



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

## **2013 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 2013 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 President, the Minister of Justice, and the other members of the Cabinet for their support in 2013. Also, I wish to express our profound thanks to the Nitijela and the House of Iroij for their continuing support of our budgetary and legislative requests. 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 2013 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.

Sincerely yours,

---

Carl B. Ingram  
Chief Justice, High Court  
Date: August 18, 2014



## **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
- service-oriented, and
  
- valuing custom and tradition, as well as innovation.

*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 etiljek, jela nae, jela kunaan, im jela karejar iben armej: im ej kaurok im kautiej manit im men ko bwinnid im ad jolet, ekoba lomnak im wawein jermal ko rekaal.*

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, the Judiciary, 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, for the benefit of those who use the courts' services.

*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, non emmanlok eo an ro rej bok jiban jen jikin ekajet eo.*

## **Vision:**

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

The Marshall Islands Judiciary will be an excellent small-island judiciary, deserving of public trust and confidence.

- We will be fair and impartial.
- We will treat court users and colleagues with dignity, courtesy, and respect, and we will require the same in return.
- We will provide affordable and accessible services to court users.
- We will seek to resolve matters efficiently, while maintaining quality, consistency, and certainty.
- We will be independent yet accountable, deciding matters based upon the facts before us and a conscientious understanding of the law and custom.
- We will administer the courts in accordance with internationally recognized standards for leadership, management, and accountability.
- We will seek and employ innovative practices and procedures to better serve court users, to identify users' needs, and to develop court personnel.
- We will maintain adequate and safe courthouses and a supportive work environment.

We understand that these are ambitious goals. However, recent history indicates that they are within our grasp.

*Ra eo an jikin ekajet eo an Marshall Islands enaj juon raan jikin ekajet non ailin jidrik kein ad, eo im ebed liki im tomak eo an armij ro ie.*

- *Kem naj jermal jimwe ilo ejelok am kalijeklok.*

- *Kem naj kile, kautej, im karejar ippen ro rej kojerbal im bukot jiban jen jikin ekajet eo, ekoba dri-jerbal ro mottam, im kemij kotmene bwe kom naj ukot tok ilo ejja wawein kein wot.*
- *Kem naj komman bwe en drik wonen, bidodo, im ejelok aban non ro rej kojerbal im bok jiban jen jikin ekajet eo.*
- *Kem naj bukot kojkan bwe en mokaj, emman, im jejjjet wawein am bukot mejlan ailwaro im aikuj ko.*
- *Kem naj komman jemlok non abnono ko, ilo an ejelok kibel jen ijoko jabrewot, bedbed wot ion menin kamol ko rej walok, im jen am melele kin kien im manit.*
- *Kem naj kommani jerbal im eddro ko an court ekkar non jonak im wawein ko lal in ej kili im lori ikijen jerbal in tel, lolorjake, im bok eddro.*
- *Kem naj bukot im kojerbal wawein im rebeltan jerbal ko rekaal bwe en emman lok am kake aikuj ko an ro rej kojerbal jikin ekajet eo, im bareinwot non am kolablok kabeel ibben dri-jerbal ro ilo jikin ekajet eo.*
- *Kem naj lolorjake bwe jikin ekajet ko ren ainemmon im bolemeir, im bwe jitbon jerbal in ippen dron eo en wonmanlok wot.*

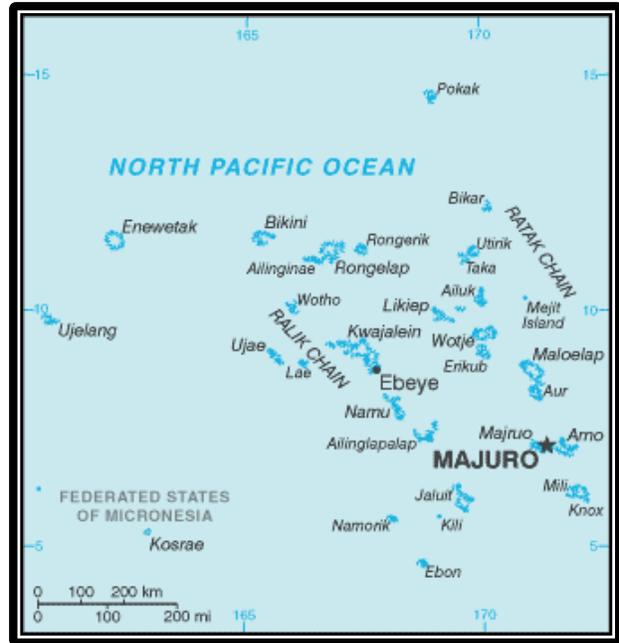
*Kem melele ke kottobar kein rellap. Ijowotke, ilo ad reiliklok non jerbal ko emoj am tobari, ewor am kejatdrikdrik bwe renaj tobrak.*

# 2013 REPORT OF THE JUDICIARY OF THE REPUBLIC OF THE MARSHALL ISLANDS

## I. INTRODUCTION

The Republic of the 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 totals 70 square miles but is scattered over 750,000 square miles of the Western Pacific. As of July 2013, the estimated population of the Marshall Islands was 55,000. However, estimates vary greatly.

The Republic of the Marshall Islands is a young nation. After more than three decades of United States administration under the United Nations Trust Territory of the Pacific Islands, 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.

Article VI, of the Constitution, provides for a judiciary “independent of the legislative and executive powers.” The RMI 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 RMI Judiciary officially commenced operation on March 3, 1982, assuming judicial functions in the Marshall Islands that had been discharged by the Trust Territory High Court. An organizational chart of the RMI Judiciary is attached as Appendix 1, and a listing of RMI Judiciary personnel for calendar year 2013 is attached as Appendix 2.

In the sections that follow, this report summarizes the RMI Judiciary's operations and accomplishments in calendar year 2013, 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 and Audit Report.

## II. SIGNIFICANT EVENTS OR ACCOMPLISHMENTS

The dedication and hard work of the judges and staff that serve the RMI Judiciary made 2013 a successful year. The most significant events or accomplishments include the following:

- Construction of a ground-floor courtroom at the Majuro Courthouse,
- Renovation of the Traditional Rights Court's chambers,
- Completion of a new strategic plan for the RMI Judiciary for years 2014-2018, and
- Repeating a second year as first among the 14 Pacific Island Countries on the 15 Cook Island Court Performance Indicators.

### A. Ground Floor Court Room



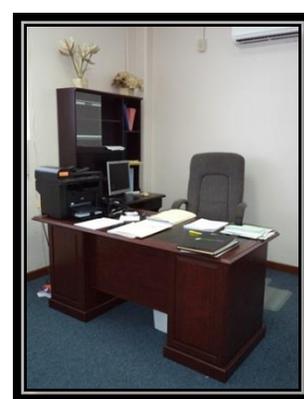
The Majuro Courthouse, more than 30 years old, was not designed to house its current occupants: two High Court justices, three TRC judges, two District Court judges, and their staff. The three TRC judges were housed in a small office designed for one prosecutor, and the District Court's court room was a small office designed for one public defender. These cramped quarters

were inadequate for the judges and the public. Furthermore, the RMI Judiciary's two full-sized court rooms were on the second floor and not readily accessible by the disabled and older court users who cannot easily walk up stairs, an unacceptable situation for most land cases before the Traditional Rights Court (TRC).

