the High Court, and that a trial date of April 17, 2007 was set down?
631. Is DPP Bugg QC aware that on April 17, 2007, the High Court decided to delay the trial of AG Moti QC's case indefinitely, thereby ensuring that AG Moti QC would not be able to obtain any judicial remedy prior to the conclusion of his appointment, which was for one year?
632. Is DPP Bugg QC aware that in May 2007 the Acting Attorney- General advised the Public Services Commission that its decision to suspend AG Moti QC was unlawful?
633. Is DPP Bugg QC aware that the Secretary of the Public Services Commission revoked the suspension order of the PSC in connection with AG Moti QC's appointment?
634. Is DPP Bugg QC aware that the Governor General, after considering appropriate legal advice, agreed that there was no current and legal effective suspension order, and subsequently agreed to preside over the swearing in of AG Moti QC/
635. Is DPP Bugg QC aware that in order to prevent the swearing in of AG Moti QC, on June 13, 2007, the Chief Justice appointed a disciplinary panel to investigate complaints made inter alia by the Chairman of the PSC, concerning AG Moti QC?
636. Is DPP Bugg QC aware that on July 9, 2007 on the eve of the swearing in of AG Moti QC before the Governor General, the Australian High Commissioner to the Solomon Islands, Mr Peter Hooton, in breach of diplomatic protocol, sought to dissuade the Governor General from proceeding with the swearing in?

(vii) Illicit manipulation of the Registrar of the Supreme Court of Vanuatu for the purpose of misleading the PNG Defence Board of Inquiry

637. Is DPP Bugg QC aware that as a result of AG Moti's removal from Papua New Guinea to the Solomon Islands on a PNG Defence plane, the Australian Government imposed travel bans on PNG government officials visiting Australia?
638. Is DPP Bugg QC aware that under pressure from the Australian Government, a PNG Defence Board of Inquiry was established under Chairman Justice Gibbs Salika, to examine the circumstances of the removal of AG Moti QC from Papua New Guinea to the Solomon Islands?
639. Is DPP Bugg QC aware that there are current legal challenges before the PNG courts concerning the jurisdiction and legality of the PNG Defence Board of Inquiry?
640. A) Is DPP Bugg QC aware that in contempt of the PNG courts an Australian newspaper has published a copy of the PNG Defence Board of Inquiry report on its website?
- B) Has DPP Bugg QC considered the impact of the publication of the PNG Defence Board of Inquiry Report on AG Moti QC obtaining a fair trial in Australia?
641. Is DPP Bugg QC aware that the PNG Defence Board of Inquiry has been used by the Australian authorities to discredit PNG Prime Minister Grand Chief Sir Michael Somare of PNG in relation to the election that he faced in 2007?
642. Is DPP Bugg QC aware that the Australian authorities have accused Prime Minister Grand Chief Sir Michael Somare of lying when on October 4, 2006 , he told the PNG public that AG Moti QC was cleared of criminal charges in Vanuatu?
643. Is DPP Bugg QC aware of a news article dated February 13, 2007 in a PNG newspaper under the headline 'Moti 'not cleared' by courts'? The news article stated:

“Legal documents obtained by the Defence Force Board of Inquiry suggest that fugitive Julian Moti was “not cleared” by the Vanuatu Courts on child sex charges. Chairman Justice Gibbs Salika said yesterday that evidence before the

inquiry suggested Moti was “not cleared” by the courts. ... After going through legal documents made available to him, Justice Salika said the evidence spoke otherwise. “The evidence is contrary. He has not been cleared by the Vanuatu courts,” Justice Salika said yesterday. Justice Salika made the comments when Joe Ealadona, the managing director of the National Broadcasting Corporation produced the transcript of an interview with Sir Michael on Oct 4, in which the Prime Minister called for Moti to be given safe passage back to Solomon Islands because he had been cleared by the court for what he had been accused of.”

644. Is DPP Bugg QC aware that on February 14, 2007, Peter Pena & Associates, PNG lawyers for AG Moti QC, issued a media release under the headline ‘PNG Defence Board of Inquiry Chairman in Contempt’? The media release stated:

“Messrs Pena & Associates refute the remarks and conclusions which Justice Salika expressed in yesterday’s National newspaper without bothering to obtain and read copies of publicly available judicial decisions of the Vanuatu Courts which clearly and conclusively establish that Moti was exonerated of all the charges in Vanuatu. His baseless allegations are also contradicted by official statements issued in October last year by the Vanuatu Government, the Vanuatu Police Commissioner and a former Vanuatu judicial officer.

