



# Pacific Judicial Development Programme: 2011 Court Baseline Report

MAY 2012



The Pacific Judicial Development Programme  
is a Regional Programme of Assistance  
Supported by New Zealand Ministry of  
Foreign Affairs and Trade

# Executive Summary

## PJDP goal

Strengthened governance and rule of law in Pacific Island Countries through enhanced access to justice and professional judicial officers who act independently according to legal principles.

At the outset of PJDP it was determined that:

- 1 No judicial and court baseline data exists that can be applied across the region.
- 2 There is no clear understanding about how judicial and court baseline data can be used to improve the administration of justice across the region.
- 3 There is an unquantified number of marginalised/disadvantaged prospective court users facing a range of barriers in accessing the courts.

## 18 Month Target set by PJDP

- 1 The majority of PICs have judicial and court baseline data against which changes can be measured, and
- 2 a *Regional Justice Performance Framework with Chief Justices* that identifies a number of justice performance indicators that courts will work to achieve with capacity building support from PJDP.

At the National coordinators leadership meeting held in the Cook Islands in June 2011, the key court performance areas were considered and a list developed that was then sent to Chief Justices for their review and comment. The 15 court performance indicators cover:

- 1 **Case management issues. PJDP judicial counterparts selected the following four indicators:**
  - Case finalisation or clearance rate.
  - Average duration of a case from filing to finalisation.
  - The percentage of appeals.
  - Overturn rate on appeal.
- 2 **Affordability and Accessibility for court clients.**
  - Percentage of cases that are granted a court fee waiver.
  - Percentage of cases disposed through a circuit court.
  - Percentage of cases where a party receives legal aid
- 3 **Published procedures for the handling of feedback and complaints.**
  - Documented process for receiving and processing a complaint that is publicly available.
  - Percentage of complaints received concerning a judicial officer.
  - Percentage of complaints received concerning a court staff member.
- 4 **Human Resources.**
  - Average number of cases per judicial officer.
  - Average number of cases per member of court staff.

**5. Transparency.**

- Court produces or contributes to an Annual Report that is publicly available.
- *Information on court services is publicly available.*
- Court publishes judgments on the Internet (own website or on PacLII)

The PJDP Courts ability to report on these 15 indicators is summarised in the following two tables:

**Table A** Percentage of the 14 PJDP countries that currently report on the indicator

	Indicator	Percentage of the 14 PJDP countries that currently report on the indicator
1	Clearance rate	64% (9 of 14)
2	Average duration of a case from filing to finalisation	14% (2 of 14)
3	The percentage of appeals	57% (8 of 14)
4	Overturn rate on appeal	21% (3 of 14)
5	Percentage of cases that are granted a court fee waiver	21% (3 of 14)
6	Percentage of cases disposed through a circuit court	50% (7 of 14)
7	Percentage of cases where a party receives legal aid	14% (2 of 14)
8	Documented process for receiving and processing a complaint that is publicly available	21% (3 of 14)
9	Percentage of complaints received concerning a judicial officer	21% (3 of 14)
10	Percentage of complaints received concerning a court staff member	14% (2 of 14)
11	Average number of cases per judicial officer	57% (8 of 14)
12	Average number of cases per member of court staff	43% (6 of 14)
13	Court produces or contributes to an Annual Report that is publicly available in the following year	7% (1 of 14)
14	Information on court services is publicly available	29% (4 of 14)
15	Court publishes judgments on the Internet (court website or the Pacific Legal Information Institute)	93% (13 of 14)

**Table B** Percentage of the 14 PJDP countries that currently report on the indicator

Court Performance Indicators	Cook Islands	FSM	Kiribati	Marshall Islands	Nauru (Magistrates)	Nauru (SC)	Niue	Palau (COCP)	PNG
Clearance rate	●	●	●	●	●	●	●	●	●
Average case duration	●	●	●	●	●	●	●	●	●
% of appeals	●	●	●	●	●	●	●	●	●
Overturn rate on appeal	●	●	●	●	●	●	●	●	●
% of cases granted court fee waiver.	●	●	●	●	●	●	●	●	●
% of cases disposed in a circuit court	●	●	●	●	●	●	●	●	●
% of cases legal aid	●	●	●	●	●	●	●	●	●
Publicly accessible process for complaints	●	●	●	●	●	●	●	●	●
% of complaints received concerning a judicial officer	●	●	●	●	●	●	●	●	●
% of complaints received concerning court staff	●	●	●	●	●	●	●	●	●
Average number of cases per judicial officer	●	●	●	●	●	●	●	●	●
Average number of cases per court staff	●	●	●	●	●	●	●	●	●
Court produces/ contributes to a publicly available Annual Report	●	●	●	●	●	●	●	●	●
Publicly available Information on court services	●	●	●	●	●	●	●	●	●
Court publishes judgments on the internet	●	●	●	●	●	●	●	●	●

● Publicly Available

● Not Publicly Available

● Judgements online but not for previous year/  
Have court fee waiver provisions or conduct circuit courts but do not collect data on the percentage of cases in which a fee waiver is granted/ conducted through a circuit court/  
Produces an annual report for the previous year but it not clear how the public can access it.

