

# **THE JUDICIARY OF THE REPUBLIC OF THE MARSHALL ISLANDS**

## **2012 REPORT**

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**HIGH COURT**  
**OF THE**  
**REPUBLIC OF THE MARSHALL ISLANDS**

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Iokwe, I am pleased to present the 2012 Annual 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 2012. 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.

Submitted with the 2012 Annual Report are our Values, Mission Statement and Vision. For more information about the Judiciary, please contact me or the Chief Clerk of the Courts at the above address.

Carl B. Ingram  
Chief Justice, High Court  
Date: September 18, 2013



## OUR VALUES:

### *Tomak, Jenok, im Aurok Ko Ad:*

The Marshall Islands Judiciary holds the following values and desires to operate in a manner that is, and will be perceived as:

*Jikin Ekajet ko an Marshall Islands rej debij im jermal wot iumin tomak im aurok kein kab konan eo non air jermal ilo wawein ko renaj koman bwe armej ren kalimjeklok ra eo an Jikin Ekajet bwe ej juon eo ej einwot in:*

- ▶ accessible
- ▶ accountable
- ▶ competent
- ▶ consistent
- ▶ efficient
- ▶ fair and impartial
- ▶ independent
- ▶ respectful

*ebellok non aoleb armej  
etiljek, ekkeke, im maron uwak non jermal ko an  
ekakemooj im emmon an komane jermal eo an  
ej jokkin wot juon an komane jermal eo an  
ebolemen im tiljek ilo an kakke aikuij ko  
ej jermal jimwe ilo ejelok kalijeklok im jeb  
ejenolok im jutaklok ian make  
ewor an kautiej armej*

- ▶ service-oriented, and *etiljek, jela nae, jela kunaan, im jela karejar iben armej: im*
- ▶ valuing custom and tradition. *ej kaurok im kautiej manit im men ko bwinnid im ad jolet.*

These values form the basis for the Judiciary’s Mission Statement and Vision.

*Tomak im aurok kein rej ejaake bedbed eo non kottobar im ettonak kein ilal.*

## **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-Ei 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:**

### ***Ettonak Eo:***

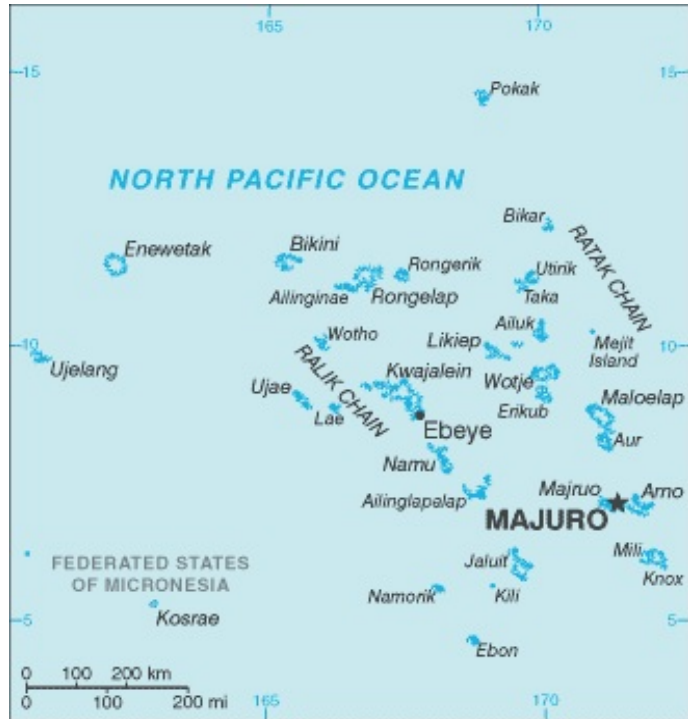
The Courts of the Marshall Islands will be independent, impartial, well-managed, and respected, providing justice to all who come before them.

*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.*

# 2012 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, located 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 2012, the estimated population of the Marshall Islands was 53,158. However, estimates vary greatly.



After more than three decades of United States administration under the United Nations Trust Territory of the Pacific Islands (TTPI), the Marshall Islands, as part of a process toward self-government, commenced constitutional government on May 1, 1979. Seven and half years later, on October 21, 1986, the Marshall Islands, formally regained independence through an agreement with the United States, the Compact of Free Association and is self-governing under its own constitution.

Under the Constitution, the Marshall Islands has a Westminster-style government with a 33-member parliament called the Nitijela. At least every four years, after national elections, the Nitijela elects from its members a president, who in turn selects eight to ten other Nitijela members for his or her cabinet. The Constitution vests legislative authority in the Nitijela, executive authority in the Cabinet, and judicial authority in the judiciary (“Judiciary”).



Article VI, of the Constitution, provides for a judiciary “independent of the legislative and executive powers.” The Marshall Islands Judiciary comprises five levels of courts, as well as a

Judicial Service Commission and court staff. The courts include the Supreme Court, the High Court, the Traditional Rights Court, the District Court, and the Community Courts. 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 2012 is attached as Appendix 2.

In the sections that follow, this report summarizes the Judiciary's operations and accomplishments in calendar year 2012, as well as its challenges, including the need for 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;
- Facilities, Technology, and the Library;
- Salaries and Compensation; and
- The Annual Budget.

## **II. SIGNIFICANT EVENTS OR ACCOMPLISHMENTS**

Over two weeks from April 9 to 20, 2012, the Judiciary conducted a user survey at both the Majuro Courthouse and the Ebeye Courthouse. The Majuro Courthouse had 101 survey participants, and the Ebeye Courthouse had four. The survey results are attached as Appendix 3.

We were pleasantly surprised to learn that court users rate the judiciary higher than do court staff and judges. For example, in response to the question "Are people able to get their business with the court done in a reasonable amount of time?" 83.33% of court staff said yes; 75% of judges said yes; and 95% percent of court users said yes.

Generally, court users gave the Judiciary high marks in timeliness, safety and security, responsiveness to information requests, respect, clear signs, fair and reasonable outcomes, equality of treatment, and clarity in delivery of services. However, in Ebeye users clearly want better facilities and more attorneys. This is a matter the Judiciary will have to address with the Cabinet and the Nitijela. In each of our recent annual reports, the Judiciary has called for the Government to station attorneys full-time on Ebeye. The residents of Ebeye need a full-time attorney from the Office of the Attorney-General, the Office of the Public Defender, and the Micronesian Legal Aid Corporation.