Consistent with *Strategic Goal 5: To provide for and maintain the RMI Judiciary's facilities and technology*, the RMI Judiciary contracted with Anil Construction to build a new ground-floor courtroom which was officially dedicated and opened on June 11, 2013 for use mainly by the District Court and TRC judges. The ground-floor courtroom is considered the RMI Judiciary's most significant accomplishment in 2013 for the following reasons: (i) the RMI Judiciary, after years of collecting fees and careful/prudent management of its own special revenue fund, was finally able to fund the project and (ii) the new ground floor courtroom accommodates the special needs of the public.

## **B. Renovation of TRC Chambers**

Additionally, with its own funds and with financial assistance from the Republic of China, Taiwan, the RMI Judiciary contracted with Pacific International Inc. (PII) to remodel the vacant District Courtroom and old TRC quarters to provide more and better office space for the TRC and a ground floor conference room for all. Planters near the main road parking area have also been built in support of the Majuro beautification and cleanup initiative. Further, rust spots on the Majuro Courthouse were repaired and the courthouse was re-painted by Bingo Construction on a different project as part of the RMI Judiciary's continuing efforts to maintain its buildings.



## **C. 2014-2018 Strategic Plan**

Another major accomplishment is the new strategic plan for the Republic of the Marshall Islands Judiciary for 2014-2018. The RMI Judiciary's new *Tiljek Im Mol Nan Ekajet Jimwe*, Committed to Justice, Strategic Plan builds upon the RMI Judiciary's 2007 plan, retaining strategic goals, strategies, and actions that remain relevant, deleting actions that have been performed and need not be repeated, and adding new goals, strategies, and actions to meet

continuing and new challenges. This strategic plan will serve to guide judges and court staff as they perform their jobs. It will assist in determining how best to use available resources and will provide a way to measure the accomplishments of the courts as they strive to fulfill their mission.

## **D. 15 Cook Islands Court Performance Indicators**

The RMI Judiciary is a member of the Pacific Judicial Development Program (PJDP), comprising 14 Pacific Island countries. In 2011, the PJDP adopted the 15 Cook Islands Court Performance Indicators. For the second year in a row, the RMI Judiciary is the best at meeting the 15 indicators. In 2011, the RMI Judiciary reported on 14 of the 15 indicators; and in 2013 the RMI Judiciary reported on all 15. These results are indicative of the RMI Judiciary's commitment to transparency and accountability.

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

The goals of the RMI Judiciary include to be efficient, to produce quality decisions, and to be accessible. The RMI Judiciary's efficiency can be measured by annual clearance rates, age of cleared cases, and age of pending cases. 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, the availability of forms, and the accessibility of courthouses. To this end, the 2013 Annual Report reviews for all five levels of the RMI 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 second 10-year term effective September 2013. Generally, associate justices have been pro tem judges from other jurisdictions—for example, 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 2013, 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.

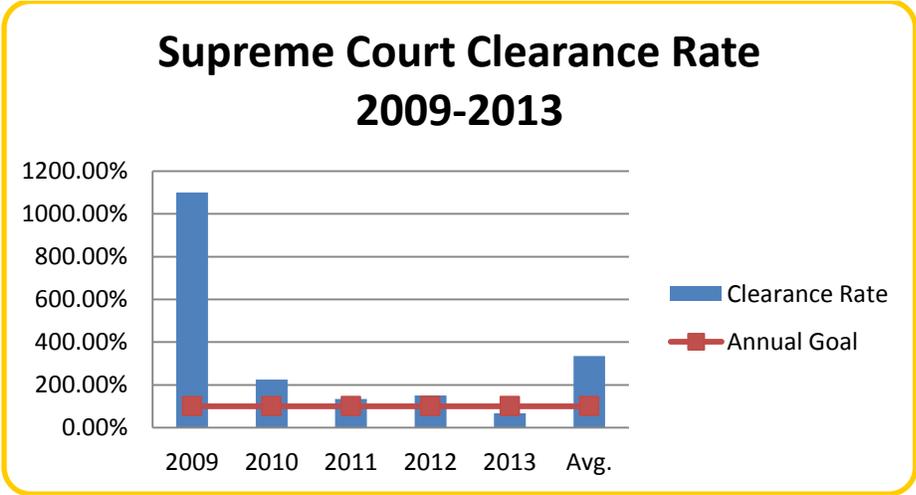
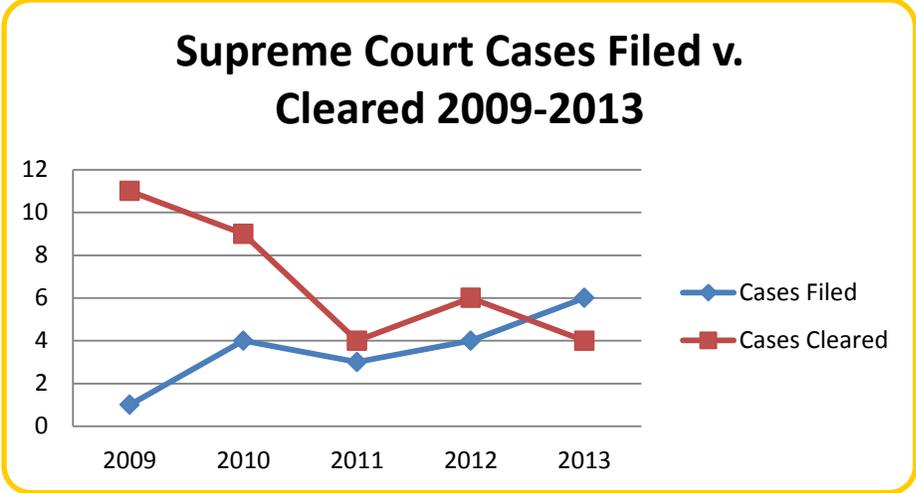


The Supreme Court’s 2013 case and workload are summarized as follows.

At the beginning of 2013, there were six matters pending before the Supreme Court, and in 2013, another six matters were filed, for a total of 12. The Supreme Court cleared four matters in 2013: a 2006 land matter and three writs/petitions filed by the same parties, who had earlier been declared vexatious litigants. The Supreme Court affirmed the High Court judgment in the land matter and denied all three writs/petitions. By the end of 2013, eight cases remained.

