



THE JUDICIARY OF THE REPUBLIC OF THE MARSHALL ISLANDS

2011 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 2011 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, the Government, and the people of the Marshall Islands. It is a pleasure and a privilege to work with them.

On behalf of the Judiciary, I wish to express our sincere appreciation to the Nitijela and the House of Iroij for their 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 support in 2011. We are committed to working with the Cabinet, the Nitijela, and the House of Iroij in the years to come to maintain a judiciary that is fair, efficient, and effective, assuring justice for all and the rule of law. Our shared goals mandate that we work together in a spirit of respect and cooperation.

Attached to this letter, with the 2011 Report, is our Mission Statement and Vision Statement.

A handwritten signature in black ink, appearing to read "C. Ingram", written over a horizontal line.

Carl B. Ingram
Chief Justice, High Court
Date: October 2, 2012



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.

2011 REPORT OF THE JUDICIARY OF THE REPUBLIC OF THE MARSHALL ISLANDS

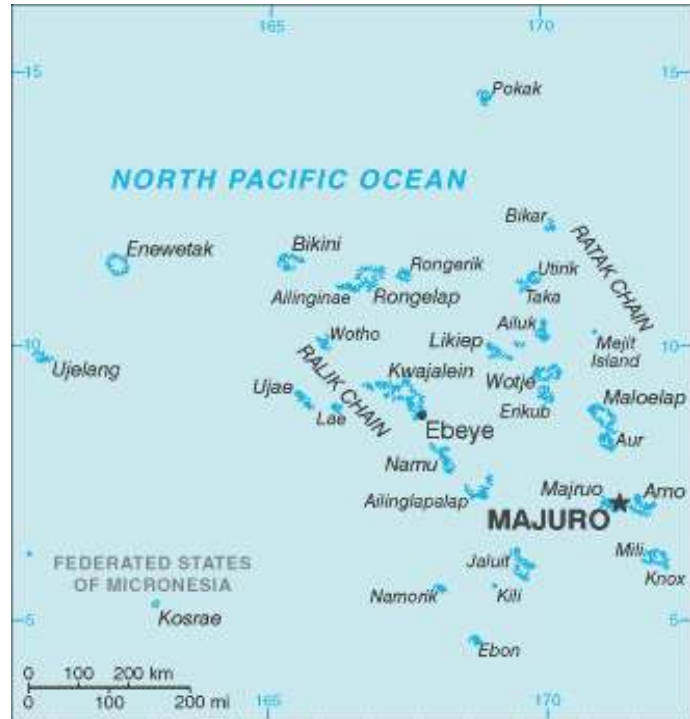
I. INTRODUCTION

The Republic of the Marshall Islands (“Marshall Islands”) consists of two nearly parallel archipelagic island chains of 29 atolls and five 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 2011, the estimated population of the Marshall Islands was approximately 55,000. However, estimates vary greatly.

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 called the Nitijela, which elects from its members a president, who in turn selects from the Nitijela his or her cabinet. The Constitution vests legislative authority in the Nitijela and the House of Iroij (Traditional Chiefs), executive authority in the Cabinet, and judicial authority in an independent judiciary (“Judiciary”).

The Marshall Islands Judiciary includes the Supreme Court, the High Court, the Traditional Rights Court, the District Court, and the Community Courts, as well as the 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 the TTPI High Court. An organizational chart of the Judiciary is attached as Appendix 1, and a listing of Judiciary personnel for calendar year 2011 is attached as Appendix 2.



This report summarizes in the sections that follow the Judiciary's operations and accomplishments in calendar year 2011, as well as its challenges, including the need for additional financial support. These sections include the following:

- Significant Events or Accomplishments;
- The Courts and Their Work: Efficiency, Quality, and Accessibility;
- The Judicial Service Commission: Judicial Appointments;
- Accountability: Codes of Conduct and Complaints;
- Accessibility: Fee Structure, Circuit Sessions, and Legal Aid;
- Facilities, Technology and the Library;
- Salaries and Compensation; and
- The Annual Budget.

II. SIGNIFICANT EVENTS OR ACCOMPLISHMENTS

In May 2012, the Pacific Judicial Development Program (PJDP), funded by NZAID, completed and published the "Pacific Judicial Development Program: 2011 Court Baseline Report." The report establishes baseline data against which the 14 participating Pacific Island Countries¹ can monitor and evaluate their progress as judiciaries against the following 15 internationally recognized court performance indicators:

1. Case management issues.
 - Cases finalization or clearance rate.
 - Average duration of a case from filing to clearance.
 - The percentage of cases appealed.
 - 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 handling 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.

¹The PJDP operates in the Cook Islands, Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

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: 2011 Baseline Report shows that the Marshall Islands Judiciary produced publicly available data on more of the performance indicators, 14 of 15², than any of the other 14 jurisdictions. (See pages 14 and 15 of the Executive Summary of the PJDP: 2011 Baseline Report, which is attached as Appendix 3). In this report, the Judiciary not only includes data on all 15 performance indicators, but also reports on its ability to meet publicly stated performance goals.

The Marshall Islands Judiciary is proud of its ability to provide court performance data to the public and to meet internationally accepted court performance standards. In this connection, the Judiciary wishes to thank the Cabinet, the Nitijela, the United States Ninth Judicial Council, NZAID, and AUSAID for the assistance they have provided to achieve these goals.



III. THE COURTS AND THEIR WORK: EFFICIENCY, QUALITY, AND ACCESSIBILITY

“To Be Independent, Fair, Efficient, and Accountable” is the first goal of the Judiciary’s 2007 strategic plan. “To Be Accessible to All” is the second goal of the Judiciary’s strategic plan. The Judiciary’s efficiency (measured by clearance rates and average duration), quality (measured by appeals and cases overturned on appeal), and accessibility (measured by the fee structure, cases heard on circuit, and free legal counsel) are described in the report on the courts and their work.

²The 2011 Baseline Report indicates that the Marshall Islands Judiciary did not publicly report on the number of fee waivers granted. The Judiciary did not report on fee waivers as none were requested or granted during the report period, calendar year 2010.

To this end, the report reviews the jurisdiction, staffing, and work of the Supreme Court, the High Court, the Traditional Rights Court, the District Court, and the Community Courts, as well as continuing professional training for judges and staff.

A. Supreme Court

The Supreme Court, the court of last resort, is a superior court of record having appellate jurisdiction with final authority to adjudicate all cases and controversies properly brought before it. 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.

The Supreme Court consists of three justices: 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 citizen appointed to a 10-year term in September 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 2011, the pro tem associate justices were two United States Federal Court judges from the Federal District Court in Hawaii: District Court Judge Michael Seabright and Magistrate Judge Barry Kurren. The Chief Clerk of the Courts, Ingrid K. Kabua, serves as the clerk of the Supreme Court.



The Supreme Court's 2011 case and workload are summarized as follows.

At the beginning of 2011, there were nine matters pending before the Supreme Court, and in 2011, another three matters were filed.