While Mr Moti’s appeal against the unlawful issue and execution of the provisional arrest warrant for his extradition to Australia remains pending in the National Court of Justice, Justice Salika risks contempt action for his prejudicially incorrect comments and his injudicious conduct.”

645. Is DPP Bugg QC aware that in response to AG Moti QC’s media release dated February 14, 2006, the PNG Defence Board of Inquiry by facsimile dated Friday February 16, 2007, to the Supreme Court of Vanuatu requested records concerning the status of AG Moti QC’s case in Vanuatu?”

646. Is DPP Bugg QC aware that on February 20, 2007 the Acting Registrar of Vanuatu, Mr John Obed Alilee, communicated to the Defence Force Board of Inquiry that the AG Moti QC criminal case was still open in Vanuatu in 2007?

647. Is DPP Bugg QC aware that the contents of Registrar Alilee’s letter dated February 20, 2007 are reproduced in full in paragraph 5.3 of the Internet version of the PNG Defence Board of Inquiry Report? The letter states the following:

“We acknowledge receipt of your facsimile message of Friday 16th February, 2007 requesting copies of the Supreme Court of Vanuatu records for the purposes of the Defence Board of Inquiry.

While we assure Your Honour our willingness to assist it is our view that it would be improper to divulge the records of the Supreme Court of Vanuatu in this instance as the criminal matter of PP vs Julian Moti is still pending before the Supreme Court of Vanuatu for the hearing and determination of an application in the matter thereof making the matter sub judice.

The pending application before the Supreme Court was filed by the Public Prosecutor of Vanuatu on the 8th September 1999. It is a notice of an ex parte application for leave to apply for order of certiorari to remove from the Magistrate’s court into the Supreme Court and quash the decision of the Senior Magistrate’s Court dated 23rd August 1999 in dismissing charges against Mr Moti and not committing him for trial upon information. The Notice of Application was accompanied by affidavits in support.

The application is pending because the defendant in the matter had not returned to the Vanuatu jurisdiction and therefore unavailable to be heard in the Supreme Court of Vanuatu and the Public Prosecutor had not applied for the withdrawal of the application which is therefore pending hearing and determination by the Supreme Court of Vanuatu and therefore sub judice.”

648. Is DPP Bugg QC aware that the Acting Registrar through his personal and professional knowledge must have known that his letter dated February 20, 2007 was a litany of lies concerning the status of the Moti case in Vanuatu?
649. Is DPP Bugg QC aware of the following facts concerning the procedures in Vanuatu dealing with the Moti case after the August 1999 committal, which show that the Vanuatu Registrar has lied to the PNG Defence Board of Inquiry?

Under the applicable rules of the Western Pacific (High Court) (Civil Procedure) Rules 1964 (Order 61), which were applicable in Vanuatu in 1999, an ex parte application for leave for certiorari relief must be made within 6 months, and after leave is granted and then served, along with the notice of motion and affidavits in support, the notice of motion must be heard;

On September 8, 1999 Prosecutor Heather Lini-Leo applied for leave for an order of certiorari to remove the case into the Supreme Court to quash the decision of Senior Magistrate Kalotrip. (Prosecutor Lini-Leo was also a witness in the Moti case, having previously worked in the Ombudsman's office- see her statement dated March 24, 1998);

The sole basis of the Vanuatu Prosecutor Lini-Leo's unmeritorious application was the assertion that the prosecution has a constitutional right to conduct criminal proceedings in the Bislama language, even though English is one of the official languages of Vanuatu, AG Moti's Australian legal counsel in the committal proceedings spoke only English, and that one of the Vanuatu prosecutors who had carriage of this matter (and who in fact did appear in the committal) was also an Australian national;

Contrary to the lie in the Vanuatu Registrar Alilee's letter, the application made by the Vanuatu prosecutor was in fact served on AG Moti QC while he was in Vanuatu in September 1999. (A copy of that application has been given by AG Moti QC to the Government of the Solomon Islands);

The suggestion in the Vanuatu Registrar Alilee's letter that AG Moti QC " had not returned to the Vanuatu jurisdiction" after the August 1999 committal hearing, is refuted by the facts, substantiated by AG Moti QC's passport (which the Australian authorities have a copy after seizing it in Port Moresby), and further proved by the Supreme Court's records, where since August 1999 AG Moti QC has appeared not only in relation to the civil suit brought by and against him in relation to the Salmon family, but also where he has appeared as counsel in unrelated proceedings before the Vanuatu Supreme Court and in fact before Vanuatu Registrar Alilee (That Registrar Alilee has personal knowledge of AG Moti QC's physical presence in Vanuatu post August 1999 shows that Alilee's lie is pernicious and mischievous);