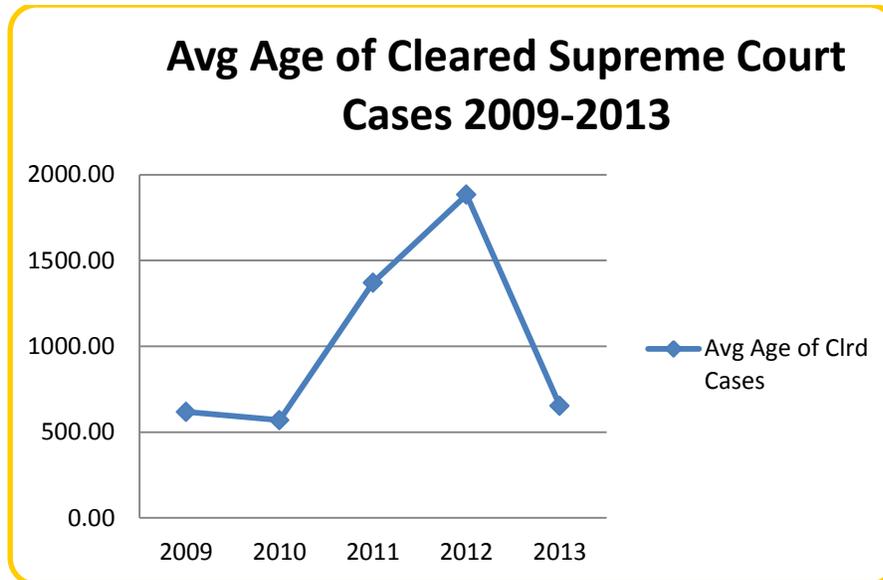
The Supreme Court’s goal is to maintain an annual clearance rate of 100%. As the table below shows, the Supreme Court has done this in four of the past five years. In 2013, with six cases filed and four cases cleared, the annual clearance rate was only 66.67 % (4/6). However, the five-year average clearance rate is over 100% at 335%.

<b>Annual Clearance Rates for Supreme Court Cases 2009-2013</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>
<b>Cases Filed</b>	1	4	3	4	6	3.6
<b>Cases Cleared</b>	11	9	4	6	4	6.8
<b>Clearance Rate</b>	1100.00%	225.00%	133.33%	150.00%	66.67%	335.00%
<b>Annual Goal</b>	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%



The average duration of the four cases cleared in 2013 was 652.75 days. However, if one excludes the old land matter from 2006, the average duration for the remaining three cases was only 59 days. The five-year trend for the average age of cleared Supreme Court cases is set out below in the table and chart. Because the Supreme Court’s caseload only includes a few cases, the five-year trend moves up and down and is not meaningful.

Average Age of Cleared Supreme Court Cases 2009-2013						
	2009	2010	2011	2012	2013	Avg.
<b>Cases Cleared</b>	11	9	4	6	4	6.8
<b>Avg. Age of Cleared Cases</b>	617.73	569.78	1371.00	1883.50	652.75	1018.95



In none of the cases pending in 2013 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 RMI Judiciary’s website, <http://rmicourts.org/>, under the heading Court Decisions and Digests.

Aside from the Supreme Court’s regular docket, in 2013, 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: a Marshallese employed by the Office of the Attorney-General and a non-citizen in private practice based in Guam.

## B. High Court

The High Court is the highest court at the trial level. 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: in 2013, 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 second ten-year term commencing 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 RMI 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 four assistant clerks serve the High Court. The High Court's 2013 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 2013 statistics for civil cases (other than probate cases) cover the following:

- the number and nature of cases filed in 2013;
- the annual clearance rates for the past five years;
- the average age of cleared cases for the past five years;
- the average age of pending cases for the past five years;
- the percentage of cases appealed and the percentage of appealed 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 2013**

In 2013, plaintiffs and petitioners filed 281 new civil cases (other than probate cases) in the High Court: 258 in Majuro and 23 in Ebeye.

The 258 civil cases filed in Majuro in 2013 breakdown as follows:

- more than half, 193, involved domestic matters (including 67 customary adoptions, 41 guardianships, 30 legal adoptions, 0 domestic violence cases, 13 divorces, 8 child custody and support cases, and 34 name-change cases);
- 7 citizenship cases;
- 25 collection cases;
- 9 land rights or land lease cases;
- 8 contract cases; and
- 16 other cases.<sup>1</sup>

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<sup>1</sup> Other cases include the following: appeal of government agency decisions, appointment of personal representatives, corporate, declaratory relief, mandamus, maritime, torts, wrongful death, and wrongful terminations.

Of the 258 civil cases filed in Majuro in 2013, 209 were cleared in 2013, leaving 49 pending at the end of the year. The four largest categories of pending cases were as follows: 9 collection cases; 7 citizenship cases; 6 land or lease cases; and 5 child custody and support cases.

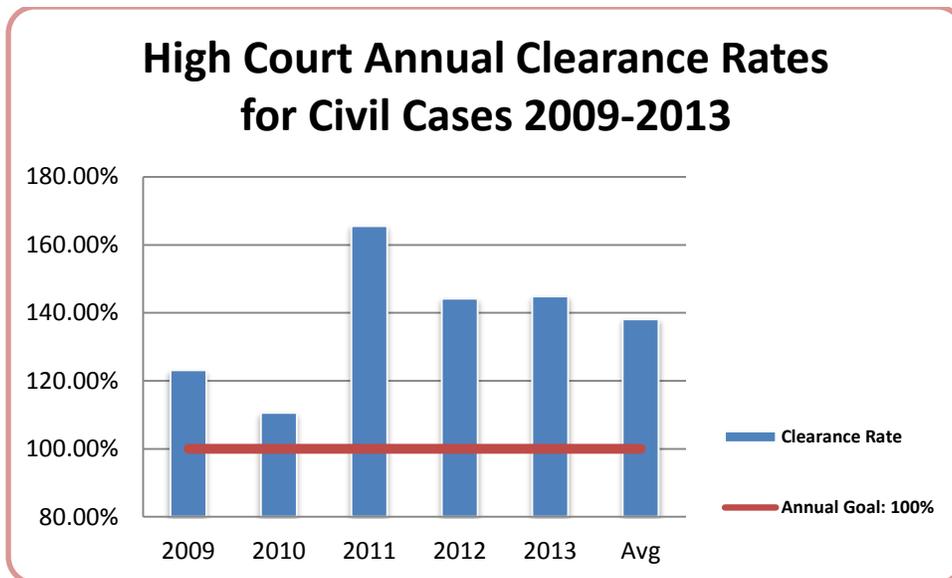
Of the 23 civil cases filed in Ebeye in 2013, 7 were customary adoption cases, 4 guardianship cases, 11 name-change cases, and 1 divorce case. In 2013, 17 of the 23 cases were cleared, leaving 6 pending at the end of the year. Of the 6 pending Ebeye civil cases pending from 2013, 2 were customary adoption cases, 3 were name change cases, and 1 was a guardianship.

The High Court’s efficiency can be measured in terms of annual clearance rates, the age of cleared cases, and the age of pending cases.

**b. Annual Clearance Rates: 144.84% in 2013**

In 2013, the High Court clearance rate for civil cases was 144.84%: 407 cases were cleared and 281 were filed. The High Court’s goal is to maintain an annual clearance rate for civil cases of 100%, or better, for each year. As the table and chart below show, the High Court has done this over the past five years.