The Supreme Court cleared four matters in 2011. At its April 2011 session, the Supreme Court considered four matters and cleared two:

- upon stipulation by counsel, the Supreme Court abated a Bikini/Kili election case pending the results of a November 2011 Kili/Bikini/Ejit Council Constitution Referendum;
- the Supreme Court affirmed the High Court's decision in a non-resident corporation case,

- a derivative action suit;
- counsel in a Nuclear Tribunal case discontinued the matter on behalf of Ronglelap Alaps; and
- the Supreme Court ordered the parties to brief the remaining case, a land matter.

In July 2011, the Supreme Court denied a writ of mandamus, and in September, on motion by counsel, the Supreme Court dismissed an abandoned appeal that had been dormant for several years.



By the end of 2011, eight cases remained. The Supreme Court's goal is to maintain an annual clearance rate of 100%. This, the Supreme Court did in 2011: litigants filed three cases and the Supreme Court cleared four: a clearance rate of 133.33% (4/3).

The average duration of the four cases cleared in 2011 was 1,371 days. However, if one excludes the two very old abandoned appeals, the average duration for the remaining two cases was only 330 days.

In none of the cases pending in 2011 did the parties seek a fee waiver or legal aid. However, in the Nuclear Tribunal case, counsel for the petitioners was an employee of the Tribunal provided at no cost to the petitioners. The filing fee for appeals is \$50.00.

Early in 2012, the Supreme Court cleared three cases from previous years, the Kili/Bikini/Ejit election case from April 2011, one dormant corporate case, and one very old abandoned land case the clerks had found, leaving five pending matters from past years. To date, two appeals have been filed before the Supreme Court in 2012.

The Supreme Court's decisions can be found on the Judiciary's website, <http://rmicourts.org/>, under the heading Court Decisions and Digests.

Aside for the Supreme Court's regular docket, in 2011, Supreme Court Chief Justice Cadra, together with High Court Chief Justice Carl B. Ingram, admitted one attorney to the practice of law in the Republic: a Marshall Islands citizen working in the Office of the Legislative Counsel.

B. High Court



The next 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 2012. Both are United States expatriates with more than 25-years experience in the Marshall Islands. Any Marshallese citizen appointed to the High Court would be appointed to serve until age 72. The Chief Clerk of the Courts and five assistant clerks serve as clerks for the High Court as needed.

The High Court's 2011 case statistics for civil cases, probate cases, criminal cases, juvenile cases, and judge and staff caseloads are set forth below.



1. Civil Cases (other than Probate Cases)

The High Court's 2011 statistics for civil cases (other than probate cases) cover the following:

- the number and nature of cases filed in 2011;
- the clearance rates (annual, since inception, and most recent five years);
- the average duration of cases;
- the percentage of cases appealed and the percentage of cases overturned on appeal; and
- accessibility (fee waiver, cases heard on circuit, and legal aid).

a. Number and Nature of Cases Filed in 2011

In 2011, plaintiffs and petitioners filed in the High Court 257 new civil cases (other than probate cases): 225 in Majuro and 32 in Ebeye.

The 225 civil cases filed in Majuro in 2011 breakdown as follows:

- more than half, 133, involved domestic matters (including 42 customary adoptions, 40 guardianships, 22 legal adoptions, 19 divorces, six child custody and support cases, three

- name changes, and one customary marriage);
- nine citizenship cases;
- 43 collection cases;
- 11 land rights or land lease cases; and
- other cases.

Of 86 Majuro cases filed in 2011 and still pending at the end of the year, the three largest categories were as follows: collection cases, 28; land and lease cases, 10; and customary adoptions cases, nine.

Of the 32 civil cases filed in Ebeye in 2011, 21 were customary adoption cases, eight guardianship cases, one name-change case, one divorce case, and one child support case. Of the 20 Ebeye civil cases still pending at the end of the year, the two largest categories of cases were customary adoptions, 14, and guardianships, four.

b. Clearance Rates

The High Court's efficiency can be measured by case clearance rates. The High Court calculates and examines its clearance rates for civil cases three different ways:

- the annual clearance rate (cases from all years cleared in 2011 divided by cases filled in 2011);
- the clearance rate from the date of inception (all cases cleared divided by all cases filed, regardless of the year); and
- the clearance rate for cases filed within the past five years (2007-2011 cases cleared in 2007-2011).

(i) Annual Clearance Rate, 165.76%

During 2011, the High Court, counsel, and parties closed 426 civil cases from all years. Accordingly, the number of cases closed, 426, exceeded the number of cases filed in 2011, 257, by 169. That is, the High Court's 2011 clearance rate for civil cases was 165.76% (426/257). The High Court's goal is to maintain an annual clearance rate for civil cases of 100%, or better, per year. This, the High Court has done over the past five years.

(ii) Clearance Rate Since Inception, 95%

Since inception of the Judiciary in 1982, the High Court's clearance rate for civil cases is 95%. The High Court's goal is to increase the civil case clearance rate since the date of inception to 96%. This figure, the High Court reached in mid 2012.

(iii) Clearance Rate for Cases Filed in the Past Five Years, 78.90%

A third way of measuring efficiency is to examine the number of cases filed and cleared over the past five years. For civil cases (other than probates) filed in 2007 through 2011 the clearance

rate is 78.98%. This is an increase of about 2.44% over 2010's figure of 76.54%.

CIVIL	CY 2007 CASES			Status in CY 2008		Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	225	130	95	46	49	14	35	3	32	4	28
Ebeye	59	43	16	1	15	1	14	0	14	0	14

CIVIL	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	242	147	95	33	62	9	53	24	29
Ebeye	33	9	24	11	13	1	12	0	12

CIVIL	CY 2009 CASES			Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	257	163	94	37	57	25	32
Ebeye	25	16	9	0	9	0	9

CIVIL	CY 2010 CASES			Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending
Majuro	215	129	86	46	40
Ebeye	14	5	9	0	9

During the 5-year period (2007-2011):

Total Cases Filed: 1,327

Total Cleared: 1,048

Total Pending: 279

Clearance: 78.98

* As of 12/31/2011

CIVIL	CY 2011 CASES		
Island	Filed	Cleared	Pending
Majuro	225	139	86
Ebeye	32	12	20

Of the 279 pending civil cases that remain from 2007 through 2011, the two largest categories were land cases, 53, and citizenship cases, 34. The High Court has contacted counsel to move these cases forward.

c. Average Duration of Cases Cleared in 2011

The High Court also measures its efficiency by the average length of time from the date cases are filed to the date they are cleared (average duration). For Majuro cases filed in the past five years, 2007 to 2011, the average durations of cleared cases were as follows:

- for 197 of 225 cases filed in 2007 and cleared as of the end of 2011, the average duration was 209.33 days;
- for 213 of 242 cases filed in 2008 and cleared as of the end of 2011, the average duration was 244.47 days;
- for 225 of 257 cases filed in 2009 and cleared as of the end of 2011, the average duration was 184.33 days;
- for 174 of 215 cases filed in 2010 and cleared as of the end of 2011, the average duration

- was 136.56 days; and
- for 139 of 225 cases filed in 2011 and cleared as of the end of 2011, the average duration was 38.48 days.

d. Appeals

In addition to measuring case management efficiency, it is important to review the quality of judgments. The quality of judgments can be measured in two ways: the percentage of cases appealed and the percentage of cases overturned on appeal.