In addition to the user survey, as part of its outreach effort the Judiciary continues to provide for public and private school students "learning tours" of the courts.



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

The goals of the Judiciary include to be efficient, to produce quality decisions, and to be accessible. The Judiciary's efficiency can be measured by clearance rates and average duration. The quality of decisions can be measured by appeals and cases overturned on appeal. Accessibility can be measured by the fee structure, cases heard on circuit, free legal counsel, and the availability of forms. To this end, the 2012 Annual Report reviews for all five levels of the Judiciary — the Supreme Court, the High Court, the Traditional Rights Court, the District Court, and the Community Courts — jurisdiction, staffing, and the work of the courts, as well as continuing professional development 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 and re-appointed to second 10-year to commence in September 2013. 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 2012, 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 2012 case and workload are summarized as follows.

At the beginning of 2012, there were eight matters pending before the Supreme Court, and in 2012, another four matters were filed, for a total of 12. The Supreme Court cleared six matters in 2012: four dormant or abandoned matters were dismissed; one matter was dismissed by the parties; and one petition was dismissed without prejudice. By the end of 2012, six cases remained.



The Supreme Court's goal is to maintain an annual clearance rate of 100%. This, the Supreme Court has done over the past three years. In 2012, litigants filed four cases and the Supreme Court cleared six cases from all years: an annual clearance rate of 150.00% (6/4).

The average duration of the six cases cleared in 2012 was 1,883.5 days. However, if one excludes the four dormant or abandoned matters, the average duration for the remaining two cases was only 57.7 days.

In none of the cases pending in 2012 did the parties seek a fee waiver or legal aid. The filing fee for appeals is \$50.00.

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

Aside from the Supreme Court's regular docket, in 2012, Supreme Court Chief Justice Cadra, together with High Court Chief Justice Carl B. Ingram, admitted two attorneys to the practice of law in the Republic: one Marshallese employed by the Office of the Public Defender and one non-citizen employed by the Office of the Attorney-General.

## **B. High Court**

The highest court at the trial level is the 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 in October 2003 and re-appointed for a second 10-year term to commence in October 2013. Associate Justice Plasman was re-appointed to a second

4-year term commencing in January 2012. Both are United States expatriates with more than 25-years experience in the Marshall Islands.

During the 30 years the Marshall Islands Judiciary has been in operation, one Marshallese attorney has served on the High Court bench. He served for over six years attaining the position of chief justice. Although highly respected, he left to become a member of the parliament, the Nitijela, which continues to attract many of the best Marshallese attorneys.



In addition to the two justices, the Chief Clerk of the Courts and five assistant clerks serve the High Court as needed. The High Court's 2012 case statistics for civil cases, probate cases, criminal cases, juvenile cases, and caseloads are set forth below.

### **1. Civil Cases (other than Probate Cases)**

The High Court's 2012 statistics for civil cases (other than probate cases) cover the following:

- the number and nature of cases filed in 2012;
- the clearance rates (annual 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 in terms of fee waiver, cases heard on circuit, legal aid, and forms.

#### **a. Number and Nature of Cases Filed in 2012**

In 2012, plaintiffs and petitioners filed in the High Court 258 new civil cases (other than probate cases): 230 in Majuro and 28 in Ebeye.

The 230 civil cases filed in Majuro in 2012 breakdown as follows:

- more than half, 142, involved domestic matters (including 56 customary adoptions, 40 guardianships, 25 legal adoptions, two domestic violence cases (both filed by women and both dismissed: one for failure to serve the defendant; and the other by stipulation), 11 divorces, six child custody and support cases, and two name change cases);
- 12 citizenship cases;
- 40 collection cases;
- 18 land rights or land lease cases; and
- 18 other cases.

Of the 230 civil cases filed in Majuro in 2012, 157 were cleared in 2012, leaving 73 pending at the end of the year. The three largest categories of pending cases were as follows: domestic matters, 19; collection cases, 15; and land or lease cases, 14.

Of the 28 civil cases filed in Ebeye in 2012, 14 were customary adoption cases, five guardianship cases, seven name-change cases, and two divorce cases. In 2012, 13 of the 28 cases were cleared, leaving 15 pending at the end of the year. Of the 15 pending Ebeye civil cases pending from 2012, 11 were customary adoption cases, three were name change cases, and one was a divorce.

**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 two different ways:

- the annual clearance rate (cases from all years cleared in 2012 divided by cases filed in 2012); and
- the clearance rate for cases filed within the past five years (2008-2012 cases cleared in 2008-2012).

In past years, the High Court also reported its clearance rate since the inception of the court (1982). However, with the reduction in the Court’s backlog, the clearance rate since inception is high, 97%, and is likely to remain so over time even as more cases are filed. Accordingly, for purposes of trend analysis it is no longer necessary, or revealing, to cite the clearance rate since inception figure.

**(i) Annual Clearance Rate, 144.96%**

The High Court’s 2012 annual clearance rate for civil cases was 144.96% (374/258). During 2012, the High Court, counsel, and parties closed 374 civil cases from all years. And as noted above, parties filed 258 new cases in 2012. The number of cases closed, 374, exceeded the number of cases filed in 2012, 258, by 116. The High Court’s goal is to maintain an annual clearance rate for civil cases of 100%, or better, for each year. This, the High Court has done over the past five years.

**(ii) Clearance Rate for Cases Filed in the Past Five Years, 82.29%**

A second 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 2008 through 2012 the clearance rate is 82.29%. This is an increase of about 3.03% over 2011's figure of 79.26%.