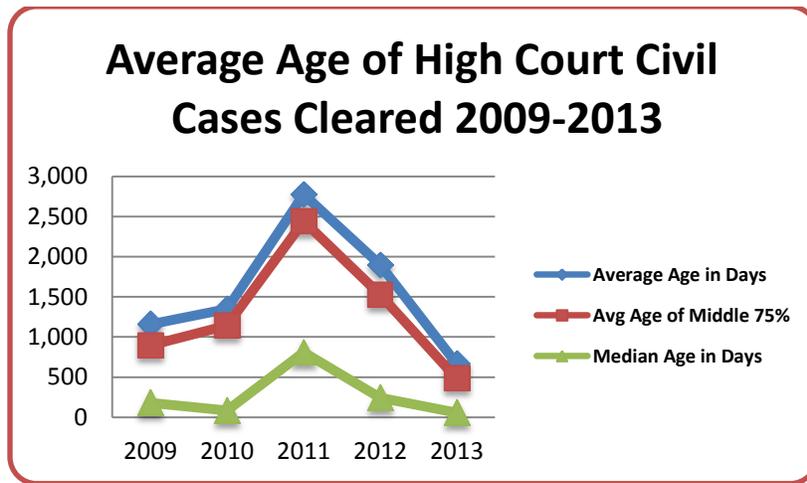
<b>High Court Civil Cases Cleared v. Filed 2009-2013</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>
<b>Cases Cleared</b>	347	252	427	372	407	361
<b>Cases Filed</b>	282	228	258	258	281	261.4
<b>Clearance Rate</b>	123.05%	110.53%	165.50%	144.19%	144.84%	137.62%
<b>Annual Goal</b>	100.00%	100.00%	100.00%	100.00%	100.00%	100.00%



**c. Average Age of Cleared Cases: 663 days in 2013**

In addition to annual clearance rates, the efficiency of a case management system can be measured in the age of cleared cases. The table and chart below show that over the past five years the average age, the average age of the middle 75%, and the median age of cleared cases all have come down. This is due to the Court’s backlog reduction policy.

<b>Average of Age of High Court Cleared Cases 2009-2013</b>					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Number of Cleared Cases</b>	347	252	428	372	407
<b>Average Age in Days</b>	1,157	1,348	2,776	1,901	663
<b>Avg. Age of Middle 75%</b>	898	1,143	2,442	1,527	482
<b>Median Age in Days</b>	181	83	809	244	57

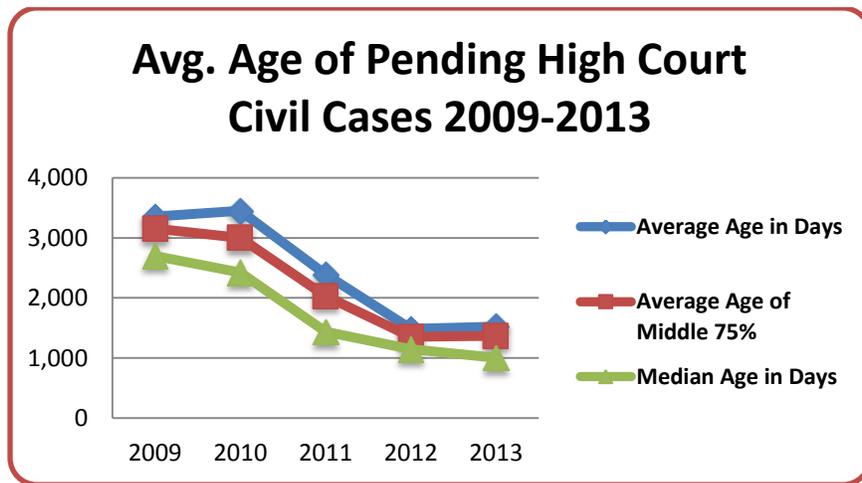


**d. Age of Pending Cases: 1,525 days in 2013**

To get the clearest picture of the health of one’s case management system, courts also can look at the number and the age of pending cases. That is, although the number of pending cases may be going down, the age of pending cases may be going up. This can result if a court is towards the end of a successful backlog reduction project and the only cases left are the ones that are very hard to move. As the table and chart below show, that is what happened to the High Court in 2013.

The number of cases pending dropped from 626 to 224. However, in 2013, the average age of the pending cases went up.

<b>Number of Pending High Court Civil Cases 2009-2013</b>					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Number of Pending Cases</b>	626	639	465	353	224
<b>Average Duration in Days</b>	3,357	3,452	2,394	1,486	1,525
<b>Average of Middle 75%</b>	3,156	3,002	2,030	1,355	1,369
<b>Median Duration in Days</b>	2669	2424	1,436	1145	1004



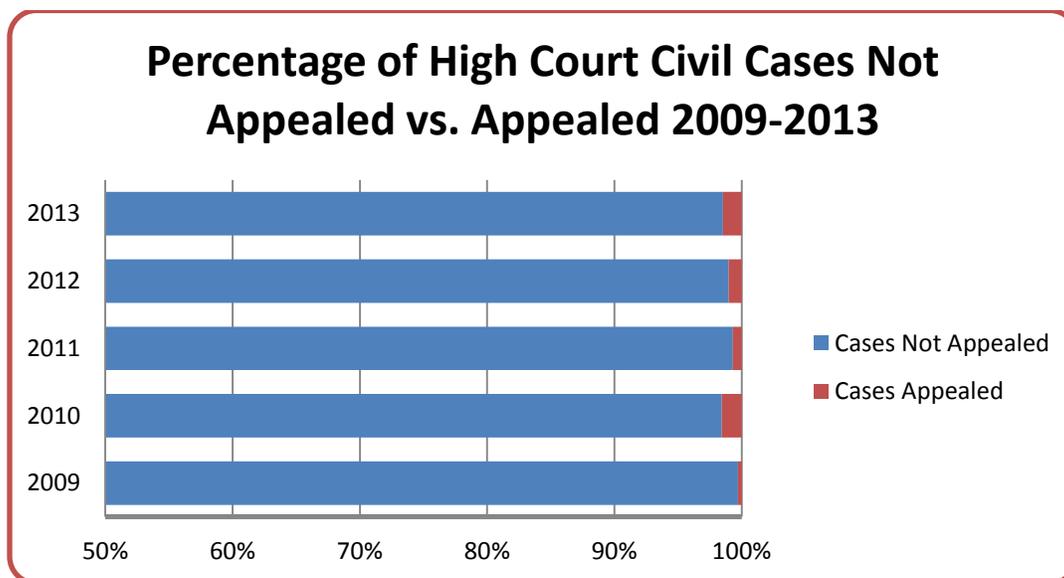
#### **e. Appeals**

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 appealed cases overturned on appeal.

In 2013, the number and percentage of High Court civil cases appealed remained very low. There were two appeals and four petitions to the Supreme Court. That is, 6 appeals or petitions versus 281 cases filed in the High Court, or 2.18%. If one just considers appeals, the number is lower: 2 out of 281, or 0.71%.

Furthermore, in 2013, no 2013 High Court cases or decisions were overturned on appeal. The Supreme Court denied three of the four 2013 petitions. At the end of the year one petition and the two appeals remained pending. Also in 2013, the Supreme Court affirmed the High Court's decision in a 2006 appeal. In 2013, no High Court civil cases from 2013, or from previous years, were overturned on appeal. The percentage of cases overturned on appeal was 0%.