In 2011, the number and percentage of High Court cases appealed remained very low. There were two appeals and one petition of High Court civil decisions to the Supreme Court: three out of 257 cases filed, or 1.17%.

Furthermore, in 2011, no High Court cases or decisions were overturned on appeal. The Supreme Court denied the one petition and at the end of the year the two appeals remained. Also in 2011, appellants withdrew two civil appeals from previous years, and the Supreme Court denied a civil appeal from 2010. That is, in 2011, no High Court civil cases from 2011, or from previous years, were over turned on appeal.

e. Accessibility: Fee Waiver; Cases Heard on Circuit; and Legal Aid

It is not enough that courts be efficient and that the quality of judgment be high. The courts must be accessible. Affordability and accessibility to justice can be measured in the availability of fee waivers, the number of cases heard on circuit, and the availability of free legal service.

Although, by rule, fee waivers are available upon a showing of need, in none of the 2011 High Court cases did parties request a fee waiver. The filing fee for most High Court cases is \$25.00. Fees for admiralty case, non-resident corporate cases, international adoptions, and citizenship cases are higher.

Of 257 civil cases filed in 2011, 32 cases (12.45%) were Ebeye circuit cases. Of the 238 civil cases cleared in 2011 (from cases filed in 2007 through 2011), 12 cases (5.04%) were Ebeye circuit cases.

In 2011, the use of free legal services remained high. In 147 of the 257 civil cases filed in 2011 (57.20%), at least one of the parties was represented by the Micronesian Legal Services Corporation or the Office of the Public Defender, both of which provide legal assistance for free.

2. Probate Cases

Set forth below are the High Court's 2011 case statistics for probate cases. These statistics cover the following:

- the number of probate cases filed in 2011;

- the clearance rates (annual, since inception, and most recent five years);
- the average duration of cases;
- the percentage of cases appealed and the percentage of cases overturned on appeal; and
- accessibility (fee waiver, cases heard on circuit, and legal aid).

a. Number of Cases

Only two probate cases were filed in 2011.

b. Clearance Rates

In 2011, the High Court cleared both 2011 probate cases and one 2010 probate case for a clearance rate of 150% (3/2).

The High Court's goal is to maintain a clearance rate for probate cases of 100% per year. The High Court's clearance rate for probate cases since its inception (1982) is about 98%.

The High Court's five-year clearance rate for probate cases is 90.00%. As of the end of 2011, only six probate matters filed since 2007 remained pending: three cases involved one family and were resolved in early 2012. The High Court encourages counsel to move their remaining cases, although sometimes counsel cannot maintain contact with their clients.

PROBATE	CY 2007 CASES			Status in CY 2008		Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	21	13	8	5	3	0	3	0	3	0	3
Ebeye	0	0	0	0	0	0	0	0	0	0	0

PROBATE	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	20	16	4	4	0	0	0	0	0
Ebeye	2	2	0	0	0	0	0	0	0

PROBATE	CY 2009 CASES			Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	11	9	2	2	0	0	0
Ebeye	0	0	0	0	0	0	0

During the 5-year period (2007-2011):

Total Cases Filed: 60

Total Cleared: 55

Total Pending: 6

Clearance: 90.00%

** As of 12/31/2011*

PROBATE	CY 2010 CASES			Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending
Majuro	4	0	4	1	3
Ebeye	0	0	0	0	0

PROBATE	CY 2011 CASES		
Island	Filed	Cleared	Pending
Majuro	2	2	0
Ebeye	0	0	0

c. Average Duration of Cases

The average duration of the two 2011 probate cases was 61.5 days. The duration of the 2010 probate case, which was withdrawn, was 665 days.

d. Appeals

In 2011, no probate cases were appealed, nor were any cases from previous years overturned on appeal. Accordingly, the percentage of probate cases appealed was 0%, and the percentage of probate cases overturned on appeal was 0%.

e. Accessibility: Fee Waiver; Cases Heard on Circuit; and Legal Aid

As noted above, affordability and accessibility to justice can be seen in the availability of fee waivers, the number of cases heard on circuit, and the availability of free legal service.

As with other civil cases, fee waiver is available in probate cases. However, in none of the 2011 probate cases was a fee waiver requested. The filing fee for probates is \$25, \$100 for estates over \$7,000.

Of the two probate cases filed in 2011, neither were Ebeye circuit cases. Of the 3 probate cases cleared in 2011 (from cases filed in 2007 through 2011), none were Ebeye circuit cases.

In both 2011 probate cases, the petitioner was represented by the Micronesian Legal Services Corporation.

3. Criminal Cases

Set forth below are the High Court's 2011 case statistics for criminal cases. These statistics cover the following:

- the number and nature of criminal cases filed in 2011;
- the clearance rates (annual, since inception, and most recent five years);
- the average duration of cases;
- the percentage of cases appealed and the percentage of cases overturned on appeal; and

- accessibility (fee waiver, cases heard on circuit, and legal aid).

a. Number and Nature of Cases

In 2011, the Office of the Attorney-General (A-G) filed 56 criminal cases in the High Court: 53 in Majuro and 3 in Ebeye. Of the 53 cases filed in Majuro in 2011, 34 were government fraud cases (eight of which were re-filings); seven involved assaultive behavior, three non-government grand larcenies, one obstructing an immigration officer, one reckless driving, two driving without a license, one promoting prostitution and labor violations, one selling tobacco to a minor, one failure to pay taxes, one disturbing the peace, and one violation of fishing license.

Of the 53 criminal cases filed in Majuro in 2011, women were defendants in 18 cases (34%). The percentage of women charged in 2011 is much higher than in the four most recent years (9%), because most of the 2011 cases were government fraud cases perpetrated by a group of men and women.

Also, of the 53 criminal cases filed in Majuro in 2011, women were victims in five cases. In one of the five cases, a woman compelled at least two other women to engage in prostitution. Two of the five cases involved domestic violence. In neither case was a protective order requested. The Marshall Islands has NGOs that can provide counseling to victims of domestic violence, which include Youth-to-Youth in Health and Women United Together Marshall Islands.

Of the three felony cases filed in Ebeye in 2011, all involved assaultive behavior (other than sexual assaults).

b. Clearance Rates

As a measure of efficiency, the High Court calculates and examines its clearance rates for criminal cases three different ways:

- the annual clearance rate (cases from all years cleared in 2011 divided by cases filled in 2011);
- the clearance rate from the date of inception (all cases cleared divided by all cases filed); and
- the clearance rate for cases filed within the past five years (2007-2011 cases cleared in 2007-2011).

(i) Annual Clearance Rate, 69.64%

In 2011, 39 criminal cases from all years (including one filed before 2007) were cleared resulting in a 2011 clearance rate of 69.64% (39/53).

