



THE JUDICIARY OF THE REPUBLIC OF THE MARSHALL ISLANDS

2009 REPORT

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HIGH COURT
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REPUBLIC OF THE MARSHALL ISLANDS

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I am pleased to present the 2009 Report of the Judiciary of the Republic of the Marshall Islands. This report reflects the dedication and hard work of the judges and staff that serve the Judiciary. They are committed to our mission, and I am proud and privileged to work with them. I greatly appreciate their expertise, dedication, and sacrifice.

On behalf of the Judiciary, I wish to express our sincere appreciation to the Nitijela for its continuing support of our budgetary and legislative requests. Also, I wish to express our profound thanks to the President, the Minister of Justice, and the other members of the Cabinet for their unflagging support for the Judiciary in 2009. We are committed to working with the Cabinet and the Nitijela in the years to come to build a Judiciary that will assure justice for all and the rule of law. Our search for excellence mandates that we work together in a spirit of respect and cooperation.

Attached to this letter, with the 2009 Report, is our Mission Statement and Vision Statement.

Carl B. Ingram
Chief Justice, High Court
Date: March 31, 2010



MISSION STATEMENT:

Kottobar Eo:

The mission of the Courts of the Marshall Islands is to fairly and efficiently resolve disputes properly brought before them, discharging their judicial duties and responsibilities in accordance with the Constitution, laws, and customs of this unique island nation.

Kottobar eo an Jikin Ekajet ko an Marshall Islands ej non jermal jimwe ilo ejelok kalijeklok im jeb ilo aoleb abnono ko rej itok imair, im non komane jermal in ekajet im edro ko air ekkar non Jemen-E eo, kakien ko, im manit ko an ailon kein ad im jej jenolok kaki jen lal ko jet ikijien manit im men ko bwinnid im ad jolet.

VISION STATEMENT:

Ettonak Eo:

The Courts of the Marshall Islands will be independent, impartial, well-managed, and respected, providing justice to all who come before them.

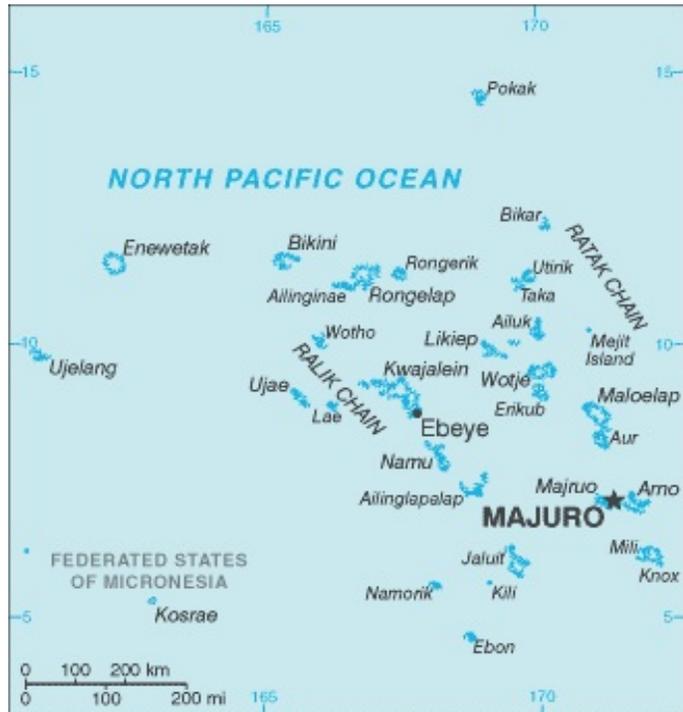
Jikin ekajet ko an Marshall Islands renaj jenolok im jutaklok make iair, jermal jimwe ilo ejelok kalijeklok im jeb, tiljek im bolemen aer lolorjaki im komani jermal ko air, im naj wor an armej kautieji ilo air jerbale edro ko air non komon im lelok ekajet jimwe non aoleb armej ro rej itok imair.

THE JUDICIARY OF THE REPUBLIC OF THE MARSHALL ISLANDS 2009 REPORT

I. INTRODUCTION

The Republic of the Marshall Islands (“Marshall Islands”) consists of two nearly parallel archipelagic island chains of 29 atolls and 5 separate islands, 1,225 islands in all, about half way between Hawaii and Australia. The land area of the Marshall Islands totals 181.3 sq km (70 sq mi), about the size of Washington, D.C. The lagoon waters total another 11,673 sq km (4,506.95 sq mi). As of July 2009, the estimated population of the Marshall Islands was 64,522.

The Marshall Islands commenced constitutional government on May 1, 1979. After almost four decades of United States administration under the United Nations Trust Territory of the Pacific Islands (TTPI), the Marshall Islands attained independence on October 21, 1986.



The Marshall Islands has a Westminster-style government with a 33-member parliament, the Nitijela, which elects from its members a president, who in turn selects from the Nitijela, the parliament, a cabinet. The Constitution vests legislative authority in the Nitijela, executive authority in the Cabinet, and judicial authority in an independent judiciary.

The Marshall Islands judiciary (“Judiciary”) includes a supreme court, high court, traditional rights court, district court, and community courts, as well as a judicial service commission and court staff. The Judiciary officially commenced operation on March 3, 1982, assuming judicial functions in the Marshall Islands that had been discharged by TTPI courts. An organizational chart of the Judiciary is attached as Appendix 1. A listing of Judiciary personnel for calendar year 2009 is attached as Appendix 2.

This report summarizes the operations and accomplishments of the Judiciary in calendar year 2009 as well as the challenges it faces. The Judiciary’s need for additional funds for infrastructure and salaries is included at the end of the report.

II. THE COURTS AND THEIR WORK

A. Supreme Court

The Supreme Court is a superior court of record having appellate jurisdiction with final authority to adjudicate all cases and controversies properly brought before it. The Supreme Court consists of a chief justice and two associate justices. To date, all supreme court judges have been law-trained attorneys and most have been experienced judges. The current chief justice, Daniel N. Cadra, is a United States expatriate appointed to a 10-year term in October 2003. Any Marshallese citizen appointed to the Supreme Court would be appointed to serve until age 72. Generally, associate justices have been pro tem judges from other jurisdictions, e.g., the United States Ninth Circuit Court of Appeals, the United States Federal District Court in Hawaii, the Republic of Palau, the Commonwealth of the Northern Mariana Islands, and Canada. In 2009, the pro tem judges were two United States Federal Court judges, Senior Circuit Judge Clifford Wallace and Magistrate Judge Barry Kurren.