<b>High Court Civil Cases Appealed vs. Not Appealed 2009-2013</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>
<b>Cases Filed</b>	347	256	427	398	407	367
<b>Cases Appealed</b>	1	4	3	4	2	2.8
<b>Cases Not Appealed</b>	346	252	424	394	405	364.2



**f. 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 2013 no one requested a fee waiver in a High Court civil case. The filing fee for most types of High Court cases is \$25.00. The fee for domestic violence case has been repealed. Fees for admiralty cases, non-resident corporate cases, international adoptions, and citizenship cases are substantially higher.

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

Of the 281 civil cases filed in 2013, 23 cases (8%) were Ebeye circuit cases. Of the 405 civil cases cleared in 2013, 83 cases (20.49%) were Ebeye circuit cases.

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

In 2013, the use of free legal services remained high. In 202 of the 281 civil cases filed in 2013 (72%), 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 2013, 4 petitioners were assigned free court-appointed attorneys for potential land cases. For FY 2013, the Nitijela appropriated \$24,700 to the RMI 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 RMI Judiciary has long used forms in small claims cases, name-change petitions, and guardianship cases. In 2013, the RMI Judiciary put forms on its website for confirmation of customary adoptions, name-change petitions, fee and cost waiver, domestic-violence temporary protection orders, guardianship petitions, and small claims cases.

## **2. Probate Cases**

Set forth below are the High Court's 2013 case statistics for probate cases. These statistics cover the following:

- the number of probate cases filed in 2013;
- the annual clearance rates for the past five years;
- the average age of cleared cases for the past five years;
- the percentage of cases appealed and the percentage of appealed cases overturned on appeal; and
- accessibility in terms of fee waiver, cases heard on circuit, and legal aid.

### **a. Number of Cases**

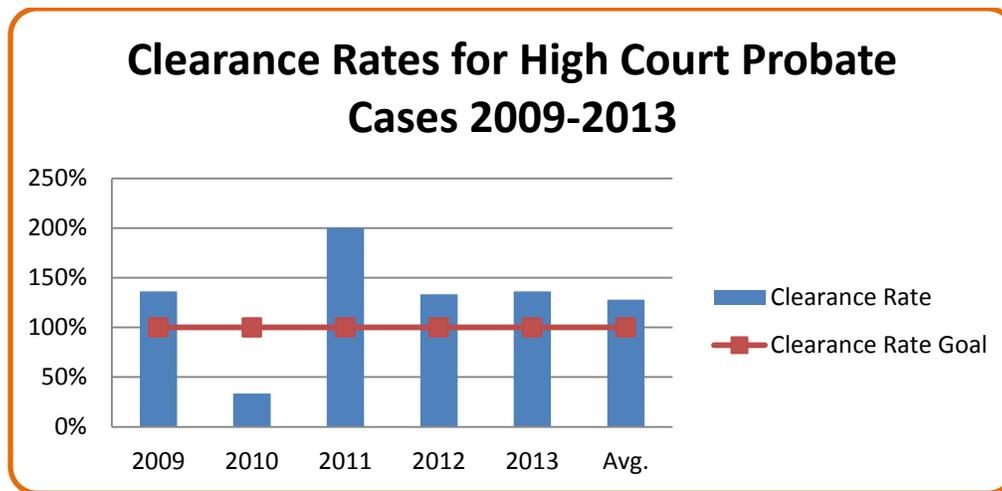
Eleven probate cases were filed in 2013, up two from the nine filed in 2012: 10 in Majuro and one in Ebeye.

### **b. Clearance Rates: 136% in 2013**

In 2013, the High Court cleared 15 probate cases: ten of the eleven 2013 probate cases; two 2012 cases; one 2010 case; one 2008 case and one 1994 case, for a 2013 clearance rate of 136% (15/11). The High Court's goal for probate cases is to maintain an annual clearance rate of

100%, or better, for each year. As the table and chart below shows, the High Court has achieved its goal for four of the past five years.

<b>Clearance Rates for Probate Cases 2009-2013</b>						
	2009	2010	2011	2012	2013	Avg.
Cases Filed	11	6	2	9	11	7.8
Cases Cleared	15	2	4	12	15	10
Clearance Rate	136%	33%	200%	133%	136%	128%
Clearance Rate Goal	100%	100%	100%	100%	100%	100%

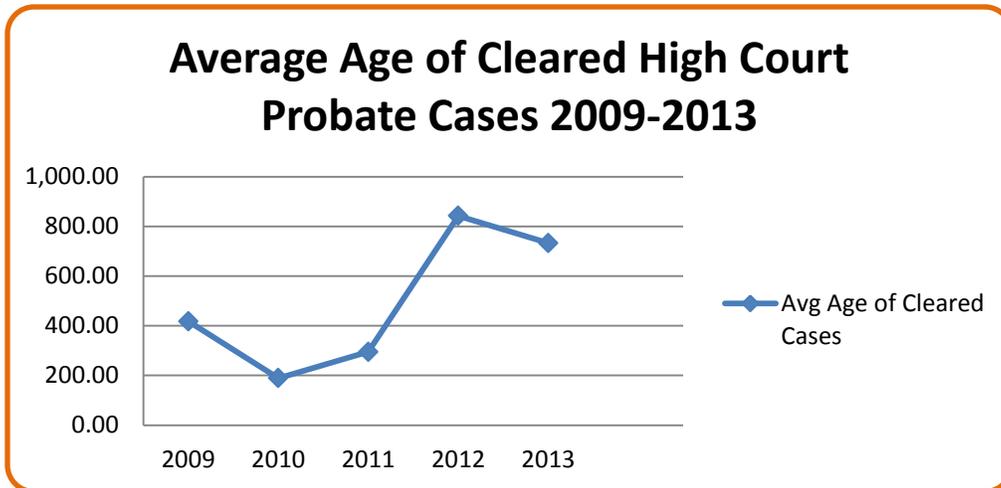


At the end of 2013, six probate cases were pending. Three of those were cleared by July 2014, and the remaining three are awaiting action by counsel.

**c. Average Age of Cleared Cases: 738.86 days in 2013**

The average age of the 15 probate cases cleared in 2013 was 738.86 days. If one does not count the five old or abandoned cases, the average duration of the ten of eleven 2013 probate cases cleared in 2013 was only 42.93 days. Unless an objection is filed, most probate cases should be cleared within 7 to 9 weeks of filing, 49 to 63 days. Below is the five-year trend for the average age of cleared probate cases. The average ages are relatively high, as the Court has been trying to get counsel to resolve old and abandoned cases.

<b>Average Age of Cleared Probate Cases 2009-2013</b>					
	2009	2010	2011	2012	2013
Cases Cleared	15	2	4	12	15
Avg. Age of Cleared Cases	417.93	189.50	295.25	842.33	732.87



#### **d. Appeals**

In 2013, 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 appealed probate cases overturned on appeal was 0%. This is consistent with results from the past four years.

#### **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 2013 (as in recent years) no one requested a fee waiver in a probate case. The filing fee for probate cases is \$25, \$100 for estates over \$7,000.

Of the eleven probate cases filed in 2013, one was an Ebeye circuit case (9.09%). Of the 15 probate cases cleared in 2013 (from all years), three were Ebeye circuit cases (20%). In 14 of the 15 probate cases cleared in 2013 (93.33%), either the petitioner or an objector was represented by the Micronesian Legal Services Corporation (MLSC) or the Office of the Public Defender (PD). These figures are typical of most years.