By the end of 2011, there remained pending approximately 64 criminal cases (six had been filed prior to 2007). The High Court has encouraged the A-G and defense counsel to resolve

criminal cases that are more than a year old, about 27. Some cases, particularly the very old ones, cannot be resolved because the defendants have fled the Republic for the United States or have fled Majuro or Ebeye for the outer islands.

The High Court's goal is to maintain an annual clearance rate for criminal cases of 100%, or better, per year. This, the High Court did not achieve in 2011. This is a result of the high number of government fraud cases filed in 2011, 34.

(ii) Clearance Rate Since Inception, 98%

The High Court's clearance rate for criminal cases since its inception (1982) is about 98%.

(iii) Clearance Rate for Cases Filed Within the Past Five Years, 71.84%

For criminal cases filed in the past five years, the clearance rate for criminal cases is 71.84%, about 12.5% less than last year's 84.25%. Again, this is the result of the Office of the Attorney-General filing and re-filing a large number of government-fraud cases.

CRIMINAL	CY 2007 CASES			Status in CY 2008		Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	29	9	20	13	7	2	5	3	2	0	2
Ebeye	9	7	2	1	1	0	1	0	1	0	1

CRIMINAL	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	27	10	17	13	4	1	3	2	1
Ebeye	19	10	9	1	8	1	7	0	7

CRIMINAL	CY 2009 CASES			Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	17	13	4	4	0	0	0
Ebeye	10	5	5	2	3	1	2

CRIMINAL	CY 2010 CASES			Status in CY 2011	
Island	Filed		Pending	Cleared	Pending
Majuro	34	14	20	12	8
Ebeye	5	1	4	4	0

During the 5-year period (2007-2011):

Total Cases Filed: 206

Total Cleared: 148

Total Pending: 58

Clearance: 71.84%

* As of 12/31/2011

CRIMINAL	CY 2011 CASES		
Island	Filed	Cleared	Pending
Majuro	53	19	34
Ebeye	3	0	3

c. Average Duration of Cases Cleared in 2011

Also, for Majuro cases filed in the past five years (2007-2011), the average durations of cleared cases were as follows:

- for 27 of 29 cases filed in 2007 and cleared as of the end of 2011 the average duration was 355.30 days;
- for 26 of 27 cases filed in 2008 and cleared as of the end of 2011, the average duration was 239.25 days;
- for 17 of 17 cases filed in 2009 and cleared as of the end of 2011, the average duration was 150.82 days;
- for 26 of 34 cases filed in 2010 and cleared as of the end of 2011, the average duration was 121.71 days; and
- for 19 of 53 cases filed in 2011 and cleared as of the end of 2011, the average duration was 123 days.

d. Appeals

As an indication of the quality of High Court criminal decisions, in 2011 no High Court criminal cases were appealed, nor were any cases from previous years overturned on appeal. Accordingly, the percentage of criminal cases appealed and the percentage of criminal cases overturned on appeal was 0%.

e. Accessibility: Fee Waiver; Cases Heard on Circuit; and Legal Aid

To ensure accessibility to justice, the Judiciary does not impose fees on criminal defendants at the trial level. On appeal, a defendant can apply for a fee waiver. Also, to ensure accessibility, criminal cases are heard on circuit and criminal defendants have access to free legal counsel.

Of the 56 criminal cases filed in 2011, three cases (5.36%) were Ebeye circuit cases. Of the 39 criminal cases cleared in 2011, five cases (12.82%) were Ebeye circuit cases.

In 2011, as in other years, most criminal defendants were represented by the Office of the Public Defender, the Micronesian Legal Services Corporation, or an attorney paid for by legal aid funds. In 2011, the defendants received legal assistance at no cost in 33 of 56 cases (58.93%). In 2010, the figure was 34 of 39 (87.18%), and in 2009, the figure was 23 of 27 (85.19%). The percentage of defendants using publicly funded legal assistance is lower in 2011 than in previous years, because several of the defendants in the 2011 government fraud cases retained private attorneys.

4. Juvenile Cases

In 2011, the Office of the Attorney-General filed no juvenile cases in the High Court. Nor were any juvenile cases pending on appeal. Since 2007, when the Republic filed six juvenile cases, the Republic has filed in the High Court only one or two juvenile cases per year. Most

juvenile cases (underage drinking) are heard by the District Court, not the High Court. Most juveniles are represented by the Office of the Public Defender.

As shown below, the five-year clearance rate for juvenile cases is 100%. The High Court's goal is to maintain a clearance rate for juvenile cases of 100% per over the most recent two years, and/or to dispose of juvenile cases within six months of filing.

JUVENILE	CY 2007 CASES			Status in CY 2008		Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	1	1	0	0	0	0	0	0	0	0	0
Ebeye	0	0	0	0	0	0	0	0	0	0	0

JUVENILE	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	2	2	0	0	0	0	0	0	0
Ebeye	0	0	0	0	0	0	0	0	0

JUVENILE	CY 2009 CASES			Status in CY 2010		Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	0	0	0	0	0	0	0
Ebeye	2	1	1	1	0	0	0

JUVENILE	CY 2010 CASES			Status in CY 2011	
Island	Filed	Cleared	Pending	Cleared	Pending
Majuro	1	0	1	1	0
Ebeye	0	0	0	0	0

During the 5-year period (2007-2011):

Total Cases Filed: 6

Total Cleared: 6

Total Pending: 0

Clearance Rate: 100%

* As of 12/31/2011

JUVENILE	CY 2011 CASES		
Island	Filed	Cleared	Pending
Majuro	0	0	0
Ebeye	0	0	0

5. Caseloads for Judges and Clerks

The total number of all High Court cases filed in 2011 was 315. For the two High Court Justices this equates to an average caseload of 157.5 new cases for 2011. These figures are consistent with recent years, although the figure fluctuates:

- for 2010, 136 cases per justice;
- for 2009, 160 cases per justice;
- for 2008, 171.5 cases per justice; and
- for 2007, 171.5 cases per justice.

For the six clerks that regularly process High Court cases, their 2011 caseload was 52.50

cases per clerk. As with the justices, the clerks' caseloads fluctuate from year-to-year within a limited range:

- for 2010, 45.33 cases per clerk;
- for 2009, 53.33 cases per clerk;
- for 2008, 57.17 cases per clerk; and
- for 2007, 57.17 cases per clerk.

6. Selected Decisions

Selected High Court decisions can be found on the Judiciary's website, <http://rmicourts.org/>, under the heading Court Decisions and Digests.

C. Traditional Rights Court

The Traditional Rights Court ("TRC") is a special-jurisdiction 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: Iroiylaplap (high chief); where applicable, Iroiyledrik (lower chief); Alap (head of commoner/worker clan); and Dri Jerbal (commoner/worker).



In June 2010, the Cabinet, upon recommendation from the Judicial Service Commission, appointed the current judges: Chief Judge Walter K. Elbon (alap member) for a term of 10 years; Associate Judge Botlang Loeak (iroij member) for a term of four years; and Associate Judge Grace L. Leban (dri jerbal member) for a term of 10 years. All are lay judges who receive specialized training. One of the three judges, Judge Leban, is a woman, the first woman to be appointed as a full-time TRC judge. The Judiciary is committed to increasing the number of women judges.