CIVIL	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island											
Majuro	242	148	94	33	61	9	52	24	28	4	24
Ebeye	33	9	24	11	13	1	12	0	12	2	10

CIVIL	CY 2009 CASES			Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island									
Majuro	257	163	94	37	57	25	32	14	18
Ebeye	25	16	9	0	9	0	9	0	9

CIVIL	CY 2010 CASES			Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island							
Majuro	214	129	85	46	39	17	22
Ebeye	14	5	9	0	9	3	6

CIVIL	CY 2011 CASES			Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending
Island					
Majuro	225	139	86	42	44
Ebeye	32	12	20	7	13

During the 5-year period (2008-2012):

Total Cases Filed: 1,299

Total Cleared: 1,069

Total Pending: 230

Clearance: 82.29%

\* As of 12/31/2012

CIVIL	CY 2012 CASES		
	Filed	Cleared	Pending
Island			
Majuro	230	158	72
Ebeye	28	15	12

As the above chart shows, from cases filed in 2008 through 2012, 230 cases remaining pending. The three largest categories of pending cases were land cases, 50, collection cases, 30, and citizenship cases, 29. The High Court regularly instructs counsel to move their cases forward and issues orders for counsel to show cause why dormant cases should not be dismissed. The High Court is making a particular effort to get land cases moving. Land cases make up over 38 to 39% of the pending cases, but are only 5 to 6% of the cases filed.

### c. Average Duration of Civil Cases Cleared in 2012

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, 2008 to 2012, the average durations of cleared cases in days were as follows:

Year	Cases Filed in Year	Cases Cleared as of 12/31/12	Avg Duration of Cleared Cases
2008	242	218	263.59
2009	257	239	241.50
2010	215	192	187.95
2011	225	181	106.64
2012	230	157	23.72

#### **d. Appeals**

In addition to measuring 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 2012, the number and percentage of High Court cases appealed remained very low. There were three appeals and one petition of High Court civil decisions to the Supreme Court: four appeals or petitions versus 258 cases filed in the High Court, or 1.55%.

Furthermore, in 2012, no High Court cases or decisions were overturned on appeal. The Supreme Court denied the one petition, the parties dismissed one appeal, and at the end of the year the two 2012 appeals remained. Also in 2012, the Supreme Court dismissed three appeals from previous years. That is, in 2012, no High Court civil cases from 2012, or from previous years, were overturned on appeal. The percentage of cases overturned on appeal was 0%.

#### **e. Affordability and Accessibility: Fee Waiver; Cases Heard on Circuit; Legal Aid; and Forms**

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

##### **(i) Fee Waiver**

Although, by rule and statute, fee waivers are available upon a showing of need, in none of the 2012 High Court cases did parties request a fee waiver. The filing fee for most types of High Court cases is \$25.00. Fees for admiralty cases, non-resident corporate cases, international adoptions, and citizenship cases are substantially higher.

##### **(ii) Cases Heard on Circuit**

Of the 258 civil cases filed in 2012, 28 cases (10.85%) were Ebeye circuit cases. Of the 239 civil cases cleared in 2012 (from cases filed in 2008 through 2012), 26 cases (10.88%) were Ebeye circuit cases.

##### **(iii) Free Legal Services**

In 2012, the use of free legal services remained high. In 173 of the 258 civil cases filed in 2012 (67.05%), 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. Also in 2012, two petitioners were assigned free court-appointed attorneys for potential land cases. For FY 2012, the Nitijela appropriated \$25,000 to the Judiciary to pay court-appointed

attorneys to represent those who cannot afford an attorney and for conflict reasons cannot use the Micronesian Legal Services Corporation or the Office of the Public Defender.

**(iv) Forms**

The Judiciary has long used forms in small claims cases, name change petitions, and guardianship cases. In 2013, the Judiciary put forms on its website for confirmation of customary adoptions, change of name petitions, fee and cost waiver, domestic violence temporary protection orders, and guardianship petitions, as well as for small claims forms.

**2. Probate Cases**

Set forth below are the High Court’s 2012 case statistics for probate cases. These statistics cover the following:

- the number of probate cases filed in 2012;
- the clearance rates (annual 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 in terms of fee waiver, cases heard on circuit, and legal aid.

**a. Number of Cases**

Nine probate cases were filed in 2012. Up seven from two filed in 2011.

**b. Clearance Rates**

The High Court’s goal is to maintain an annual clearance rate for probate cases of 100%, or better, for each year. This, the High Court has done for the past five years. In 2012, the High Court cleared 12 probate cases: seven of the nine 2012 probate cases; one 2010 case; three 2007 cases; and one 2002 case, for a 2012 clearance rate of 133% (12/9).

The High Court’s five-year clearance rate for probate cases also remains high at 91.67%. As of the end of 2012, only four probate matters filed since 2008 remained pending: two of the four cases have been cleared to date in 2013. The High Court will seek to clear the remaining cases, although sometimes counsel cannot locate their clients.

PROBATE	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island											
Majuro	20	16	4	4	0	0	0	0	0	0	0
Ebeye	2	2	0	0	0	0	0	0	0	0	0

PROBATE	CY 2009 CASES			Status in CY 2010		Status in CY 2011		Status in CY 2012	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	11	9	2	2	0	0	0	0	0
Ebeye	0	0	0	0	0	0	0	0	0

PROBATE	CY 2010 CASES			Status in CY 2011		Status in CY 2012	
Island	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Majuro	4	0	0	1	3	1	2
Ebeye	0	0	0	0	0	0	0

PROBATE	CY 2011 CASES			Status in CY 2012	
Island	Filed	Cleared	Pending	Cleared	Pending
Majuro	2	2	0	0	0
Ebeye	0	0	0	0	0

During the 5-year period (2008-2012):

Total Cases Filed: 48

Total Cleared: 44

Total Pending: 4

Clearance: 91.67%

\* As of 12/31/2012

PROBATE	CY 2012 CASES		
Island	Filed	Cleared	Pending
Majuro	8	7	1
Ebeye	1	0	1

### c. Average Duration of Cases

The average duration of the 12 probate cases cleared in 2012 was 842.33 days. If one does not count the five old or abandoned cases, the average duration of the seven 2012 probate cases cleared in 2012 was only 52.86 days. Unless an objection is filed, most probate cases should be cleared within 7 to 8 weeks of filing, 49 to 56 days.

### d. Appeals

In 2012, 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. Affordability and 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 2012 probate cases was a fee waiver requested. The filing fee for probate cases is \$25, \$100 for estates over \$7,000.



Of the nine probate cases filed in 2012, one was an Ebeye circuit case (8.33%). Of the 12 probate cases cleared in 2012 (from all years), none were Ebeye circuit cases.