### **3. Criminal Cases**

Set forth below are the High Court's 2013 case statistics for criminal cases. These statistics cover the following:

- the number and nature of criminal cases filed in 2013
- the annual clearance rates for past five years;

- the average age of cleared cases for the past five years;
- the percentage of cases appealed and the percentage of appealed cases overturned on appeal; and
- accessibility (fee waiver, cases heard on circuit, and legal aid).

**a. Number and Nature of Cases**

In 2013, the Office of the Attorney-General filed only 16 criminal cases in the High Court: 11 in Majuro and five in Ebeye.

The 11 criminal cases filed in Majuro in 2013 breakdown as follows: one negligent homicide; two murder; two aggravated assaults or assaults with a deadly weapon; two sexual assaults; one burglary and conspiracy; one forgery; one smuggling of goods in the Republic; and one child abuse and neglect case. The five felony cases filed in Ebeye in 2013 breakdown as follows: one sexual assault; one burglary and theft; and the other three involved assaultive behavior. There were no criminal appeals from the District Court.

A total of three women were defendants in two criminal cases filed in Majuro in 2013. In none of the five Ebeye cases was the defendant a woman.

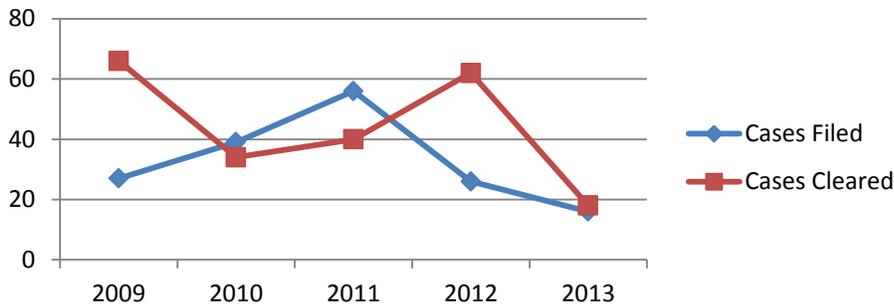
Women were victims in two of the 11 criminal cases filed in Majuro in 2013. One case involved domestic violence, the continuous sexual assault of a minor female family member, but was not charged as such. No protective order was requested. Of the five Ebeye cases, a woman was the victim in one sexual assault case. That case involved domestic violence. 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.

**b. Clearance Rates: 113% in 2013**

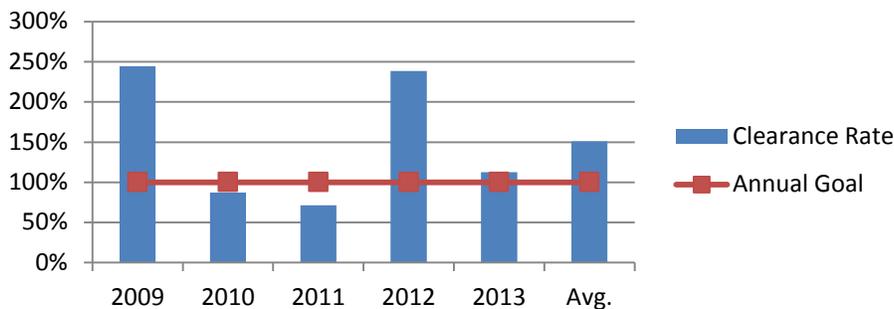
In 2013, the High Court cleared 18 criminal cases from all years, two more than the number of cases filed in 2013, resulting in a 2013 clearance rate of 113% (18/16). This clearance rate is a result of clearing a number of 2013 cases as well as cases filed in previous years. Although the 2013 clearance rate has dropped significantly compared to last year’s annual clearance rate of 238%, it is still in line with the High Court’s goal to maintain an annual clearance rate for criminal cases of 100%, or better, per year.

<b>Annual Clearance Rates for High Court Criminal Cases 2009-2013</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>
<b>Cases Filed</b>	27	39	56	26	16	32.8
<b>Cases Cleared</b>	66	34	40	62	18	44
<b>Clearance Rate</b>	244%	87%	71%	238%	113%	151%
<b>Annual Goal</b>	100%	100%	100%	100%	100%	100%

### High Court Criminal Cases Filed vs. Cleared 2009-2013



### Annual Clearance Rates for High Court Criminal Cases 2009-2013

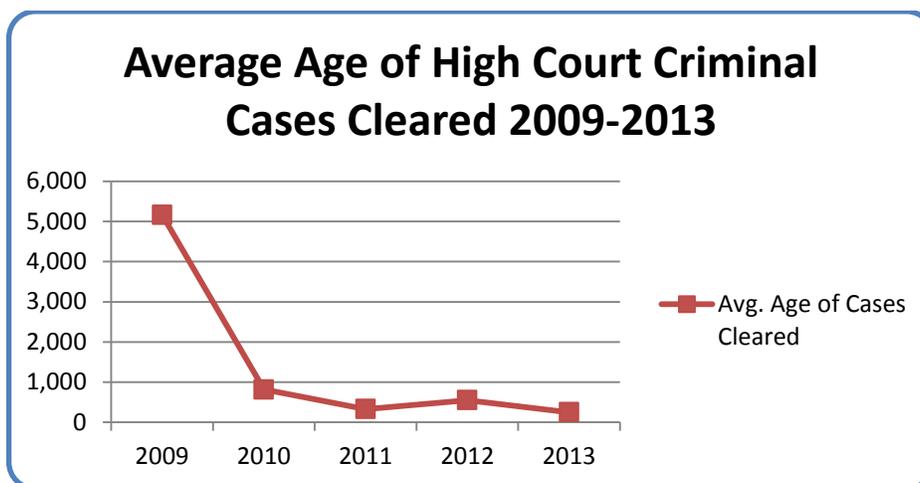


By the end of 2013, approximately 29 criminal cases remained pending. The High Court has encouraged the Attorney-General and defense counsel to resolve criminal cases without delay, particularly those that are more than a year old, about 20. Seven of the 20 old cases have proven difficult to resolve because the defendants have fled the Republic for the United States or have fled Majuro or Ebeye for the outer islands.

#### c. Average Age of Cleared Case: 250 days in 2013

The average age of High Court criminal cases cleared in 2013 was 250.00 days. The number of High Court criminal cases cleared in the past five years (2009-2013) and the average duration of cleared cases are as shown below. The high number of cleared cases and average age of cleared cases in 2009 is the result of a major backlog reduction effort.

<b>Average Age of High Court Criminal Cases Cleared 2009-2013</b>					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Cases Cleared</b>	66	34	40	62	18
<b>Avg. Age of Cases Cleared</b>	5,163	815	327	552	250



#### **d. Appeals**

As an indication of the quality of High Court criminal decisions, in 2013 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 appealed criminal cases overturned on appeal was 0%. This is consistent with results from the past four years.

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

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

Of the 16 criminal cases filed in 2013, 5 cases (31%) were Ebeye circuit cases. Of the 18 criminal cases cleared in 2013, five cases (28%) were Ebeye circuit cases.