An appeal lies to the Supreme Court (i) as of right from a final decision of the High Court in the exercise of its original jurisdiction; (ii) as of right from a final decision of the High Court in the exercise of its appellate jurisdiction, but only if the case involves a substantial question of law as to the interpretation or effect of the Constitution; and (iii) at the discretion of the Supreme Court from any final decision of any court. Also, the High Court may remove to the Supreme Court questions arising as to the interpretation or effect of the Constitution.

In 2009, the Supreme Court issued three opinions and one order. The Supreme Court's decisions can be found on the Judiciary's website, <http://rmicourts.org/>. At the end of 2009, eight cases were pending before the Supreme Court. As of the date of this report, two cases are briefed and ready to be heard. The six remaining cases are pending due to failure or lack of prosecution. The Supreme Court's next session is planned for late May 2010.

In 2009, Supreme Court Chief Justice Cadra, together with High Court Chief Justice Carl Ingram, admitted two attorneys to the practice of law in the Republic: the first, an assistant public defender; the second, the new attorney general, Frederick Canavor.

B. High Court

The High Court is a superior court of record having general jurisdiction over controversies of law and fact in the Marshall Islands. The High Court has original jurisdiction over all cases properly filed with it, appellate jurisdiction over cases originally filed in subordinate courts, and, unless otherwise provided by law, jurisdiction to review the legality of any final decision of a government agency.

The High Court currently consists of a chief justice and one associate justice: Chief Justice Carl B. Ingram; and Associate Justice James H. Plasman. Both are law-trained attorneys, as have

been all prior High Court judges, and both attend at least one professional development seminar each year. Chief Justice Ingram was appointed to a ten-year term commencing in October 2003. Associate Justice Plasman was appointed to a 4-year term commencing in January 2008. Both are United States expatriates with more than 20-years experience in the Marshall Islands. Any Marshallese citizen appointed to the High Court would be appointed to serve until age 72.

The High Court's 2009 case statistics are set forth below.

1. Civil Cases (other than Probate)

CIML	CY 2005 CASES			Status in CY 2006		Status in CY 2007		Status in CY 2008		Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Island											
Majuro	285	136	149	27	122	15	107	73	34	10	24
Ebeye	21	10	11	1	10	1	9	0	9	0	9

CIML	CY 2006 CASES			Status in CY 2007		Status in CY 2008		Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Island									
Majuro	166	83	83	18	65	36	29	10	19
Ebeye	34	12	22	10	12	1	11	1	10

CIML	CY 2007 CASES			Status in CY 2008		Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending
Island							
Majuro	225	129	96	45	51	15	36
Ebeye	59	46	13	2	11	1	10

CIML	CY 2008 CASES			Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending
Island					
Majuro	242	148	94	33	61
Ebeye	33	9	24	10	14

During the 5-year period (2005-2009):

Total Cases Filed: 1346

Total Disposed: 1059

Total Pending: 287

Disposition Rate: 79%

* As of 12/31/2009

CIML	CY 2009 CASES		
	Filed	Disposed	Pending
Island			
Majuro	257	162	95
Ebeye	24	15	9

The five-year disposition rate for civil cases (other than probates) is 79%. This is an improvement of 3% over 2008's figure of 76%. The High Court regularly encourages counsel to resolve pending cases. Of the 287 pending civil cases filed from 2005 to 2009, the two largest categories are collection cases, 60, and land cases, 51.

Of the 257 civil cases filed in Majuro in 2009, 113 involved domestic matters (that is, customary adoptions, legal adoptions, divorces, child custody and support, guardianships, and appointments of personal representations); 37 citizenship cases; 85 collection cases; and nine

land rights or land lease cases. Of the 95 pending Majuro cases filed in 2009, 29 were collection cases and 19 were citizenship. All of the 24 civil cases filed in Ebeye in 2009 involved domestic matters.

2. Probate Cases

PROBATE	CY 2005 CASES			Status in CY 2006		Status in CY 2007		Status in CY 2008		Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Majuro	47	33	14	9	5	4	1	1	0	0	0
Ebeye	12	9	3	1	2	1	1	0	1	0	1

PROBATE	CY 2006 CASES			Status in CY 2007		Status in CY 2008		Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Majuro	14	9	5	5	0	0	0	0	0
Ebeye	4	3	1	0	1	1	0	0	0

PROBATE	CY 2007 CASES			Status in CY 2008		Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending
Majuro	21	13	8	5	3	0	3
Ebeye	0	0	0	0	0	0	0

PROBATE	CY 2008 CASES			Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending
Majuro	20	16	4	4	0
Ebeye	2	2	0	0	0

During the 5-year period (2005-2009):

Total Cases Filed: 131

Total Disposed: 124

Total Pending: 7

Disposition Rate:94.6%

* As of 12/31/2009

PROBATE	CY 2009 CASES		
Island	Filed	Disposed	Pending
Majuro	11	8	3
Ebeye	0	0	0

In 2009, petitioners filed 11 probate cases before the High Court: eight were granted and three were pending at the end of the year. The High Court's five-year disposition rate for probate cases remains in the mid 90s. Since 2005, only seven probate matters remain pending: three cases involve one family. The High Court will encourage counsel to resolve all seven cases within the first half of 2010.