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 Constitution states that 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.

In 2011, the TRC issued decisions in two land cases. Six cases are actively pending before the TRC.

The TRC's decisions can be found on the Judiciary's website, <http://rmicourts.org/>, under the heading Court Decisions and Digests.

D. District Court

The District Court is a limited-jurisdiction court of record. It consists of a presiding judge and two associate judges appointed for 10-year terms. At the end of 2011, the three incumbent judges were Presiding Judge Milton Zackios, Associate Judge Jimata M. Kabua, and Associate Judge A. Tarry Paul (Ebeye). Their 10-year terms expire in 2015, 2016, and 2019, respectively.



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 2011 case statistics and case workload are set forth below.

1. Majuro. In 2011 on Majuro, 2,285 cases were filed in the District Court: 254 small claims cases (135 cleared and 119 pending); no other civil cases; 1,371 traffic cases (936 cleared and 435 pending); 22 juvenile cases (five cleared and 17 pending); and 638 criminal cases and local government ordinance cases (309 cleared and 329 pending).

The average number of cases heard by the two District Court judges in Majuro was 1,142.5, and the average number of cases per court clerk was 2,285.

No 2011 Majuro District Court cases were appealed.

The District Court only charges a filing fee of \$5.00 in its small claims cases. In 2011, no fee waivers were requested or granted.

In most Majuro District Court cases, and in all small claims cases, the parties were self-represented. However, the Office of the Public Defender (PD) represented the defendant in 233 of the 1,371 traffic cases (17%) and in at least 5 of the 22 juvenile cases (22.7%). When the remaining 17 juvenile cases are heard, the juvenile offenders will probably be represented by the PD. Of the 638 criminal/ordinance cases, the PD represented 93 defendants and the Micronesian Legal Services Corporation represented 4 defendants (15.2%). All other appeared *pro se*.

2. Ebeye. In 2011 on Ebeye, 521 cases were filed in the District Court: 238 small claim cases (188 cleared and 50 pending); no other civil cases; 42 traffic cases (41 cleared and one pending); no juvenile cases; four criminal cases (three cleared and one pending); and 237 local government ordinance cases (179 cleared and 58 pending).

The average number of cases heard per District Court judge in Ebeye was 521, and the average number of cases per court clerk was the same.

No 2011 Ebeye District Court cases were appealed.

In most Ebeye District Court cases, and in all small claims cases, the parties were self-represented. However, the PD represented the defendant in 34 of the 42 traffic cases (80%), all four criminal cases (100%), and in 3 of 237 ordinance cases (1.3%).

E. Community Courts

A Community Court is a limited-jurisdiction 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 2011, there were 22 serving Community Court judges and eight vacancies. Currently, there are six vacancies for which the Commission is waiting recommendations from local government councils: Arno (2); Aur (1); Enewetak (1); Rongelap (1); 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. In 2010, the Judiciary held two one-week workshops for Community Court judges. The Judiciary conducted a training for Community Court judges in 2012 and intends to continue providing training for Community Court judges every other year.

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 Attorney-General, the Public Defender, and the Micronesian Legal Services Corporation 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 quarter 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.

If, however, the Government cannot afford to station attorneys full-time on Ebeye, the Judiciary would request that at the very least the Office of the Attorney-General and Office of the Public Defender receive funding to employ trial assistants on Ebeye, as was the practice until very recently. Defendants brought before the District Court on criminal charges have a constitutional right to legal counsel.

G. Births, Deaths, Marriages, and Notarizations

1. Majuro. In 2011 on Majuro, the High Court and the District Court processed 279 delayed registrations of birth, four delayed registrations of death, and performed 43 marriages. The clerks notarized 766 documents.

2. Ebeye. In 2011 on Ebeye, the the District Court processed 10 delayed registrations of birth, no delayed registrations of death, and performed six marriages. The clerks notarized 196 documents.



H. Court Staff



In 2011, the Judiciary's staff included the following: a chief clerk of the courts, 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.

The chief clerk and four of the six assistant clerks are women. A listing of the judiciary personnel is attached as Appendix 2.

I. Training and Regional Conferences

"To Enhance the Knowledge and Skills of the Judges, Court Staff, and Counsel" is the third goal of the Judiciary's strategic plan. Consistent with this goal, and internationally recognized practice, in 2011 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, Australia ("AUSAID"), and New Zealand ("NZAID"). The Judiciary's 2011 training activities are set forth below.

In late January and early February 2011, Supreme Court Chief Justice Daniel Cadra and High Court Chief Justice Carl B. Ingram attended the Federal Judicial Center's 2011 Workshop for Judges



of the Ninth Circuit. Program topics included the following: Lessons of the Holocaust; Writing; Sentencing and Sentencing Review After *Booker*; *Ashcroft v. Iqbal*, 129 S.Ct. 1937 (2009); Islam; Probation Revocation; Securities Litigation; IT Training for Judges; and other topics. In the afternoon of February 2, 2011, the judges met with members of the Ninth Circuit's Pacific Islands Committee that oversees United States-funded judicial training for the Marshall Islands.

In early February 2011, John T. Salatii of LAWriters conducted in Majuro a week-long writing course for lay judges (Traditional Rights Court and District Court judges). Program topics included the following: understanding the stages of intellectual growth of all legal writers; using "legal reasoning" to grasp "writing reasoning"; achieving "super-clarity"; making your logic visible; imposing coherence on details; controlling the nuances; and judicial "style" and judicial "character."



Also in early February 2011, Jane Rokita, Application Developer, Ninth Circuit Office of the Circuit Executive, conducted a workshop in Majuro for court staff on Microsoft Access 2007 and continued work on a database project begun in FY 2010. The criminal database was successfully completed and work was begun on a civil database for the High Court. Court staff acquired the following skills: (1) basic database design and editing skills; (2) application design and (3) review of report creation and database maintenance.

In mid March 2011, Traditional Rights Court Chief Judge Walter Elbon and Associate Judges Botlang Loeak and Grace Leban attended a National Judicial College course "Essential Skills for Tribal Court Judges." This course assisted the TRC judges in developing the basic skills necessary to preside over their cases. Having attended the course, the judges are better able to identify their jurisdictional boundaries; rule effectively on the admissibility of evidence; discuss applicable and appropriate ethical rules; write clear and well-reasoned decisions; and establish proper rules of courtroom decorum.

Also, in mid March 2011, District Court Presiding Judge Milton Zackios attended a National Judicial College course, "Fundamentals of Evidence." This course is designed for judges without law degrees who wish to master the rules of evidence. Having attended the course, Judge Zackios is better able to make prompt and correct rulings in the areas of relevancy; competency and privileges; burdens of proof; judicial notice and presumptions; impeachment and rehabilitation; constitutional limitations on the admissibility of evidence; hearsay and hearsay exceptions; confrontation; documentary and demonstrative evidence; child witnesses; experimental and scientific evidence; and expert and lay witness testimony.