In 11 of the 12 probate cases cleared in 2012 (91.67%), either the petitioner or an objector was represented by the Legal Services Corporation or the Office of the Public Defender.

### **3. Criminal Cases**

Set forth below are the High Court's 2012 case statistics for criminal cases. These statistics cover the following:

- the number and nature of criminal cases filed in 2012;
- the clearance rates (annual 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 2012, the Office of the Attorney-General (A-G) filed only 26 criminal cases in the High Court: 21 in Majuro and 5 in Ebeye. Of the 21 cases filed in Majuro in 2012, two were negligent homicides; nine aggravated assaults or assaults with a deadly weapon; one arson; four thefts; one money laundering; one violation of fishing license; and three appeals from the District Court for selling alcohol after hours. Of the five felony cases filed in Ebeye in 2012, one involved theft by a gang of young men and the other four involved assaultive behavior.

A woman was the defendant in only one of the 21 criminal cases filed in Majuro in 2012 (4.76%). In none of the five Ebeye cases was the defendant a woman.

Women were victims in six of the 21 criminal cases filed in Majuro in 2012. Two of the six cases involved domestic violence, but were not charged as such. In neither case was a protective order requested. Of the five Ebeye cases, a woman was the victim in one case. That case involved domestic violence, the continuous sexual assault of a minor female family member. Counseling to victims of domestic violence and sexual violence is available through NGOs, including Youth-to-Youth in Health and Women United Together Marshall Islands. With the two civil domestic violence cases mentioned earlier and the three criminal cases mentioned above, the courts saw five cases in 2012 involving domestic violence.

#### **b. Clearance Rates**

As with civil cases, the High Court calculates and examines its clearance rates for criminal cases two different ways:

- the annual clearance rate (cases from all years cleared in 2012 divided by cases filed in 2012); and

- the clearance rate for cases filed within the past five years (2008-2012 cases cleared in 2008-2012).

**(i) Annual Clearance Rate, 246.15%**

In 2012, the High Court cleared 64 criminal cases from all years (including one filed before 2008), 38 more than the 26 cases filed in 2012, resulting in a 2012 clearance rate of 246.15% (64/26). This very high clearance rate is a result of clearing a number of government fraud cases that were filed in 2011 and off sets the low 2011 criminal case clearance rate of 69.64% (39/56). Over the two-year period, the clearance rate was 125.61% (103/82). This is in line with the High Court's goal is to maintain an annual clearance rate for criminal cases of 100%, or better, per year.

By the end of 2012, approximately 24 criminal cases remained pending. The High Court has encouraged the A-G and defense counsel to resolve criminal cases without delay, particularly those that are more than a year old, about 13. Six of the 13 old cases cannot be resolved because the defendants have fled the Republic for the United States or have fled Majuro or Ebeye for the outer islands.

**(ii) Clearance Rate for Cases Filed Within the Past Five Years, 89.18%**

For criminal cases filed and resolved in the past five years, the clearance rate for criminal cases is 89.18%, about 16.85% better than last year's 72.33%. As noted above, this jump in the five-year clearance rate is the result of clearing a number of government-fraud cases.

CRIMINAL	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island											
Majuro	27	10	17	13	4	1	3	2	1	1	0
Ebeye	19	10	9	1	8	1	7	0	7	4	3

CRIMINAL	CY 2009 CASES			Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island									
Majuro	17	13	4	4	0	0	0	0	0
Ebeye	10	5	5	2	3	1	2	2	0

CRIMINAL	CY 2010 CASES			Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island							
Majuro	34	14	20	12	8	6	2
Ebeye	5	1	4	4	0	0	0

During the 5-year period (2008-2012):

Total Cases Filed: 194

Total Cleared: 173

Total Pending: 21

Clearance: 89.18%

\* As of 12/31/2012

CRIMINAL	CY 2011 CASES			Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending
Island					
Majuro	53	20	33	28	5
Ebeye	3	0	3	3	0

CRIMINAL	CY 2012 CASES		
	Filed	Cleared	Pending
Island			
Majuro	21	12	9
Ebeye	5	3	2

### c. Average Duration of Cases Cleared in 2012

For Majuro criminal cases filed in the past five years (2008-2012), the average durations of cleared cases in days were as follows:

Year	Cases Filed in Year	Cases Cleared as of 12/31/12	Avg Duration of Cleared Cases
2008	27	27	349.04
2009	17	17	150.82
2010	34	32	270.59
2011	53	48	276.04
2012	21	12	119.00

### d. Appeals

As an indication of the quality of High Court criminal decisions, in 2012 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. Affordability and 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 may 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 26 criminal cases filed in 2012, five cases (19.23%) were Ebeye circuit cases. Of the 64 criminal cases cleared in 2012, 16 cases (25%) were Ebeye circuit cases.

In 2012, as in other years, most criminal defendants were represented by the Office of the Public Defender, the Micronesia Legal Services Corporation, or a court-appointed attorney paid

for by legal aid funds (two). In 2012, the defendants received legal assistance at no cost in 23 of 26 cases (88.46%). This percent is typical of most years.

#### 4. Juvenile Cases

In 2012, the Office of the Attorney-General filed no juvenile cases in the High Court. Nor were any juvenile cases pending on appeal. Since 2006, 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 an annual clearance rate for juvenile cases of 100% or to dispose of juvenile cases within six months of filing.

JUVENILE	CY 2008 CASES			Status in CY 2009		Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island											
Majuro	2	2	0	0	0	0	0	0	0	0	0
Ebeye	0	0	0	0	0	0	0	0	0	0	0

JUVENILE	CY 2009 CASES			Status in CY 2010		Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island									
Majuro	0	0	0	0	0	0	0	0	0
Ebeye	2	1	1	1	0	0	0	0	0

JUVENILE	CY 2010 CASES			Status in CY 2011		Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending	Cleared	Pending
Island							
Majuro	1	0	1	1	0	0	0
Ebeye	0	0	0	0	0	0	0

JUVENILE	CY 2011 CASES			Status in CY 2012	
	Filed	Cleared	Pending	Cleared	Pending
Island					
Majuro	0	0	0	0	0
Ebeye	0	0	0	0	0

During the 5-year period (2008-2012):

Total Cases Filed: 5

Total Cleared: 5

Total Pending: 0

Clearance Rate: 100%

\* As of 12/31/2012

JUVENILE	CY 2012 CASES		
	Filed	Cleared	Pending
Island			
Majuro	0	0	0
Ebeye	0	0	0

## 5. Caseloads for Judges and Clerks

The total number of all High Court cases filed in 2012 was 288. For the two High Court Justices this equates to an average caseload of 144 new cases for 2012. These figures are consistent with recent years, although the figures fluctuate:

- for 2011, 157.5 cases per justice;
- for 2010, 136 cases per justice;
- for 2009, 160 cases per justice; and
- for 2008, 171.5 cases per justice.