In 2013, 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 2013, the defendants received legal assistance at no cost in 14 of 16 cases (87.5%). In the remaining two cases, private attorneys were retained. This percentage is typical of most years.

#### 4. Juvenile Cases

Set forth below are the High Court's 2013 case statistics for juvenile cases. These statistics cover the following:

- the number and nature of juvenile cases filed in 2013;
- the annual clearance rates for past five years;
- the average age of cleared cases for the past five years;
- the percentage of cases appealed and the percentage of appealed cases overturned on appeal; and
- accessibility (fee waiver, cases heard on circuit, and legal aid).

##### a. Number and Nature of Cases

In 2013, the Office of the Attorney-General filed only 4 juvenile cases in the High Court: 2 in Majuro and 2 in Ebeye. Since 2006, when the Republic filed six juvenile cases, the Republic has filed only one or two juvenile cases per year in the High Court. Most juvenile cases (underage drinking) are heard by the District Court, not the High Court.

The two 2013 juvenile cases filed in Majuro involved sexual assaults by 15 year-old males. Younger children were the victims: one female and one male. The two 2013 juvenile cases filed in Ebeye involved burglary and theft by males.

##### b. Clearance Rates: 25% in 2013

In 2013, the High Court cleared only one of four juvenile cases filed in 2013, resulting in a 2013 clearance rate of only 25% (1/4). 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. The one juvenile case cleared in 2013 was cleared within six months, but not the others.

The annual clearance rates for juvenile cases for 2009 to 2013 are shown below.

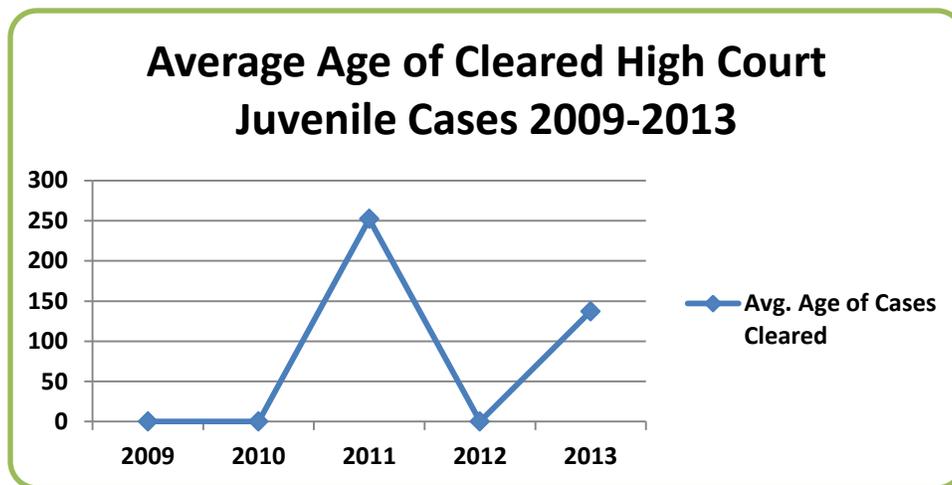
<b>Clearance Rates for Juvenile Cases 2009-2013</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>
<b>Cases Filed</b>	2	1	0	1	4	1.6
<b>Cases Cleared</b>	1	0	1	0	1	1
<b>Clearance Rate</b>	50%	0%	0%	0%	25%	15%
<b>Clearance Rate Goal</b>	100%	100%	100%	100%	100%	100%

By the end of 2013, approximately 8 juvenile cases remained pending, seven in Ebeye and one in Majuro. Four of the Ebeye cases were very old abandoned and inactive cases. In 2014, the High Court cleared all 8 pending juvenile cases. As of end of July 2014, there were no pending juvenile cases. The High Court has encouraged the Attorney-General and defense counsel to resolve juvenile cases without delay.

**c. Average Age of Cleared Cases: 137 days in 2013**

As only one juvenile case was cleared in 2013, the average age of cleared juvenile cases is the same as the age of the one case, 137. For juvenile cases filed in the past five years (2009-2013), the average duration of cleared cases in days are set forth below. Because the High Court sees so few juvenile cases the figures do not reveal a meaningful trend. What is important is that as of the date of this report, there are no pending juvenile cases before the High Court.

<b>Average Age of High Court Juvenile Cases Cleared 2009-2013</b>					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Cases Cleared</b>	1	0	1	0	1
<b>Avg. Age of Cases Cleared</b>	0	0	252	0	137



**d. Appeals**

As an indication of the quality of High Court juvenile decisions, in 2013 no High Court juvenile cases were appealed, nor were any cases from previous years overturned on appeal. Accordingly, the percentage of juvenile cases appealed and the percentage of appealed juvenile 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 RMI Judiciary does not impose fees on juvenile defendants at the trial level. On appeal, a defendant may apply for a fee waiver. Also, to ensure accessibility, juvenile cases are heard on circuit and juvenile defendants have access to free legal counsel.

Of the four juvenile cases filed in 2013, two cases (50.00%) were Ebeye circuit cases. The one juvenile case cleared in 2013 was not an Ebeye circuit case.

Finally, and most important, accessibility to justice is assured by access to free legal representation. In 2013, as in other years, most juvenile defendants were represented by the Office of the Public Defender, the Micronesian Legal Services Corporation, or a court-appointed attorney paid for by legal aid funds. In all four cases filed in 2013, the defendants received legal assistance at no cost (100%). This percentage is typical of most years.

## 5. Caseloads for Judges and Clerks

The total number of all High Court cases filed in 2013 was 312. For the two High Court Justices this equates to an average caseload of 156 new cases for 2013. These figures are consistent with recent years, although the figures fluctuate:

- for 2013, 156 cases per justice;
- for 2012, 144 cases per justice;
- for 2011, 157.5 cases per justice;
- for 2010, 136 cases per justice; and
- for 2009, 160 cases per justice.

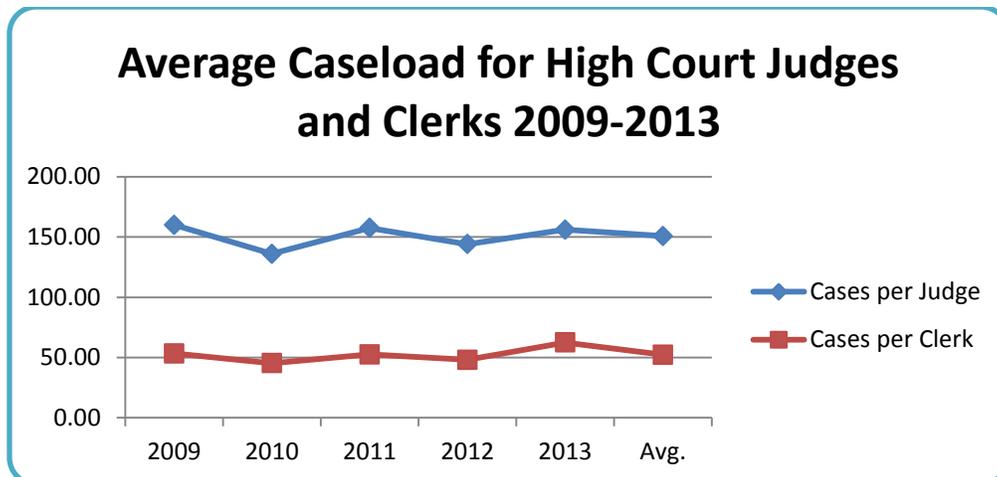
Generally, cases are assigned between the two judges on an alternating basis.