3. Criminal Cases

CRIMINAL	CY 2005 CASES			Status in CY 2006		Status in CY 2007		Status in CY 2008		Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Island											
Majuro	48	32	16	8	8	5	3	3	0	0	0
Ebeye	23	11	12	1	11	6	5	3	2	0	2

CRIMINAL	CY 2006 CASES			Status in CY 2007		Status in CY 2008		Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Island									
Majuro	100	48	52	20	32	28	4	2	2
Ebeye	4	3	1	0	1	0	1	0	1

CRIMINAL	CY 2007 CASES			Status in CY 2008		Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending
Island							
Majuro	29	9	20	13	7	2	5
Ebeye	9	7	2	1	1	0	1

CRIMINAL	CY 2008 CASES			Status in CY 2009	
	Filed	Disposed	Pending	Disposed	Pending
Island					
Majuro	27	10	17	13	4
Ebeye	19	10	9	1	8

CRIMINAL	CY 2009 CASES		
	Filed	Disposed	Pending
Island			
Majuro	17	13	4
Ebeye	10	5	5

During the 5-year period (2005-2009):

Total Cases Filed: 286

Total Disposed: 254

Total Pending: 32

Disposition Rate: 89%

* As of 12/31/2009

The five-year disposition rate for criminal cases is 89%, 1% better than last year's 88%.

The Court notes that in 2007, 2008 and 2009, far fewer High Court criminal cases were filed than in 2006: 38 in 2007, 46 in 2008, and 27 in 2009 compared to 104 in 2006. The drop in cases is in Majuro, not Ebeye. The reason for this decline is not apparent. Excluding visa-violator cases, the High Court expects to see at least 50 or more felony cases filed in Majuro each year. Of the 17 cases filed in Majuro in 2009, five involved assaultive behavior (other than sexual assaults), two involved sexual assaults, three involved forgery or embezzlement, two involved obstructing justice, one involved drunk or reckless driving, two involved smuggling goods into the Republic, and two involved Appeals from the District Court. Of the 10 felony cases filed in Ebeye in 2009, five involved assaultive behavior, two involved conspiracy, and two involved burglary or larceny. The relatively large number of criminal cases filed in Ebeye in 2005, 23, resulted from a bale of cocaine washing ashore.

In 2009, the Office of the Attorney-General ("A-G") disposed of 37 pending High Court criminal case. As of the date of this report, there are approximately 40 pending criminal cases.

The High Court has instructed the A-G and defense counsel to resolve criminal cases that are more than a year old, about 30. Defendants have a constitutional right to a speedy trial.

4. Juvenile Cases

JUVENILE	CY 2005 CASES			Status in CY 2006		Status in CY 2007		Status in CY 2008		Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Majuro	4	2	2	1	1	1	0	0	0	0	0
Ebeye	1	0	1	0	1	0	1	1	0	0	0

JUVENILE	CY 2006 CASES			Status in CY 2007		Status in CY 2008		Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending	Disposed	Pending
Majuro	7	4	3	3	0	0	0	0	0
Ebeye	0	0	0	0	0	0	0	0	0

JUVENILE	CY 2007 CASES			Status in CY 2008		Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending	Disposed	Pending
Majuro	1	1	0	0	0	0	0
Ebeye	0	0	0	0	0	0	0

JUVENILE	CY 2008 CASES			Status in CY 2009	
Island	Filed	Disposed	Pending	Disposed	Pending
Majuro	2	2	0	0	0
Ebeye	0	0	0	0	0

During the 5-year period (2005-2009):

Total Cases Filed: 16

Total Disposed: 15

Total Pending: 1

Disposition Rate: 94%

* As of 12/31/2009

JUVENILE	CY 2009 CASES		
Island	Filed	Disposed	Pending
Majuro	0	0	0
Ebeye	1	0	1

The five-year disposition rate for juvenile cases dropped slightly from 100% to 94% due to a recent filing. After three years without any juvenile cases being filed in Ebeye, one was filed in 2009. No juvenile cases were filed before the High Court in Majuro in 2009. These numbers, as with the decline in criminal-case filings, are inexplicably low.

C. Traditional Rights Court

The Traditional Rights Court (“TRC”) is a court of record consisting of three or more judges appointed for terms of four to ten years and selected to include a fair representation of all classes of land rights: Iroi jlaplap (high chief); where applicable, Iroi jedrik (lower chief); Alap (head of commoner/worker clan); and Dri Jerbal (commoner/worker).

In May 2009, the terms of the three incumbent TRC judges expired. Three times in 2009, the

Judicial Service Commission recommended candidates to the Cabinet for appointment. However, the Cabinet declined to appoint new members of the TRC and has requested additional recommendations. The Commission has re-opened the positions and hopes to have recommendations for the Cabinet by in April 2010.

The jurisdiction of the TRC is limited to questions relating to titles to land rights or other legal interests depending wholly or partly on customary law and traditional practices. The jurisdiction of the TRC may be invoked as of right upon application by a party to a pending High Court proceeding, provided the High Court judge certifies that a substantial question has arisen within the jurisdiction of the TRC. Customary law questions certified by the High Court are decided by the TRC panel and reported back to the High Court. Upon request by the TRC's presiding judge, a party, or the referring High Court judge, the Chief Justice of the High Court can appoint a High Court or District Court judge to sit with the TRC to make procedural and evidentiary rulings. In such joint-hearing cases, the High Court or District Court judge does not participate with the TRC in deliberations on its opinion, but may in the presence of the parties or their counsel answer questions of law or procedure posed by the TRC. The TRC's jurisdiction also includes the rendering of an opinion on whether compensation for the taking of land rights in eminent domain proceedings is just.

The High Court is to give decisions of the TRC substantial weight, but TRC decisions are not binding unless the High Court concludes that justice so requires. The Supreme Court has held the High Court is to review and adopt the TRC's findings unless the findings are clearly erroneous or contrary to law.

D. District Court

The District Court is a court of record. It consists of a presiding judge and two associate judges appointed for 10-year terms. At the end of 2009, the three incumbent judges were Presiding Judge Milton Zackios, Associate Judge Jimata Kabua, and Associate Judge Ablos Tarry Paul (Ebeye). Their 10-year terms expire in 2015, 2016, and 2019 respectively. Sadly, the Judiciary lost Associate Judge Billy Samson (Ebeye), who passed away on April 19, 2009, after a long illness. Judge Samson had worked for more than 20 years for the Judiciary and will be greatly missed. In June of 2009, the Judicial Service Commission appointed Judge Ablos Tarry Paul to the Ebeye District Court position.