In late March 2011, Chief Clerk Ingrid K. Kabua and Assistant Clerk Nikki Holly attended software training in

QuickBooks Premier Accountant 2010 conducted by Deloitte & Touche LLP in Guam. The Judiciary's financial records are ready for the auditors.

In early June 2011, District Court Associate Judge Tarry Paul attended a National Judicial College course, "Special Court Jurisdiction: Advanced." This course is designed for special court judges who have not graduated from law school. Having attended the course, Judge Paul will be able to make decisions on search warrants; conduct criminal hearings and trials in compliance with constitutional and statutory standards; make decisions regarding the admissibility of evidence; work effectively with court interpreters; create an environment of fairness and impartiality in the courtroom; determine appropriate sentencing alternatives for specific offenses and offenders; mitigate potential trial disruptions and utilize effective courtroom control measures; recognize addictive behavior; and increase litigant, attorney and public confidence in the courts by using proper case, calendar, and trial management techniques.

In mid June 2011, High Court Chief Justice Carl B. Ingram attended the 14th Conference of Chief Justices of Asia and the Pacific in Seoul, Korea. The conference proceeded through five sessions in three days. The sessions included the following: (i) the judiciary in the information age; (ii) improving court efficiency; (iii) better court service; (iv) relations with those outside of the court; and (v) the history and future of the conference. The session on the judiciary in the information age included a visit to the Korean Judiciary's IT center. Korea's Judiciary has IT better facilities, security, and Internet access than most countries.

In late June 2011, Chief Clerk of the Courts Ingrid K. Kabua attended the Pacific Judicial Development Program's National Coordinator's Leadership Workshop in Rarotonga, Cook Islands. The objectives of this regional workshop of National Coordinators were as follows: to provide an inclusive and participatory process for National Coordinators to plan and coordinate ongoing PJDP activities on a regional and bilateral basis; to familiarize National Coordinators with activities and advisors; and to enable National Coordinators to interact, exchange experience, and build leadership capacity in judicial development.



In mid July, High Court Associate Justice James H. Plasman attended a National Judicial College course, "Decision Making." This course familiarized participants with the factors that affect the decision-making process and assist them in the analysis of their own thinking and style. Having attended the course, Justice Plasman is better able to recognize his own decision-making style; identify issues of fairness and equity; examine the use of judicial discretion; explore issues of credibility; analyze conflicts of interest and ethical dilemmas; recognize the factors that can cause an appellate court to overturn a decision; and write and communicate decisions more clearly.

In mid August 2011, District Court Associate Judge Jimata M. Kabua attended a National Judicial College course, “Impaired Driving Case Essentials.” Because the rate of recidivism with impaired motor vehicle offenders is high, judges need the most up-to-date information to assist them in reducing it. Accordingly, this course is designed to provide judges with an overview of sentencing practices and evidence-based options for these traffic offenses. Having taken the course, Judge Kabua is better able to analyze circumstances providing legal bases for stops, searches, seizures, arrests, and the admissibility of testimonial or physical evidence. Also, he is able to describe the principles of pharmacology to effectively evaluate expert testimony; identify and utilize assessment, treatment, and counseling resources to assist with imposing appropriate sentences; identify new technology and practices used in sentencing; and use judicial discretion to craft effective sentences for special populations including younger drivers, older drivers, and hardcore DWI defendants.

In mid August 2011, Supreme Court Chief Justice Daniel N. Cadra and High Court Chief Justice Carl B. Ingram attended a Ninth Circuit Judicial Conference in Carlsbad California. Program topics included the following: A Supreme Court Review; Federalism in the 21st Century; the Promises and Perils of Neuroscience Evidence in the Courtroom; Breakfast with the Bench; Search and Seizure in the 21st Century; IT Awareness; The Budget Crisis in FY 2012 and Beyond; Future of the Courts; and *Bradwell v. Illinois*.

In mid September 2011, Traditional Rights Court Chief Judge Walter K. Elbon and District Court Associate Judge Tarry Paul attended a Pacific Judicial Development Program’s Judicial and Court Officer Orientation Workshop in Papua New Guinea. At the training, they learned techniques for solving problems with defendants who appear in court without an attorney, opinion writing, mediation, and how conduct a trial. They found the training to be very productive, particularly the conducting-the-trial segment.

In late September 2011, District Court Presiding Judge Milton Zackios and Associate Judge Jimata M. Kabua attended an Advance Evidence Course conducted by Ninth Circuit Senior District Court Judge John C. Coughenour in Kolonia, Pohnpei, FSM.

Also in late September 2011, Chief Clerk of the Court Ingrid K. Kabua led a training for District Court Clerks on keeping track of the status of cases so that they can provide, upon request, data for annual reports and for judges and attorneys.

In mid October 2011, Traditional Rights Court Associate Judge Grace Leban attended the Pacific Judicial Development Program’s National Training Coordinators’ Leadership Workshop in Vanuatu. The topics discussed included the following: the inclusion of two national coordinators in the Programme Executive Committee; the creation of a regional forum to discuss development and training issues; an extension and, where appropriate refocus, of current projects including the codes of judicial conduct, customary dispute resolution, training-of-trainers, orientation, judicial administration diagnostic, and judicial monitoring and evaluation; the publishing of workshop materials; PacLII; and services on sexual and gender-based violence.

In late October 2011, High Court Chief Justice Carl B. Ingram attended the National Judicial College course “Managing Challenging Family Law Cases.” This course is for any judge who hears family law cases involving the dissolution of marriages, child custody and visitation, and child support. The faculty provides practice-based tools to assist judges in the management of the most complex issues in domestic relations. After attending this course, participants are able to effectively interview children; apply the latest social science research to craft developmentally appropriate parenting plans; utilize problem-solving court principles to provide litigation alternatives to families in crisis; effectively manage high-conflict cases; ensure safety in cases where domestic violence is indicated; confidently evaluate business financial records; and assess business valuations.

In late November 2011, High Court Associate Justice James H. Plasman attended the Regional Decision Making Training workshop in Apia, Samoa. The workshop was sponsored by the Pacific Judicial Development Program. The objective of the workshop was to develop writing and reasoning skills among participants from across the Pacific. The workshop was conducted by Professor James Raymond, an international expert in the field of teaching judges and legal professionals how to write decisions, opinions, and judgments. The workshop consisted of lectures, group discussions, and focused writing assignments. Professor Raymond proved to be knowledgeable and engaging. The focused writing assignments were a particularly effective tool for learning.

In early December 2011, Chief Clerk of the Courts Ingrid K. Kabua attended the Pacific Judicial Development Program’s Advanced Trainer-of-Trainers Workshop held in Auckland, New Zealand. The aim of this workshop was for participants to learn more advanced training techniques including how to assess participants, improving their knowledge and skills as a trainer. At the workshop, participants were required to spend some time planning a two-day training program (consisting of a number of training sessions) that could be delivered in country. On the final day of the workshop, Clerk Kabua delivered one of the training sessions from the program she developed. Participants, prior to attending the workshop, needed to conduct a training needs analysis, in-country, to work out what will be taught in their two-day training program.