Generally, cases are assigned between the two judges on an alternating basis.

For the six clerks that regularly process High Court cases, their 2012 caseload was 48 new cases per clerk. As with the justices, the clerks' caseloads fluctuate from year-to-year within a limited range:

- for 2011, 52.50 cases per clerk;
- for 2010, 45.33 cases per clerk;
- for 2009, 53.33 cases per clerk; and
- for 2008, 57.17 cases per clerk.

There is some specialization among the clerks, but all clerks handle most functions.

## 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

Supporting the High Court at the trial level is the Traditional Rights Court ("TRC"). The 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, Iroiiedrik (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 three 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 jermal member) for a term of 10 years. Unfortunately, Judge Loeak passed away in December 2012. Judge Loeak's position has been filled by the appointment of Nixon David for a term of four years. All TRC judges are lay judges who receive specialized training.

One of the three TRC 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 female judges.

However, only two of the Judiciary's approximately 33 judges are women: one Traditional Rights Court judge and one Community Court judge.



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 2012, the TRC issued a decision in one land case and had approximately 5 cases under active review. At the time of this report, approximately 17 cases are pending before the TRC.

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

#### **D. District Court**

In addition to the TRC, below the High Court at the trial level is the 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 2012, 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 2012 case statistics and case workload are set forth below.



**1. Majuro.** In 2012 on Majuro, 3,220 cases were filed in the District Court: 334 small claims cases (228 cleared and 106 pending); six other civil cases (four cleared and two pending); 1,672 traffic cases (1,180 cleared and 492 pending); 154 juvenile cases (64 cleared and 90 pending); and 1,054 criminal cases and local government ordinance cases (655 cleared and 399 pending).

The average number of cases heard by the two District Court judges in Majuro was 1,610, and the average number of cases per court clerk (one from the Judiciary and two from Majuro Atoll Local Government) was 1,073.

As an indication of the quality of District Court decisions, one 2012 Majuro District Court cases was appealed and it was affirmed.

To promote affordability and accessibility, the District Court only charges a filing fee of \$5.00 in its small claims cases. Also, the Judiciary provides forms for small claim users, which can be found at the clerks' counter and on-line at the Judiciary's website. As in the High Court, fee waivers are available, but in 2012, 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 88 of the 1,180 of cleared traffic cases (74.58%) and in one of the 64 cleared juvenile cases (1.56 %). The PD also represented most of the defendants that went to trial in criminal cases. Others appeared *pro se*.

**2. Ebeye.** In 2012 on Ebeye, 349 cases were filed in the District Court: 66 small claim cases (63 cleared and three pending); 50 traffic cases (47 cleared and three pending); no juvenile cases;



five criminal cases (four cleared and one pending); and 228 local government ordinance cases (228 cleared and none pending).

The average number of cases heard per District Court judge in Ebeye was 349, and the average number of cases per court clerk was the same.

No 2012 Ebeye District Court cases were appealed.

In all Ebeye District Court small claims cases, the parties were self-represented. The PD represented the defendant in all of the 47 traffic cases that were cleared (100%), in all of the four criminal cases that were cleared (100%), and in 3 ordinance cases that were contested. In the remaining 225 ordinance cases, the defendant paid the ticket without contesting the matter.

## E. Community Courts

On the smaller outer islands the Judiciary has 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 2012, there were 24 serving Community Court judges and six vacancies. Currently, there are six vacancies for which the Commission is waiting recommendations from local government councils: Arno (1); Enewetak (1); Jaluit (1); Rongelap (1); Utrik (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 2012, the Judiciary held a one-week





workshop for Community Court judges. The Judiciary 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 Micronesians 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**



In addition to deciding cases, the courts help the people through confirming delayed registrations of births and death, performing marriages, and notarizing documents. The courts offer these services on no or little notice. However, couples usually schedule marriages one to three days in advance. Marriages by non-citizens must first be approved by the Ministry of Foreign Affairs.

**1. Majuro.** In 2012 on Majuro, the High Court and the District Court processed 423 delayed registrations of birth, three delayed registrations of death, and performed 70 marriages. The clerks notarized 703 documents. Upon request, clerks will go the hospital or homes to notarize documents for those who cannot make it to the courthouses.

**2. Ebeye.** In 2012 on Ebeye, the District Court processed 12 delayed registrations of birth, no delayed registrations of death, and performed seven marriages. The clerks notarized 264 documents.

The five-year totals for birth, deaths, marriages, and notarizations are as shown below.

	2008	2009	2010	2011	2012
<b>Births</b>	423	297	253	289	233
<b>Deaths</b>	4	10	3	4	3
<b>Marriages</b>	57	44	57	49	77
<b>Notarizations</b>	779	851	809	962	967

## H. Court Staff

In 2012, 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 chief clerk and four of the six assistant clerks are women. A listing of the judiciary personnel is attached as Appendix 2.



In addition to their administrative responsibilities, 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. Also, the clerks assist unrepresented court users complete forms.

The Office of the Clerk of the Courts is open 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., Mondays through Fridays, except holidays. The contact information for the Majuro and the Ebeye Courthouses is as follows:

Majuro Courthouse  
P.O. Box B  
Majuro, MH 96960  
Tel.: (011-692) 625-3201/3297  
Fax: (011-692) 625-3323  
Email: [rmicourts@ntamar.net](mailto:rmicourts@ntamar.net)

Ebeye Courthouse  
P.O. Box 5944  
Ebeye, Kwajalein Atoll, MH 96970  
Tel.: (011-692) 329-4032  
Fax: (011-692) 329-3032

The Majuro Courthouse is located in Uliga Village, Majuro Atoll, across from the Uliga Dock.