The current District Court judges are lay judges who receive specialized training. The District Court has original jurisdiction concurrent with the High Court (i) in civil cases where the amount claimed or the value of the property involved does not exceed \$10,000 (excluding matters within the exclusive jurisdiction of the High Court by Constitution or statute, such as land title cases and admiralty and maritime matters) and (ii) in criminal cases involving offenses for which the maximum penalty does not exceed a fine of \$4,000 or imprisonment for a term of less than three years, or both. The District Court also has appellate jurisdiction to review any decision of a Community Court.

The District Court's 2009 case statistics are set forth below.

1. Majuro. In Majuro in 2009, 780 cases were filed in the District Court: 299 small claims cases (73 disposed and 226 pending); no other civil cases; 315 traffic cases (203 disposed and 112 pending); and 166 other criminal cases and local government ordinance cases (38 disposed and 128 pending).

2. Ebeye. In Ebeye in 2009, 460 cases were filed in the District Court: 37 small claim cases (37 disposed and none pending); no other civil cases; 91 traffic cases (58 disposed and 33 pending); no other criminal cases; and 332 local government ordinance cases (145 disposed and 187 pending).

E. Community Courts

A Community Court is a court of record for a local government area, of which there are 24. Each Community Court consists of a presiding judge and such number of associate judges, if any, as the Judicial Service Commission may appoint. Appointments are made for 4-year terms. Community Court judges are lay judges with limited training. A Community Court has original jurisdiction concurrent with the High Court and the District Court within its local government area (i) in all civil cases where the amount claimed or the value of the property involved does not exceed \$200 (excluding matters within the exclusive jurisdiction of the High Court by Constitution or statute, such as land title cases and admiralty and maritime matters) and (ii) in all criminal cases involving offenses for which the maximum penalty does not exceed a fine of \$400 or imprisonment for a term not exceeding six months, or both.

At the end of 2009, there were 13 serving Community Court judges. Since January 1, 2010, the Commission has appointed another five, bringing the total up to 18. Currently, there are 12 vacancies for which the Commission is waiting recommendations from local government councils: Ailinglaplap (1); Arno (2); Enewetak (1); Jaluit (1); Maloelap (1); Namu (1); Rongelap (1); Wotho (1); Wotje (2); and unallocated (1).

Community court judges receive training when they come to Majuro for summer church conferences and on other occasions. The Judiciary encourages all Community Court judges who are in Majuro for other business to stop by the courthouse and arrange for training opportunities with the District Court judges. When Air Marshall Islands resumes regular service to the outer islands, the Judiciary will try to provide systematic training for community court judges.

F. Travel to the Outer Islands and Ebeye

The Judiciary continues to travel to the outer islands on an as-needed basis.

The Judiciary believes that if the offices of the A-G, the Public Defender ("PD"), and the Micronesian Legal Services Corporation ("MLSC") were to station attorneys on Ebeye full time, there would be enough work to justify stationing a third High Court judge in Ebeye. Currently,

the High Court travels to Ebeye once every two months if cases are ready to proceed. The additional personnel cost for a third High Court judge would be about \$100,000. The Judiciary would seek a budget increase to cover this cost and related expenses (e.g., recruitment costs and the one time cost of constructing chambers for a High Court judge on Ebeye). A High Court judge on Ebeye could, when the need arises, more easily hold trials on the northern atolls. Also, a third High Court judge is needed to relieve the heavy administrative burden on the two existing High Court judges.

G. Births, Deaths, Marriages, and Notarizations

1. Majuro. In Majuro in 2009, the High Court and the District Court processed 297 delayed registrations of birth, 10 delayed registrations of death, and performed 36 marriages. The clerks notarized 738 documents.

2. Ebeye. In Ebeye in 2009, the High Court and the District Court processed no delayed registrations of birth, no delayed registrations of death, and performed eight marriages. The clerk notarized 113 documents.



H. Court Staff



The Judiciary's staff include: a chief clerk of the courts, a deputy clerk, and six assistant clerks (one in Ebeye), three bailiffs (seconded from the National Police), and one maintenance worker. The clerks also serve as interpreters from Marshallese to English and English to Marshallese. The Office of the Attorney-General has a Chinese translator on staff, provided by the Republic of China (Taiwan) Embassy.

Long-time employee, Assistant Clerk of the Courts Sepe Joash retired in September, after more than 20 years of service. She will be greatly missed. A listing of the judiciary personnel is attached as Appendix 1.

I. Training and Regional Conferences

Consistent with internationally recognized practice, in 2009 the Judiciary provided and facilitated professional development training for the judges, court staff, and counsel. Funding for training came from the Judiciary's annual operating budget, the United States Department of the Interior ("DOI"), Australia ("AUSAID"), and New Zealand ("NZ AID"). The Judiciary's 2009 training activities are set forth below.

In January 2009, Supreme Court Chief Justice Daniel Cadra and High Court Chief Justice Carl Ingram, with DOI funding, attended the Ninth Circuit Court of Appeals Mid-Winter Workshop, a biennial program funded by the Federal Judicial Center. The workshop was held in Huntington Beach, California. The objectives of the workshop were to provide appellate and trial judges the opportunity to focus on practical skills development, to improve case management, to learn about cutting edge issues, and to share ideas that benefit bench procedures. At the completion of the program, participants were able to teach their clerks or colleagues to write and organize clear opinions, to go beyond logic to coherence and character so that the brief emphasizes the court's thought process rather than the litigant's; to increase awareness about the difference in perception of the legal system by different ethnic groups; and to increase awareness about correctional facilities and post-sentencing resources. To enhance their knowledge of correctional facilities, both Justices Cadra and Ingram went on a field trip to the Terminal Island, a minimum security prison 10 miles from the conference site.