The claim made by Vanuatu Registrar Alilee that AG Moti QC could not be served is further undermined by the fact that in relation to the costs order, the Vanuatu Public Prosecutor Mr Mirou served AG Moti QC by post in 2004, and obtained Moti QC's consent to proceed without Moti's physical appearance in relation to the enforcement proceedings concerning the costs order which Magistrate Kalotrip had made in 1999 against the Vanuatu Public Prosecutor;

The suggestion in the Vanuatu Registrar Alilee's letter that the Vanuatu Public Prosecutor's September 1999 application is still pending in 2007 because the "Public Prosecutor had not applied for the withdrawal of the application", is a false statement concerning the civil procedure in Vanuatu, since the application is deemed to have been abandoned under the rules of the Vanuatu Supreme Court in circumstances where the ex parte application has not been pursued and no leave has been granted;

The penultimate evidence that Registrar Alilee has lied about the status of the Vanuatu proceedings is shown by the affidavit of Vanuatu Public Prosecutor Mirou dated November 18, 2003 wherein he stated: "The file retrieved from the archives was filed as *closed* due to the fact that ... [Mr Kalotrip] made a decision on 23rd day of August 1999. The matter was closed after ... [Mr Kalotrip] refused to commit Moti to stand trial at the Supreme Court on charges of a number of counts alleging sexual intercourse";

That Registrar Alilee has sought to conceal his lies is illustrated by his false statement that the Vanuatu court documents could not be "divulged" as it would be "improper" to do so. The documents concerning the Moti matter in respect of the Supreme Court proceedings in Vanuatu are publicly available documents;

655. Is DPP Bugg QC aware that the lie by Registrar Alilee concerning the status of the criminal proceedings in Vanuatu implies that AG Moti QC is a fugitive from justice in Vanuatu, such a lie having an obvious prejudicial effect on the prospect of AG Moti QC obtaining a fair trial in Australia?
656. Is DPP Bugg QC aware that the lying statement of Registrar Alilee that the Moti case is pending in Vanuatu is contradicted by the misleading statement made by Commissioner Keelty before the Australian Parliament wherein he stated that the Vanuatu police had advised him that the case against AG Moti QC was closed in 2004? (see questions 164 et al above). (Is this situation a result of a lack of co-ordination between the cell of liars which have targetted AG Moti QC?).
657. Is DPP Bugg QC aware that only one party, namely the Australian authorities, have a motivation for arranging for Mr Alilee to lie to the PNG Inquiry, so as to attack the credibility of PNG Prime Minister Grand Chief Sir Michael Somare?
658. Is DPP Bugg QC aware that Registrar Ailee's letter dated February 20, 2007 has been used by the PNG Defence Board of Inquiry to attack the credibility of the

PNG Prime Minister Grand Chief Sir Michael Somare? For example, on page 36 of the PNG Defence Board of Inquiry Report it is stated that Prime Minister Grand Chief Sir Michael Somare “misled the Parliament when he said ‘Moti was discharged by a competent court in Vanuatu’.”

Cauchi’s Link

659. Is DPP Bugg QC aware that the common link between Vanuatu, Solomon Islands and Australia in the Moti case is Mr John Cauchi?

660. Is DPP Bugg QC aware of the following links of Mr John Cauchi?

Employment as an Australian government funded adviser to the Vanuatu Public Prosecutor;

Employment as an Australian government funded deployee, as the Director of Public Prosecutions of the Solomon Islands;

Subsequent and current work as a lawyer in Canberra;

His late wife’s employment with the Australian Department of Foreign Affairs and Trade; and

His well known, publicized and recent criticisms of the Sogavare Government in Australian and Solomon Islands newspapers and radio.

661. Will DPP Bugg QC inform us whether and if Mr John Cauchi has had any role, in relation to the creation and/or development by the Australian investigators and prosecutors of the case against AG Moti QC?

(F). CONCLUSIONS

662. If DPP Bugg QC is not aware of any of the above matters, what does he propose to do to make himself aware and take action concordant with that knowledge?

663. Will DPP Bugg QC take all necessary steps and make all necessary enquiries so that he is in a position to supply a satisfactory response to this questionnaire?

- 663 Will DPP Bugg QC take responsibility for this matter by personally reviewing all relevant government files, including files held by his Office, concerning AG Moti QC?
665. Will DPP Bugg QC review his Office's decision to prosecute AG Moti QC for alleged offences under Australian law, in light of his enquiries?
666. Will DPP Bugg QC exercise his discretion to terminate the prosecution of AG Moti QC so as to ensure that this grave injustice is remedied?