The Ebeye Courthouse is located behind the Police Station on the oceanside.

## I. Professional Development 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 2012 the Judiciary provided and facilitated professional development opportunities

for both judges and court staff. All permanent justices and judges of the Supreme Court, the High Court, the Traditional Rights Court, and the District Court attended such workshops and conferences, as did almost two-thirds of the Community Court judges. Also, five of the seven clerks hired before December attended professional development workshops. The participants found that the programs met or exceeded their expectations, addressing recognized training needs. Funding for such programs came from the Judiciary’s annual operating budget, the United States Department of the Interior, Australia (“AUSAID”), and New Zealand (“MFAT”). The Judiciary’s 2012 professional development activities are set forth below.



In late February 2012, Chief Clerk of the Courts Ingrid Kabua, and Assistant Clerks Travis Joe and Hainrick Moore attended IT training on Guam. The training was conducted by Ninth Circuit IT staff (Hank Herbert and Stephen Sue), as well as trainers from the New Horizon training facility on Guam. The training covered Windows 7, COOP for IT, low-cost communication options for remote courts, and training on Microsoft Access. Most important, Chief Clerk of the Court Ingrid Kabua presented the RMI Judiciary’s use of Microsoft Access for civil and criminal databases: a great teaching experience for her.

In early May 2012, High Court Chief Justice Carl Ingram attended the National Judicial College course “The Fourth Amendment: Search and Seizure Training for Trial Judges (JS 645)” and the related May 3 and 4, 2012 NJC course “Technology-Assisted Crimes Against Children: Computer Search and Seizure and Other Pre-Trial Issues” — important workshops in the fight against child abuse.

Also in early May 2012, District Court Associate Judge Tarry Paul attended the May 7 to 10, 2012 National Judicial College course “Advanced Evidence (JS 617).” This course offered participants the necessary skills to rule on evidentiary issues with greater accuracy and confidence; ensure baseline relevancy issues are met, and affirm that probative value outweighs unfair prejudice; analyze quickly whether character evidence, including prior bad acts, is admissible; describe when habit and custom evidence may be admitted; rule on impeachment objections after analyzing rules regarding bias, capacity and prior inconsistent statements; outline an analytical scheme for ruling on hearsay objections and the exceptions; recognize the judicial role of gatekeeper; and confidently rule on issues relating to lay opinion and expert opinion testimony.

June 5 to 7, 2012, Assistant Clerks of the Courts Travis Joe and Hemina Jack-Nysta attended a training workshop in Pohnpei, FSM, on the FTR court recording machine, including how to configure and connect PCs to the FTR recorder and how to setup the new FTR Touch Recorder. The FTR recorder is a digital recording device — much better than the tape recorders.



In early June 2012, Traditional Rights Court (TRC) Chief Judge Walter Elbon, TRC Associate Judge Botlang Loeak, and District Court Presiding Judge Milton Zackios attended the National Judicial College course “Best Practices in Handling Cases with Self-Represented Litigants.” The course was designed to help participants recognize when an indigent self-represented party may be entitled to court-appointed counsel; move a self-represented party civil docket expeditiously; use settlement techniques in cases involving self-represented litigants; recognize the limits on assisting self-represented parties; and apply innovative methods and strategies to ensure that these litigants have proper access to the justice system. Also, participants will be able to describe some of the best practices for managing these difficult cases. Dealing with self-represented litigants is an important skill.

Also in early June 2012, District Court Associate Judge Jimata Kabua attended the National Judicial College course “Traffic Issues of the 21<sup>st</sup> Century.” After attending the course, participants are able to improve public perception of the courts; manage and adjudicate fairly and efficiently; identify the behaviors that impair safe driving; explain the basic provisions relating to commercial motor vehicle laws and regulations; identify key issues associated with special driving populations, including younger and older drivers; summarize new technology and practices used in traffic law enforcement, adjudication, and sentencing; and fully understand cultural diversity issues, including racial profiling.

In early July 2012, High Court Associate Justice James H. Plasman attended the National Judicial College course “Domestic Violence.” Domestic violence cases are some of the most emotionally challenging cases that judges handle. After this course, judges are able to describe the dynamics of both batterers and victims, and evaluate the effectiveness of batterers’ programs and other treatment modalities; assess the information necessary to grant protection orders; articulate the effects of domestic violence on children; effectively manage pretrial issues and trials; and rule on evidentiary issues. The Judiciary is prepared to respond to DV cases.

In mid July 2012, TRC Associate Judge Grace Leban attended the National Judicial College course “Decision Making.” This course familiarizes participants with the factors that affect the decision-making process and assist them in the analysis of their own thinking and style. After attending this course, participants are able to recognize their own decision-making styles; 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 August 2012, Supreme Court Chief Justice Daniel Cadra and High Court Chief Justice Carl B. Ingram attended the Ninth Circuit Judicial Conference in Maui, Hawaii. Program topics included the following: a United States Supreme Court Review; privacy and the Internet; and social networking among others.

In late August 2012, Assistant Clerks of the Courts Nikki Holly and Hemina Jack-Nysta, responsible for the RMI Judiciary’s finances, attended the 23<sup>th</sup> Annual Conference of the Association of Pacific Islands Public Auditors (“APIPA”) held in Palau. The 2012 APIPA conference offered four tracks: Audit, Audit Supervisor, Finance, and Advanced Finance. The two clerks attended the Finance track, which included the following courses: Government Accounting Bootcamp; Federal Grants Management; and Writing for Finance Professionals.

In early August 2012, sixteen Community Court Judges and one District Court Judge (a trainer) attended a five-day training session for Community Court Judges in Majuro. The training was held in the Majuro Courthouse. High Court justices, District Court judges, and a senior court staff delivered presentations on court procedures, judicial ethics, and judicial skills.

In early September 2012, three District Court judges, Presiding Judge Milton Zackios and Associate Judges Jimata Kabua and Tarry Paul, attended the 14<sup>th</sup> FSM Judicial Conference in Kolonia, Pohnpei, FSM, which included a workshop on leadership conducted by Dr. Tom Watson, a Guam-based communications expert, and Contracts and Torts Courses conducted by Michigan State Court Judge Daniel Ryan.