In February 2009, with DOI funding, High Court Chief Justice Ingram, District Court Presiding Judge Milton Zackios, Chief Clerk Walter Elbon, and Deputy Chief Clerk Ingrid Kabua attended the Pacific Judicial Council ("PJC") Executive Team Development Training in Koror, Palau. This was the first time the PJC brought chief justices and presiding judges together with their court administrators to the same program for training. The goal of this program was to strengthen the leadership teams between these pairs of court leaders and thus improve the judge-administrator relationships. The program emphasized how important this partnership is in support of court administration, seeking to convey the idea that administration is not merely a function, but a process by which the things judges care about are done well. At the completion of the program, participants were able to better understand how key aspects of their personality and behavior impact team communication, problem solving, decision making, and interpersonal relations; to identify how their own (and their teammate's) personal style affected trust and communication; and to develop a plan for achieving trust and confidence within the leadership team to strengthen the administration of their respective courts. Concluding the workshop was a round table discussion where each jurisdiction reported on new developments and issues of concern.

In early March 2009, High Court Chief Justice Ingram and Chief Clerk of the Courts Walter Elbon attended an AUSAID funded Pacific Islands workshop on developing and implementing court-annexed mediation. The workshop was organized and hosted by the Federal Court of Australia. There were 15 participants from seven island countries. Deputy Registrars of the Federal Court Julian Hetyey and Heather Baldwin, along with Helen Burrows, Director, International Programmes, lead the workshop. The workshop included lectures and role plays to maximize participation by all the delegates. The presentations served as an excellent refresher course in mediation, covering in detail and through role plays the seven stages of mediation taught in Australia. The delegates also gave reports on the status of mediation in their countries and their objectives for the future. At the workshop, Chief Justice Ingram requested that a trainer be sent to the Marshall Islands to introduce members of the community to the possibilities of court-annexed mediation. As discussed below, that request was granted. In August, the Federal Court of Australia sent a deputy registrar to the Marshall Islands to conduct a workshop on

mediation.

In late March and early April 2009, High Court Chief Justice Ingram attended an AUSAID sponsored workshop on proceeds of crime and money laundering hosted by the Attorney-General's Department of Australia in Brisbane. There were 12 judges from eight Pacific Island countries; three presenters from England and Australia; and two coordinators from the Attorney-General's Department. The four-day forum provided an opportunity for the judges to discuss issues and options that arise out of proceeds of crime legislation. The discussion was led by prominent English Silk Mr. Andrew Mitchell QC, Judge Milton Griffin SC of the Queensland District Court and Senior Assistant Director of the Commonwealth Director of Public Prosecutions, Ms. Sylvia Grono. The workshop, a continuation of similar practical training programs conducted over the past four years, included several moot court sessions at which island-police officers and prosecutors appeared before the judges to present applications for the restraint of illegally obtained property pursuant to the legislation of their own jurisdictions. It was a very enlightening exercise and good practice.



In April 2009, judicial trainer Enoka Puni visited Majuro to conduct an NZAID funded workshop for judges of the District and Traditional Rights Court. The overall aim of the workshop was to continue to improve individual and collective knowledge and skills in carrying out judicial functions efficiently and effectively. Priority areas identified and covered included how to deal with pro se litigants, the process for determining proven facts from evidence, dealing with difficult and incompetent counsel, improving the way judges formulate decisions, enforcement of civil judgements, mediation, and

judicial conduct. A segment on search and arrest warrants was conducted by High Court Associate Justice James Plasman.

In May of 2009, with funding from DOI, High Court Associate Justice James Plasman attended a course presented by the National Judicial College in San Francisco, California. The course was entitled "Conducting the Trial" and lasted one week. The presenters, experienced U.S. judges, addressed issues arising in both jury and bench trials. In addition, the course included sessions on evidence, case management, self-represented litigants and media relations.

In June 2009, Chief Clerk Walter Elbon, Deputy Chief Clerk Ingrid Kabua, and Assistant Clerk Nikki Holly attended the Fourth DOI-sponsored Court Administrator Training and Conference in Yap, FSM. This year's training was focused on financial management and budgeting, ethics for financial administrators, preparing and advocating court budgets, and court community-communication. Each court jurisdiction was required to present and defend a mock budget request to the faculty and convince them that the budget should be approved. This activity will assist participants when presenting and advocating budgets for their courts.



Also in June, with funding from DOI, Chief Justice Ingram traveled to Papeete, French Polynesia to attend the 18th (South) Pacific Judicial Conference. The conference was co-chaired by French Polynesia Premier President Olivier Aimot and US Senior Circuit Judge J. Clifford Wallace. Topics included the significance of land disputes, the range of traditional land tenure patterns, land-dispute resolution mechanisms, the independence of the judiciary, the effect of human rights on traditional land rights, environmental law, protection of the oceans, the evolution of French criminal case processing, and the role of the independent prosecutor. Discussions confirmed that judicial neutrality and the perception of judicial neutrality are crucial to the maintenance of public confidence in the judiciary. Chief Justice Ingram delivered a presentation on the length of judges' terms of office and its impact on judicial independence.



In July 2009, two Ninth Circuit judges flew to Majuro and taught a week-long course on evidence. Participants included 16 judges and attorneys from the Marshall Islands, the FSM, and the Republic of Palau. The primary focus of the program was to discuss the Rules of Evidence, as well as how to maintain a dignified atmosphere within the courtroom, case management, judicial ethics, and other topics. The goal of this program was to help lay judges better understand and utilize the rules of evidence in their courtrooms and make appropriate evidentiary rulings. After attending this course, participants had an improved ability to make correct decisions or rulings in the areas of: relevancy and its limits; competency and privileges; burdens of proof, judicial notice, and presumptions; limitations on admissibility of evidence; hearsay and hearsay exceptions; and expert testimony and lay witness opinion testimony.

In late July, Chief Clerk Walter Elbon, who is responsible for the Judiciary's budget, attended, with DOI funding, the 20th Annual Conference of the Association of Pacific Islands Public Auditors in Guam. The annual conference offered plenary sessions on maintaining ethics and accountability in government and focused on maintaining a strong workforce in difficult times. After completion, participants were able to understand how to manage federal grants and comply with grant regulations, read financial statements and disclosures, understand procurement laws, implement performance based management and budgeting, and evaluate financial performance.

In August 2009, Federal Court of Australia's Deputy District Registrar, Chuan Ng, conducted a week-long mediation workshop in Majuro. Participants included High Court and District Court judges and staff, public and private attorneys, and certified counselors. Mr. Ng led the participants through the seven stages of mediation with lectures and role plays giving everyone a chance to act as the mediator. The participants' reaction to the workshop were uniformly very positive.