J. Court Rules and Relevant Statutes

In 2011, the Judiciary did not amend the rules of procedure. However, the Nitijela enacted a new Criminal Code to better address the needs of the Republic. This is the first major re-write of the criminal code in 40 years—a major accomplishment. The Nitijela also enacted a bill to combat domestic violence. Also a major accomplishment.

The Judiciary intends to discuss with the Cabinet the need for defense counsel to represent defendants before the District Court on Ebeye and before the Community Courts or, in the alternative, the need to de-criminalize traffic offenses and local government ordinances. As noted earlier, under the Constitution criminal defendants have a right to legal counsel.

IV. THE JUDICIAL SERVICE COMMISSION: JUDICIAL APPOINTMENTS

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

In 2011, the Commission nominated High Court Associated Justice Plasman for re-appointment, nominated pro tem judges for the Supreme Court and High Court, and appointed or renewed the appointments of two Community Court judges.

V. ACCOUNTABILITY: CODES OF CONDUCT AND COMPLAINTS

“To Be Independent, Fair, Efficient, and *Accountable*” is the first goal of the Judiciary’s strategic plan. To enhance its transparency and accountability, the Judiciary has adopted internationally recognized standards for judicial and attorney conduct. These standards are available to the public as are the procedures for lodging complaints against judges, attorneys, and court staff.

With respect to judicial conduct, the Judiciary has adopted the Marshall Islands Code of Judicial Conduct 2008 (revised February 16, 2012). The Code is based upon the Bangalore Principles and the American Bar Association Code of Judicial Conduct. A copy of the Judiciary’s code can be found on its website, www.rmicourts.org/ under the heading “The Marshall Islands and Its Judiciary.” Provisions for lodging and processing complaints against judges starts on page 12 of the code. In 2011, no complaints were lodged against judges.

In the past five years, only three complaints have been lodged against judges. Those three complaints, lodged by related self-represented parties against a single judge, were dismissed as without merit. The proper remedy for parties who are dissatisfied with a judge’s decision is to appeal the judge’s decision. Dissatisfaction with a judge’s decision is not grounds for filing a complaint against the judge. Over the past five years, the percent of complaints per case filed has been less than 1% for all courts and all judges.

With respect to attorney conduct, the Judiciary has adopted the American Bar Association Rules of Professional Responsibility. Provisions for lodging and processing complaints against

attorneys can be found on the Judiciary's website under the heading "Rules of Admission and Practice." The Supreme Court and High Court have appointed an attorney-committee to hear complaints. In 2011, nine complaints were lodged against attorneys, raising the total of pending complaint to 11. The normal number of complaints filed per year is one or two at most. Three of the 11 complaints were withdrawn in 2011, one complaint had, in the view of the attorney-committee, been sufficiently addressed by the Court and publicized in the local newspaper, and one complaint was found by the attorney-committee to be lacking merit. At the end of 2011, six complaints were pending review by the attorney-committee. The committee is scheduled to meet on the pending complaints in October 2012.

With respect to court staff, the Judiciary maintains a complaint box at the courthouses. In 2011, no complaints were lodged against court staff. Nor have there been any complaints lodged against court staff within the past five years.

In 2012, the Judiciary conducted a court user survey to determine the public's perceptions of how the Judiciary is doing. The survey results were very positive and will be covered in detail in the 2012 Annual Report.

VI. FACILITIES, TECHNOLOGY, AND THE LIBRARY

"To provide for and maintain the Judiciary's facilities and technology" is the fifth goal of the Judiciary's strategic plan. Over the past five years, the Judiciary, with the help of the Cabinet and the Nitijela, has renovated the Majuro Courthouse and the Ebeye Courthouse. However, more remains to be done. The Judiciary needs a ground-floor courtroom in Majuro, to install teleconferencing equipment at its Majuro and Ebeye Courthouses, and to maintain its law library.

A. Facilities

The Judiciary takes this opportunity to renew its request for a ground-level courtroom in Majuro. In 2006, the Facilities Engineering Division of the Ministry of Public Works (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 the District Court. The estimated cost of the construction project was \$530,508 in 2006 dollars. The Majuro Courthouse was designed more than 35 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 2006, the Judiciary has renewed its request for funds to construct this much needed extension.

As an alternative, the Judiciary has sought to purchase the Senior Center located next to the Majuro Courthouse. Over the past three years, the Senior Center rarely has been used or even occupied.

In the absence of progress on the above two options, the Judiciary will use the Judiciary Fund to build a smaller ground-floor courtroom under existing Courtroom B on the Laura side.

B. Technology



The courthouses on Majuro and Ebeye are equipped with computers, printers, faxes, and photocopiers and have Internet access (@ 1.5 mps in Majuro and 760kbs in Ebeye). 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 two scanners 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 all but two of its older computers. In 2012, the Judiciary will need to replace the remaining two computers. The upgrade of computers and software remains a critical need, as from time-to-time the hard drives or motherboards of the older computers crash.

The Judiciary is attempting to work with the National Telecommunications Authority to install teleconferencing equipment in the Majuro and Ebeye Courthouses.

C. The Library

The Judiciary has a small, but functional, law library which includes hard copies of the following: United States Supreme Court cases through 2006; American Law Reports First, Second, Third, Fourth, part of Fifth, and Federal; LaFave 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; and others. The Judiciary has up to date online access to United States caselaw and secondary sources through a WestLaw Internet subscription. Also, toward 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.



VII. SALARIES AND COMPENSATION

At current pay levels, the Judiciary is having difficulty retaining and attracting qualified personnel at all levels. In 2009, 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 2008, 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, while recognizing current fiscal constraints, seeks the salary adjustment to account for inflation since 1982. Unfortunately, in 2011 the Nitijela, contrary to the Constitution, eliminated the COLA for judges without proportionally reducing the compensation of others whose salaries must be set by Act (e.g., members of the Cabinet and the Nitijela). See Const., Art. VIII, Sec. 11(2). This action has exacerbated the compensation gap. The Judiciary respectfully asks the Cabinet and the Nitijela to appoint a Nitijela committee to examine judicial compensation.