	Samoa	Solomon Islands (Magistrates)	Solomon Islands (High Court)	Tokelau	Tonga (Supreme Court)	Tonga (Magistrates Court)	Tuvalu	Vanuatu
Clearance rate	●	●	●	●	●	●	●	●
Average case duration	●	●	●	●	●	●	●	●
% of appeals	●	●	●	●	●	●	●	●
Overtum rate on appeal	●	●	●	●	●	●	●	●
% of cases granted court fee waiver.	●	●	●	●	●	●	●	●
% of cases disposed in a circuit court	●	●	●	NA*	●	●	●	●
% of cases legal aid	●	●	●	●	●	●	●	●
Publicly accessible process for complaints	●	●	●	●	●	●	●	●
% of complaints received concerning a judicial officer	●	●	●	●	●	●	●	●
% of complaints received concerning court staff	●	●	●	●	●	●	●	●
Average number of cases per judicial officer	●	●	●	●	●	●	●	●
Average number of cases per court staff	●	●	●	●	●	●	●	●
Court produces/ contributes to a publicly available Annual Report	●	●	●	●	●	●	●	●
Publicly available Information on court services	●	●	●	●	●	●	●	●
Court publishes judgments on the internet	●	●	●	●	●	●	●	●



Publicly Available



Not Publicly Available



Judgements online but not for previous year/ Have court fee waiver provisions or conduct circuit courts but do not collect data on the percentage of cases in which a fee waiver is granted/ conducted through a circuit court/ Produces an annual report for the previous year but it not clear how the public can access it.



NA\* Not Applicable in Tokelau as the area is so small as to not require circuit courts.



The 15 indicators selected were chosen by PJDP judicial counterparts as they represented essential data that jurisdictions, whether large or small, should ideally have the capacity to collect, analyse and present in their annual reports. For several of these indicators, jurisdictions that were able to capture data disaggregated by the gender of court clients or their age (juvenile/non-juvenile clients) were requested to present this additional level of information. However, as will be seen in Chapter 4, most courts do not capture gender and age disaggregated data or do not present this information in their annual reports<sup>6</sup>. Over time, the PJDP judicial counterparts may wish to extend this list of indicators in line with the ability of more courts to collect, analyse and report on court performance data in more complex ways. However, the initial 15 indicators contained in this baseline report will allow courts and external court stakeholders in the Pacific region to observe whether the capacity of courts to collect, analyse and report on court performance data is strengthened over the implementation period for PJDP and beyond. The 26 Key Findings and 24 Recommendations from the Baseline Report are set out in Part 8 of this Report.

The collection and reporting of data related to key court performance indicators and the regular review of external court stakeholder perceptions of Court service through surveys or court stakeholder dialogues is an important first step for all courts. Once court performance data has been collected and evaluated, it is then possible for courts to set meaningful national performance standards for their court. These performance standards may relate to timeliness in the disposal of different types of cases, quality of service experienced by clients through the court registry, or quality of judgements. Without first understanding how a court is performing, through the collection and analysis of performance data for a number of years, it is unlikely that a court will set a realistic and achievable performance standard. The process of setting national performance standards, in consultation with judges and court staff, is important as it establishes the level of service that the court aims to deliver and that the public can expect from the court.

Courts that display high levels of judicial transparency and a commitment to improving the delivery of their court services present annual and trend court performance data in their annual reports as well as a statement on whether the court has met their performance standards or targets for the year. No PJDP court presents their court performance standards and data on whether these have been achieved in their Annual Report.

<sup>6</sup> The judiciary of the Republic of the Marshall Islands is an exception as it presents data on juvenile cases in its annual report available on its website: [www.rmiccourts.org](http://www.rmiccourts.org)

## Ownership, Results, Trust and Accountability

**Table C** Baseline Summary of Court Performance Reporting

Indicator of Court Performance	2011 Baseline	Work Undertaken by Judiciaries at a National Level
Able to report on the 15 PJDP court performance indicators.	The majority of PJDP courts are unable to report on the 15 court performance indicators.  There is only one indicator (publication of judgments) that 13 of the 14 courts can report on.	Chief Justice, judges and court staff to work collaboratively on the collection, analysis and reporting of court performance data.
PJDP Courts produce or contribute to an Annual Report that is publicly available in the following year.	1 of 14 PJDP countries produces or contributes to an Annual Report that is publicly available in the following year.	Court submits to Parliament an Annual Report for the previous year.
PJDP courts present their <i>court performance standards</i> and data on whether these have been achieved in their Annual Report.	0 of 14 PJDP countries present <i>their court performance standards</i> and data on whether these have been achieved in their Annual Report.	Chief Justice, judges and court staff to work collaboratively to set realistic and appropriate court performance standards based upon the court performance data collected against the 15 PJDP indicators.
Courts regularly analyse the justice needs within their country to better understand <i>what matters to actual and potential court users</i> in the delivery of quality court services through the use of client and court stakeholder surveys and dialogues.	2 of the 14 PJDP countries (14%) undertook court user surveys during 2011.	Periodically undertake court user and potential court user surveys and dialogues and summarise the findings for publication on the Court's website and/ or in the Court's annual report.

### Ownership, Results, Trust and Accountability

These four principles underpin many of the international and regional statements on judicial integrity and independence. Annual reports represent the vehicle through which courts take **ownership** of the work they have completed during the year and present to the public their annual **results** against key performance indicators. In doing so they win the **trust** of the public and are **accountable** to the citizens they serve.

## Regional Justice Performance Framework

The Chief Justices at their leadership meeting in Apia, Samoa in March 2012 endorsed the recommendations contained in the draft Regional Justice Performance Framework and Interim Baseline Report dated March 2012. More specifically, under the endorsed Regional Justice Performance Framework:

*The Chief Justices of the countries participating in the Pacific Judicial Development Programme agree to progressively build the capacity of their judicial and court staff colleagues so as to publish court Annual Reports:*

- I. on national and Pacific regional websites,*
- II. within one year of the end of the reporting period,*
- III. that include:*
  - a. court performance data and results against the 15 indicators and Recommendations presented in the PJDP Baseline Report,*
  - b. court performance standards for each level of court and annual results against those standards,*
  - c. a summary of the key findings from any court stakeholder/potential court user surveys and dialogues that have taken place in the previous year,*
  - d. financial statements, including Court budget execution statements.*