In mid October 2012, District Court Presiding Judge Milton Zackios attended the National Judicial College course “Sentencing Motor Vehicle Law Offender.” The rate of recidivism in motor vehicle offenses is high and judges need the most up-to-date information to assist them in reducing it. This course provides judges with an overview of sentencing practices and various options for traffic offenses. After this course, participants are able to develop plans for sentencing various motor vehicle law offenders such as younger drivers, older drivers, impaired offenders (both high BAC and repeat). Participants become acquainted with the consequences of traffic offenses for the non-citizen offender as well as the non-licensed driver. Participants are able to recognize appointment of counsel issues at critical stages; identify when screening and assessments tools should be used; draft valid conditions of probation with sentencing alternatives; and identify technology used in pre-and-post-sentencing scenarios to fashion and implement effective sentences.

In early November 2012, High Court Chief Justice Carl B. Ingram attended the November 5 to 8, 2012 20<sup>th</sup> Pacific Judicial Conference (“2012 PJC”) held in Honiara, Solomon Islands. The 2012 PJC included sessions on judicial ethics, specialty and therapeutic courts, the separation of powers, criminal law (sentencing), access to justice, and others. At the conference Chief Justice Ingram presented a paper on leadership in times of crisis. The paper has been well received in the Pacific judicial community.



In early December 2012, Associate Traditional Rights Court Judge Grace L. Leban and Associate District Court Judge Jimata Kabua attended a Pacific Judicial Development Programme orientation workshop for lay judges covering 23 subjects and facilitated by eight

Pacific Islanders. The subjects included the following: judicial conduct and ethics; vulnerable people; family and sexual violence; juveniles; elements of the offense; first appearances; verdicts; sentencing; ADR; and more.

## **J. Court Rules and Relevant Statutes**

To enhance access to justice, the Judiciary regularly reviews and amends or seeks amendment of its rules of procedure and evidence. In the past 10 years, the Judiciary has proposed or adopted 20 sets of amendments. In 2012, however, the Judiciary did not amend the rules of procedure or seek amendment of the Rules of Evidence, nor did the Nitijela enact any legislation that directly affects the work of the Judiciary.

In 2013, the Judiciary has submitted to Cabinet for its consideration legislation regarding the following: the terms of Traditional Rights Court and District Court judges; a “needs test” for the Office of the Public Defender; legal representation for the Judiciary and the use of local counsel as pro tem judges; increasing fees for service of process; increasing the term, salary, and jurisdiction of Community Court judges; and de-criminalizing traffic offenses. Also in 2013, the Judiciary updated the Rules of Civil Procedures to make them more readable for lay readers.

## **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 2012, the Commission nominated to the Cabinet Supreme Court Chief Justice Daniel N. Cadra for re-appointment, High Court Chief Justice Carl B. Ingram for re-appointment, two Supreme Court pro tem justices for re-appointment, and one pro tem High Court justice for appointment. Also, the Commission appointed or renewed the appointments of nine Community Court judges.

## V. ACCOUNTABILITY: CODES OF CONDUCT AND COMPLAINTS

The first goal of the Judiciary's strategic plan includes "to be accountable." 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/](http://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 2012, 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 2012, no complaints were lodged against attorneys, however, from 2011 there were six complaints pending review by the attorney-committee. The committee is on schedule to resolve most or all of the complaints later in 2013.

With respect to court staff, the Judiciary maintains a complaint box at the courthouses. In 2012, no complaints were lodged against court staff. Nor have there been any complaints lodged against court staff within the past five years.

## 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.

### A. Facilities

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 to make them



safe, secure, and accessible. However, more remains to be done. With funds collected from fees, the Judiciary in 2012 contracted with Anil Construction to build a ground-floor courtroom at Majuro Courthouse. The project was completed in May 2013, providing easier access to court services for users with disabilities.

## **B. Technology**



The courthouses on Majuro and Ebeye are equipped with computers, printers, faxes, and photocopiers and have Internet access (@ 3.0 mps in Majuro and 1.5 mps 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 of its older computers. However,

software updates remain a critical need and from time-to-time computers crash and must be replaced.

With funds collected from fees, the Judiciary contracted with the National Telecommunication Authority to install a fiber optic Internet connection at the Majuro Courthouse. The installation was completed in May 2013. With the fiber optic connection, the Judiciary will determine if it is feasible to use videoconferencing equipment. Currently, the High Court permits off-island counsel to attend status and scheduling conferences via Skype. Occasionally, evidence in uncontested matters is taken via Skype or telephone. The Judiciary uses the Internet to enhance access to justice.

## **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. Also, the Judiciary has up to date online access to United States caselaw and secondary sources through a WestLaw Internet subscription.



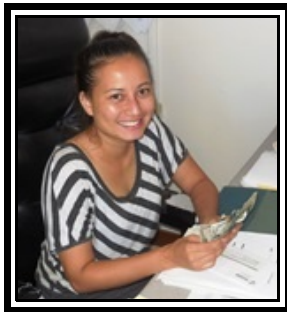


## VII. SALARIES AND COMPENSATION

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, particularly 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. Unfortunately, in 2012 the Nitijela eliminated the COLA for judges. 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, but also by the Judiciary’s management of the funds made available to it.