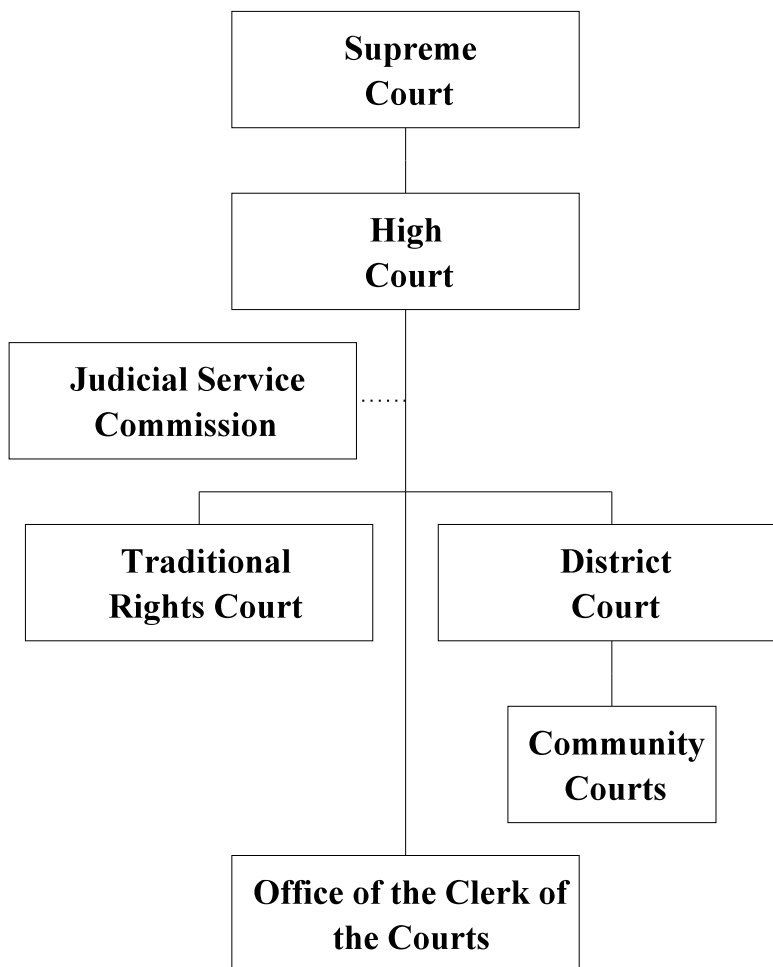
VIII. THE ANNUAL BUDGET

"To administer the courts in accordance with sound management practices" is the forth goal of the Judiciary's strategic plan. This is evidenced not only by the work of the courts described above, but also by the Judiciary's management of the funds made available to it. For FY 2011, the Nitijela appropriated \$884,581.00 for the Judiciary: \$621,257.00 for salaries and wages and \$263,324.00 for all others. A breakdown of the FY 2011 budget and expenditure is set forth below. Most of the unexpended balance is attributable to Marshallese salaries and benefit, particularly Community Court judge positions that were vacant at one time or the other during

the fiscal year. This amount shall be significantly reduced for FY 2012, as more and more Community Court judge positions are being filled.

Code	Description	Budget	Adjustments	Adjusted	Actual	Balance
No.		Original		Budget	Expenditure	
1010	Salary & Wages Exp	191,625.00	(31,625.00)	160,000.00	160,000.00	-
1011	Salary & Wages Mars.	361,337.00	29,818.75	391,155.75	351,433.33	39,722.42
1019	Ebeye Differential	9,683.00	-	9,683.00	8,476.50	1,206.50
1114	Personnel Benf.-Exp.	18,900.00	-	18,900.00	2,124.23	16,775.77
1115	Personnel Benf. Marsh	39,712.00	-	39,712.00	33,245.88	6,466.12
1116	Emp. Insurance Exp.	6,364.00	-	6,364.00	6,596.80	(232.80)
1510	Professional Service	7,000.00	(5,107.60)	1,892.40	1,142.40	750.00
1515	Audit Expense	4,993.00	62.00	5,055.00	6,192.00	(1,137.00)
1520	Contractual Service	10,518.00	(5,506.00)	5,012.00	5,012.00	-
2020	Travel	18,760.00	(3,841.80)	14,918.20	14,918.20	-
2021	Int. Travel	15,000.00	8,401.04	23,401.04	23,401.04	-
2110	COLA	19,592.00	6,099.25	25,691.25	25,691.25	-
2115	Leased Housing	64,269.00	7,731.00	72,000.00	72,000.00	-
2125	Training & Staff Dev.	-	4,630.76	4,630.76	4,630.76	-
2205	Rentals	5,000.00	(1,939.95)	3,060.05	3,060.05	-
2215	Utilities	26,440.00	5,762.70	32,202.70	32,202.70	-
2305	Communication	12,688.00	451.31	13,139.31	12,831.25	308.06
2315	Insurance	750.00	(189.00)	561.00	561.00	-
2320	Printing & Reproduction	2,500.00	(1,478.00)	1,022.00	1,022.00	-
2325	Repairs	10,000.00	(1,463.18)	8,536.82	8,531.42	5.40
2330	Subscript'n, Dues, & Fees	3,000.00	(2,615.65)	384.35	384.35	-
2401	Freight	1,000.00	(880.86)	119.14	119.14	-
2405	Office/Comp. Supplies	1,500.00	-	1,500.00	1,331.88	168.12
2410	POL(Fuel)	18,000.00	(6,968.51)	11,031.49	10,862.34	169.15
2415	Food Stuff	1,500.00	(100.00)	1,400.00	1,336.85	63.15
2420	Books	-	3,827.77	3,827.77	3,418.71	409.06
2440	Equip&Tools	-	11,818.40	11,818.40	11,818.40	-
2445	Water	1,500.00	(500.00)	1,000.00	1,000.00	-
2450	Other Supplies & Mat.	-	9,141.79	9,141.79	9,087.93	53.86
3133	Furniture & Fixture	6,000.00	(3,279.22)	2,720.78	1,995.78	725.00
4510	Judicial Fund	26,950.00	(22,250.00)	4,700.00	-	4,700.00
	TOTAL	884,581.00	-	884,581.00	814,428.19	70,152.81

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 Walter K. Elbon (7/04/010-7/03/20)

Traditional Rights Court Associate Justice Botlang A. Loeak (7/04/010-7/03/14)

Traditional Rights Court Associate Justice Grace L. Leban (7/04/010-7/03/20)

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

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

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

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

Ailinglaplap Community Court Associate Judge Canover Katol (2/14/10-2/13/14)

Ailinglaplap Community Court Associate Judge Mannu Rakin (5/8/10-5/7/14)

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 Jiton 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 Yashuo Jerus (5/12/09-5/11/13)

Jaluit Community Court Associate Judge Tony Hertin (12/4/10-12/3/14)

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

Lib Community Court Presiding Judge Carol Bejang (12/4/10-12/3/14)

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

Maloelap Community Court Presiding Judge Wilton Swain (7/30/11-7/29/15)

Maloelap Community Court Associate Judge Belji Beljejar (7/30/11-7/29/15)

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 Obet Joab (12/4/10-12/3/14)

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 Presiding Judge Morios N. Johnny (12/4/10-12/3/14)
Wotje Community Court Associate Judge Abwi Nako (12/4/10-12/3/14)
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 Ingrid K. Kabua
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
Assistant Clerk of the Courts Hemina Jack Nysta
Bailiff Morrison Riklon, Captain
Bailiff Jukku Benjamin, Sergeant
Bailiff Valentin Boon, Police Officer III
Maintenance Langmeto Peter

**PACIFIC JUDICIAL DEVELOPMENT PROGRAM: 2011 BASELINE
REPORT**