In September 2009, U.S. District Court Guam's network administrator Luis Vergel De Vera, with DOI funding, flew to Majuro for one week to assist RMI High Court staff install its new network server and to train staff on how to monitor and maintain the new server. The project follows an assessment and training mission funded by DOI Compact funds in fiscal year 2008, when an IT expert from the Guam District Court recommended, among other things, the purchase of a new server.



In October 2009, High Court Associate Justice James Plasman and District Court Associate Judge Tarry Paul attended the Saipan Pacific Judicial Council Conference. The 2009 PJC Conference included presentations on pro se litigants, recent developments in constitutional law, judicial ethics, domestic violence, enforcement of judgements, and developments in the jurisdictions.

In November 2009, with DOI funding, High Court Chief Justice Carl Ingram attended the 13th Conference of Chief Justices of Asia and the Pacific in Ho Chi Minh City, Vietnam, ("LawAsia Conference"). LawAsia Conference participants heard presentations and participated in discussions on the following topics: developments in the jurisdictions; enhancing the efficiency of courts; maintaining the independence of the judiciary; the development of bench books for the Vietnamese judiciary; how chief justices can develop the legal profession in their countries; the role of the chief justice in developing public perspectives concerning the importance of the judiciary; and the role of the chief justice in maintaining judicial standards. Chief Justice Ingram chaired the session on the last topic, the role of the chief justice in maintaining judicial standards.

J. Court Rules and Statutes

In 2009, the High Court and the Supreme Court amended or adopted three rules. First, the High Court amended Rule 46(c) of the Marshall Islands Rules of Criminal Procedure to update rules regarding the detention and release of persons found guilty pending sentencing and pending appeal. Second, the Supreme Court amended Supreme Court Rules of Procedure 9(c) to incorporate the High Court's amendment of Rule 46(c). Third, the High Court adopted a new Rule 11.1 to the Marshall Islands Rules of Civil Procedure to curb abuses by vexatious litigants.

In the second half of 2009 and in 2010, the High Court, through the Minister of Justice, requested amendment of the Judiciary Act to facilitate court use of mediation and other alternative dispute resolution methods (ADR), such as counseling, negotiation, early neutral evaluation, conciliation, settlement conferences, and arbitration. The benefits of ADR processes over litigation are that they often take less time and cost less money. Also, non-adversarial ADR processes such as mediation, conciliation, and settlement conferences need not result in a winner and a loser, which so often occurs if the matter goes to court. Within the context of ADR processes, there is a chance for a win-win solution. This is particularly important when the disputing parties have an on going relationship, such as in disputes between family members and employee-employer disputes. The High Court has already conducted two mediation trainings in Majuro to introduce members of the legal community and counselors to mediation.

III. JUDICIAL SERVICE COMMISSION

Along with the courts, the Constitution provides for a Judicial Service Commission ("JSC"), which consists of the Chief Justice of the High Court, as chair, the Attorney-General, and a private citizen selected by the Cabinet. The JSC nominates to Cabinet candidates for appointment to the Supreme Court, High Court, TRC, and the Nuclear Claims Tribunal ("NCT"), and the JSC appoints judges to the District Court and the Community Courts. In appointing Community Court judges, the JSC takes into consideration the wishes of the local communities as expressed through their local government councils. The JSC also may make recommendations to the Nitijela regarding the qualifications of judges. In the exercise of its functions and powers, the JSC shall not receive any direction from the Cabinet or from any other authority or person, but shall act independently. The JSC may make rules for regulating its procedures and generally for the better performance of its functions.

In 2009, the JSC nominated pro tem judges for the Supreme Court, appointed one District Court judge, and appointed or renewed six community court judges.

IV. ATTORNEY DISCIPLINARY ACTIONS

There is one complaint filed against an attorney in 2009. The committee expects to resolve the complaint in 2010.

V. BUILDINGS AND MAINTENANCE

The Majuro Courthouse is more than 30 years old; it was built with reef aggregate in the mid 1970s; over the years chloride ions from the reef material caused steel reinforcing rods to rust. In 2008, the Judiciary asked the Facilities Engineering Division of the Ministry of Public Works (“FED”) to solicit bids to repair and repaint the courthouse. Work commenced in late 2008 and was substantially complete in 2009. To date, this work has cost about \$240,000. The Ebeye Courthouse and Police Station also require major repair, in February 2010 the Judiciary and the Ministry of Justice signed a \$140,000 contract for this project.

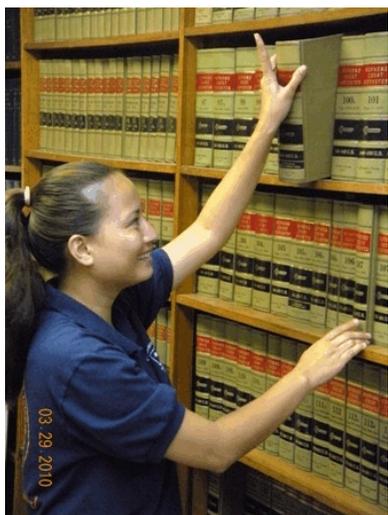
In 2005, the FED, at the request of the Judiciary, prepared a proposal for an extension to the Majuro Courthouse to add a ground-floor courtroom with second-floor offices for the TRC and District Court. The estimated cost of the construction project was \$530,508 in 2005 dollars. The Majuro Courthouse was designed more than 30 years ago for one High Court judge, one District Court judge, and limited support staff. It was not designed to house its current occupants: two High Court Judges, three TRC judges, two District Court judges, and their staff. The three TRC judges are housed in a small office designed for one prosecutor, and the District Court’s court room is a small office designed for one public defender. These cramped quarters are inadequate for the judges and the public. Furthermore, the Judiciary’s two full-sized court rooms are on the second floor and not readily accessible by older people and those who cannot easily walk up stairs. This is an unacceptable situation for most TRC cases. If the Majuro Courthouse were to be built today, courtrooms and the clerk’s offices would be on the ground floor, accessible to the public. Without an elevator, it would be illegal in United States jurisdictions to build the Courthouse as it is currently configured. Each year since 2005, the Judiciary has renewed its request for funds to construct this much needed extension.