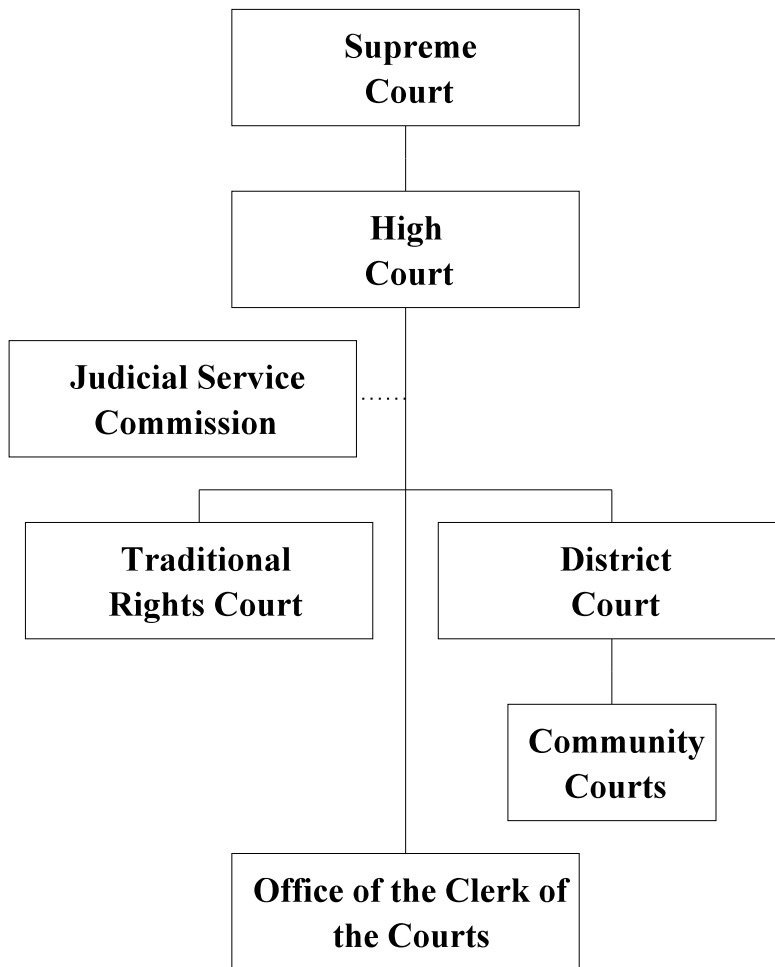
For FY 2012, the Nitijela appropriated \$972,863.00 for the Judiciary: \$621,829 for salaries and wages and \$351,067 for all others. A breakdown of the FY 2012 budget and expenditure is set forth below. The unexpended balance is attributable to Marshallese salaries and benefit, particularly Community Court judge positions that were vacant at one time or the other during the fiscal year. This amount shall be significantly reduced for FY 2013, as more and more Community Court judge positions are being filled.

Code No.	Description	Budget Original	Adjustments	Adjusted Budget	Actual Expenditure	Balance
1010	Salary & Wages Exp	160,000.00	0.00	160,000.00	152,109.23	7,890.77
1011	Salary & Wages Mars.	395,625.00	0.00	395,625.00	343,522.02	52,102.98
1019	Ebeye Differential	8,444.00	165.00	8,609.00	7,928.69	680.31

1114	Personnel Benf.-Exp.	22,050.00	-12,000.00	10,050.00	1,736.54	8,313.46
1115	Personnel Benf. Marsh	39,541.00	0.00	39,541.00	31,826.97	7,714.03
1116	Emp. Insurance Exp.	8,004.00	0.00	8,004.00	6,856.34	1,147.66
1400	Property, Plant, & Equipment	0.00	28,872.44	20,872.44	20,872.44	0.00
1510	Professional Service	4,500.00	-1,314.09	3,185.91	2,760.60	425.31
1515	Audit Expense	4,755.00	0.00	4,755.00	7,783.00	-3,028.00
1520	Contractual Service	5,000.00	13,900.00	18,900.00	6,900.00	12,000.00
2020	Travel	14,200.00	2,971.80	17,171.80	17,171.80	0.00
2021	Int. Travel	15,000.00	14,840.88	29,840.88	29,863.43	-22.55
2110	COLA	37,695.00	5,209.00	42,904.00	42,904.00	0.00
2115	Leased Housing	72,000.00	0.00	72,000.00	72,000.00	0.00
2120	Employee Utility Payment	0.00	0.00	0.00	1,135.00	-1,135.00
2125	Training & Staff Dev.	4,000.00	-2,797.45	1,202.55	1,202.55	0.00
2205	Rentals	3,000.00	-1,465.80	1,534.20	1,534.20	0.00
2215	Utilities	40,128.00	-1,073.68	39,054.32	37,353.36	1,700.96
2305	Communication	57,600.00	-19,252.23	38,347.77	38,345.33	2.44
2315	Insurance	750.00	-427.00	323.00	323.00	0.00
2320	Printing & Reproduction	1,500.00	2,225.12	3,725.12	3,725.12	0.00
2325	Repairs	7,000.00	1,941.80	8,941.80	8,881.80	60.00
2330	Subscript'n, Dues, & Fees	1,000.00	-708.00	292.00	292.00	0.00
2401	Freight	1,000.00	-1,000.00	0.00	0.00	0.00
2405	Office/Comp. Supplies	1,400.00	3,328.36	4,728.36	4,728.36	0.00
2410	POL(Fuel)	16,000.00	-908.52	15,091.48	13,260.78	1,830.70
2415	Food Stuff	1,400.00	1,074.00	2,474.00	2,474.00	0.00
2420	Books	5,171.00	700.22	5,871.22	5,440.27	430.95
2440	Equip&Tools	8,000.00	-6,239.69	1,760.31	1,760.31	0.00
2445	Water	1,400.00	-400.00	1,000.00	1,000.00	0.00
2450	Other Supplies & Mat.	8,000.00	3,839.84	11,839.84	11,887.84	-48.00
3133	Furniture & Fixture	4,000.00	-4,000.00	0.00	0.00	0.00
4010	Service & Bank Charges	0.00	33.00	66.00	116.00	-50.00
4510	Judicial Fund	24,700.00	-19,515.00	5,185.00	4,885.00	300.00
	<b>TOTAL</b>	<b>972,863.00</b>	<b>0.00</b>	<b>972,896.00</b>	<b>882,579.98</b>	<b>90,316.02</b>

To further assure accountability the Judiciary's accounts are audited annually by an independent auditor and there have been no questioned costs.

**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 Langu 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 Riten Erakdik (03/18/12-03/17/16)

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 Lincoln Lakjohn (03/18/12-03/17/16)  
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 (left in October)  
Assistant Clerk of the Courts Hemina Jack Nysta (left in December)  
Assistant Clerk of the Court Tanya Lomae (started in December)  
Assistant Clerk of the Courts Stephen Clark (started in December)  
Bailiff Morrison Riklon, Captain  
Bailiff Jukku Benjamin, Sergeant  
Bailiff Valentin Boon, Police Officer III  
Maintenance Langmeto Peter

**USER SURVEY**