VI. TECHNOLOGY

The courthouses on Majuro and Ebeye are equipped with computers, printers, faxes, and photocopiers and have Internet access (@ 64kps in Majuro) and email service. The courts permit the filing and service of documents via fax and email attachment. The computers in Majuro are linked together in a network, and the Majuro Courthouse has a scanner with OSC software permitting the courts to scan documents and send them almost anywhere in the world. Over the past three years the Judiciary has replaced ten (about two-thirds) of its older computers. In 2009, the Judiciary updated the network server and switch. In 2010, the Judiciary will attempt to replace four computers that are more than 7 years old. Upgrade of computers and software is a critical need, as from time-to-time the hard drives or motherboards of the older computers crash.



VII. LIBRARY



The Judiciary has a small, but functional, law library which includes hard copies of the following: United States Supreme Court cases through 2005; American Law Reports First, Second, Third, Fourth, part of Fifth, and Federal; LaFave's on Criminal Law, Criminal Procedure, and Search and Seizure; Wharton on Criminal Law and Criminal Procedure; American Jurisprudence 2nd; Wright and Miller on Federal Practice and Procedure; Moore's Federal Practice (donated by attorney David Lowe); Corpus Juris Secundum (needs to be updated); and others. Also, the Judiciary has access to United States federal statutes and Supreme Court, Court of Appeals, and District Court cases and to state statutes and supreme court cases through Loislaw over the Internet. In December 2007, the NCT transferred to the Judiciary a set of Am Jur Trials and American Jurisprudence Proof of Facts. Also, towards the end of each year, the United States Federal

District Court in Hawaii (as part of the United States Ninth Circuit Court of Appeals' continuing support of the Marshall Islands Judiciary) ships to Majuro surplus volumes of the United States Supreme Court Reports.

VIII. SALARIES AND COMPENSATION

At current pay levels, the Judiciary is having difficulty retaining and attracting qualified personnel at all levels. In 2008, the Nitijela hired away one of the Judiciary's senior clerks. This problem is particularly acute for assistant clerks of the courts at the lower pay levels, i.e., 8, 9, and 10. Finding qualified applicants who can translate Marshallese and English and who can perform other necessary tasks is proving increasingly difficult. Although many may be interested in working with the courts, when they find out that they have to translate in public their interest fades. Without qualified translators, the Judiciary cannot function. To stay competitive, the Judiciary needs to increase pay levels for assistant clerks of the courts.

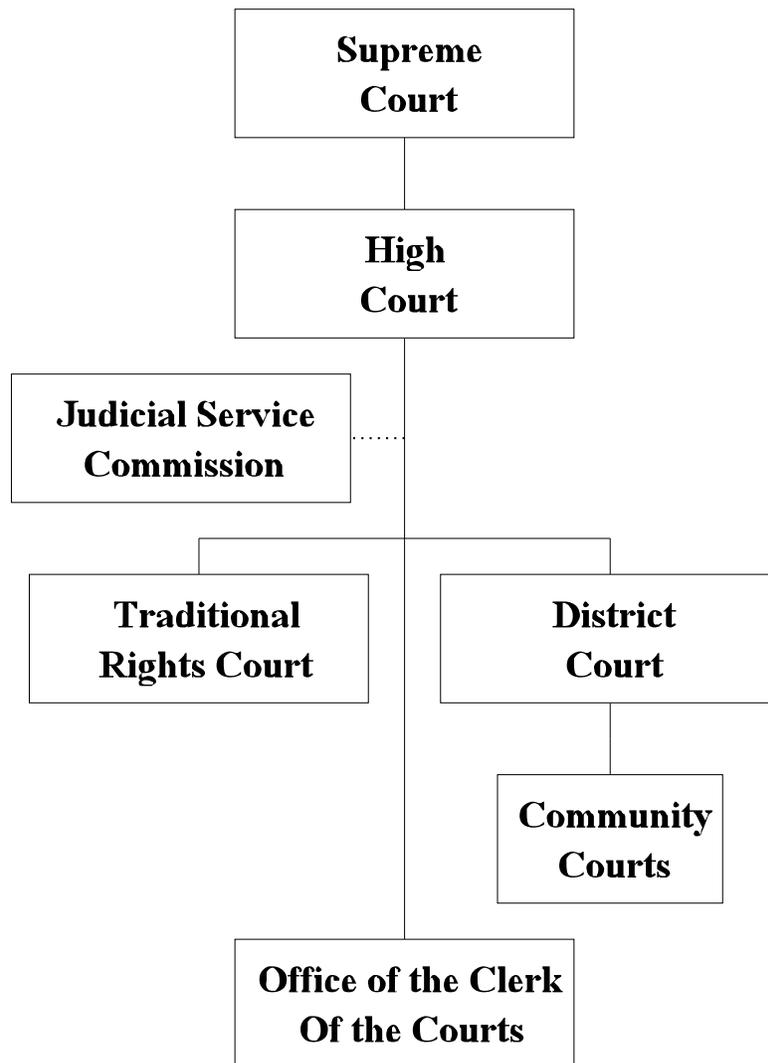
Also, the salaries of High Court justices (\$70,000 per annum for the chief justice and \$60,000 per annum for the associate justice) lag behind salaries for comparable law-trained judges in Palau, American Samoa, the Northern Mariana Islands, and Guam (\$90,000 to \$125,000 for presiding judges or chief justices). In 2007, the Judiciary asked that the salaries of the chief justice and the associate justice of the High Court be increased to \$80,000 and \$70,000, respectively. These salaries are justified by the quality and quantity of work done, although they would still lag behind salaries paid in the above-named jurisdictions. The Judiciary seeks the salary adjustment to account for inflation since 1982. Also, with the Cabinet's recent recommendation of \$65,000 per annum for the attorney-general, annual salaries of \$80,000 and \$70,000 for the chief justice and associate justice of the High Court would be appropriate and consistent.

IX. ANNUAL BUDGET

For FY 2009, the Nitijela appropriated \$957,229 for the Judiciary: 602,935 for salaries and wages and \$354,294 for all others. The Judiciary was only able to access \$887,947.71. Throughout the fiscal year, the Ministry of Finance declined to process, or delayed processing, a number of the Judiciary's purchase requisitions claiming the General Finance was "constrained." If the Ministry of Finance would have released the funds, the Judiciary would use them for much needed repairs and equipment. A breakdown of the FY 2009 budget and expenditure is set forth below.

Code No.	Description	Original Budget	Actual Expenditure	Balance
1010	Salary & Wages Exp	160000	160000	
1011	Salary & Wages Mars.	442935	390254.82	
1019	Ebeye Differential	8,288.00	8159.49	
1114	Personnel Benf.-Exp.	16800	16800	
1115	Personnel Benf. Marsh	45508	40976.76	
1116	Emp. Insurance Exp.	8800	7700	
1510	Professional Service	7000	1174.5	
1515	Audit Expense	7714	5443	
1520	Contractual Service	18585	28350	
2020	Travel	6500	8441	
2021	Int. Travel	15000	7510	
2115	Leased Housing	72000	59975	
2123	Repatriation & H. Leave	0	0	
2125	Training & Staff Dev.	9500	8530	
2205	Rentals	5000	4880	
2215	Utilities	14361	11284.35	
2305	Communication	16,000.00	16000	
2315	Insurance	750	442	
2320	Printing & Reproduction	2500	3082	
2325	Repairs	59700	52630.71	
2401	Freight	1000	1000	
2405	Office/Comp. Supplies	6038	2941.23	
2410	POL(Fuel)	17250	20207.12	
2415	Food Stuff	1500	1825.23	
2420	Books	4000	1500	
2440	Equip & Tools	0	20238.34	
2445	Water	1500	914	
2450	Other Supplies & Mat.	10,000.00	7688.16	
3133	Furniture & Fixture	0	0	
	TOTAL	957,229	887,947.71	69,281.29

**ORGANIZATIONAL CHART
FOR THE
MARSHALL ISLANDS JUDICIARY**



COURT PERSONNEL

Justices and Judges

Supreme Court Chief Justice Daniel N. Cadra (9/21/03-9/20/13)

High Court Chief Justice Carl B. Ingram (10/5/03-10/4/13)

High Court Associate Justice James H. Plasman (1/7/08-1/6/12)

Traditional Rights Court Chief Judge Berson Joseph (5/2/05-5/1/09)

Traditional Rights Court Associate Justice Botlang A. Loeak (5/30/05-5/29/09)

Traditional Rights Court Associate Justice Kalemén Jinuna (5/30/05-5/29/09)

Presiding District Court Judge Milton Zackios (4/4/05-4/3/15)

Associate District Court Judge Billy A. Samson (Ebeye) (3/12/01-3/11/11)

Associate District Court Judge Jimata M. Kabua (10/30/06-10/29/16)

Associate District Court Judge Ablos T. Paul (Ebeye) (7/5/09-7/4/19)

Ailinglaplap Community Court Presiding Judge Langué Langidrik (2/14/10-2/13/14)

Ailinglaplap Community Court Associate Judge Kanobar Kati (2/14/10-2/13/14)

Ailinglaplap Community Court Associate Judge (vacant)

Ailuk Community Court Presiding Judge Elsiai Jetton (1/31/10-1/30/14)

Arno Community Court Presiding Judge (vacant)

Arno Community Court Associate Judge (vacant)

Arno Community Court Associate Judge Bokta Tarilang (5/12/09-5/11/13)

Aur Community Court Presiding Judge Bryant Tojar Tabto (4/13/08-4/12/12)

Bikini and Kili Community Court Presiding Judge Jition Leer (5/12/09-5/11/13)

Ebon Community Court Presiding Judge Aaron Silk (7/9/08-7/8/12)

Enewetak and Ujelang Community Court Presiding Judge (vacant)

Jabat Community Court Presiding Judge Tari Jamodre (4/13/08-4/12/12)

Jaluit Community Court Associate Judge (vacant)

Jaluit Community Court Associate Judge Lee Jabuwe (1/8/06-1/7/11)

Lae Community Court Presiding Judge John Braine (1/6/09-1/5/13)

Lib Community Court Presiding Judge Helmi Kuki (10/11/09-10/10/13)

Likiep Community Court Presiding Judge Ambros Capelle (10/1/07-9/30/11)

Maloelap Community Court Presiding Judge (vacant)

Maloelap Community Court Associate Judge Wilton Swain (8/21/09-8/20/13)

Mejit Community Court Presiding Judge Eli Sam (4/13/08-4/12/12)

Mili Community Court Presiding Judge Michael Anmontha (7/9/08-7/8/12)

Namdrik Community Court Presiding Judge Reio Lolin (2/28/10-2/27/14)

Namu Community Court Presiding Judge (vacant)

Rongelap Community Court Presiding Judge (vacant)
Ujae Community Court Presiding Judge James Lautona (1/31/10-1/30/14)
Utrik Community Court Presiding Judge Enja Attari (12/19/08-12/18/12)
Wotho Community Court Presiding Judge (vacant)
Wotje Community Court (vacant)
Wotje Community Court (vacant)
Unallocated (vacant)

Judicial Service Commission

High Court Chief Justice Carl B. Ingram, Chair
Attorney-General Frederick Canavor, Member
Maria K. Fowler, Member Representing the Public

Staff

Chief Clerk of the Courts Walter K. Elbon
Deputy Chief Clerk of the Courts Ingrid K. Kabua
Assistant Clerk of the Courts Sepe Joash
Assistant Clerk of the Courts Armen Bolkeim (Ebeye)
Assistant Clerk of the Courts Travis Joe
Assistant Clerk of the Courts Hainrick Moore
Assistant Clerk of the Courts Nikki Holly
Assistant Clerk of the Courts Sylvia Anuntak
Bailiff Johnny Antolok
Bailiff Morrison Riklon
Bailiff Jukku Benjamin
Bailiff Valentin Boon
Maintenance Langmeto Peter