For the five clerks that regularly process High Court cases, their 2013 caseload included 52 new cases per clerk. As with the justices, the clerks' caseloads fluctuate from year-to-year within a limited range:

- for 2013, 62.4 cases per clerk;
- for 2012, 48 cases per clerk;
- for 2011, 52.50 cases per clerk;
- for 2010, 45.33 cases per clerk; and
- for 2009, 53.33 cases per clerk.

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

<b>Average Caseload for High Court Judges and Clerks 2009-2013</b>						
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Avg.</b>
<b>Cases per Judge</b>	160.00	136.00	157.50	144.00	156.00	150.70
<b>Cases per Clerk</b>	53.33	45.33	52.50	48.00	62.40	52.31



## 6. Selected Decisions

Selected High Court decisions can be found on the RMI Judiciary’s website, <http://rmicourts.org/>, under the heading Court Decisions and Digests. The selected cases are the noteworthy ones; ones that the Judiciary believes should be published for the benefit to the public and practitioners. The High Court will not publish a case unless it satisfies one or more of the following standards: (1) the opinion lays down a new rule of law, or alters, modifies an existing rule, or applies an established rule to a novel fact situation; (2) the opinion involves a legal issue of continuing public interest; (3) the opinion directs attention to the shortcomings of existing common law or inadequacies in statutes; (4) the opinion resolves an apparent conflict of authority. Most High Court decisions are routine in nature and generally are of interest only to the parties. However, the public can get copies of these decisions upon request to the Clerk of the Courts.

## 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: Irojlaplap (high chief); where applicable, Irojdedrik (lower chief); Alap (head of commoner/worker clan); and Dri Jerbal (commoner/worker).



In June 2010, the Cabinet appointed Chief Judge Walter K. Elbon (alap member) and Associate Judge Grace L. Leban (dri jermal member) for terms of 10 years. In April 2013, the Cabinet appointed Nixon David (iroij member) for a 4-year term. 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 RMI Judiciary is committed to increasing the number of female judges. However, only two of the RMI 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 may 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 rendering 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 2013, the TRC held two trials. One decision was issued in 2013, and the other decision was issued in early 2014. As of the date of this report, the TRC has issued a second opinion in 2014 and is working on one more. Approximately 21 cases (2014 cases included) are pending before the TRC and are under active review. The TRC has set two of the 21 pending cases for trial before the end of the year.

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

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

In addition to the TRC, District Court is below the High Court at the trial level. 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 2013, 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 2013 case statistics and case workload are set forth below.

### 1. Traffic Cases (Majuro)

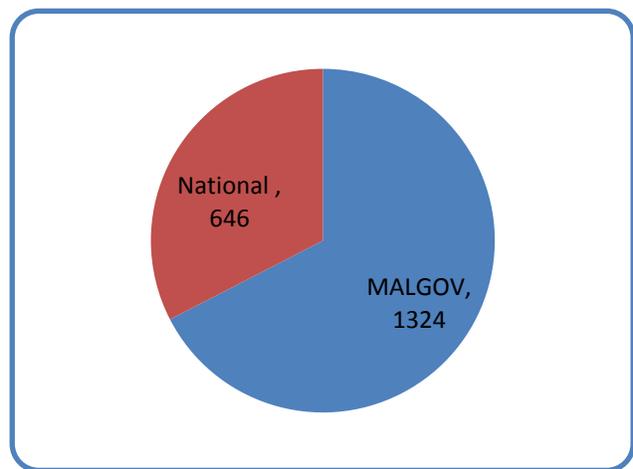
The District Court’s 2013 statistics for Majuro traffic cases cover the following:

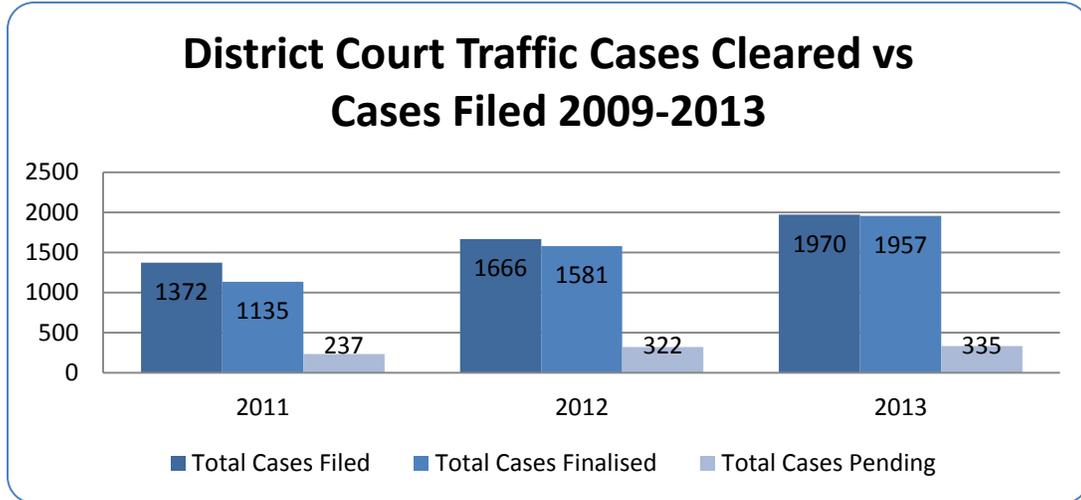
- the number and nature of cases filed in 2013;
- the annual clearance rates for the most recent three years;
- the average duration of cleared cases for the most recent three years;
- the percentage of cases appealed and the percentage of appealed cases overturned on appeal; and
- accessibility in terms of fee waiver, cases heard outside of Majuro (the Capital), legal aid, and forms.

#### a. Number and Nature of Cases Filed in 2013

In 2013, the National Police and Majuro Atoll Local Government Police prosecutors filed in the District Court a total of 1,970 traffic cases in Majuro. A total of 179 cases involved DUI/Drunken Driving.

Of the 1,970 traffic cases filed in Majuro in 2013, 1,468 were cleared in 2013, leaving 502 pending at the end of the year. A large number of cases remained pending at the end of the year because police had difficulty locating defendants who relocated to the United States or to the outer islands of the Republic or who gave false addresses.





**b. Clearance Rates: 99.34% in 2013**

The District Court’s efficiency can be measured by case clearance rates. The District Court’s 2013 annual clearance rate for traffic cases was 99.34% (1,957/1,970). During 2013, the District Court, counsel, and parties closed 1,468 2013 cases and 489 cases from previous years. And as noted above, the government filed 1,970 new cases in 2013. The District Court’s goal is to maintain an annual clearance rate for traffic cases of 100% or better, for each year. As a result of its efforts to process cases without undue delay, the District Court was able to gradually increase its clearance rate as shown below.

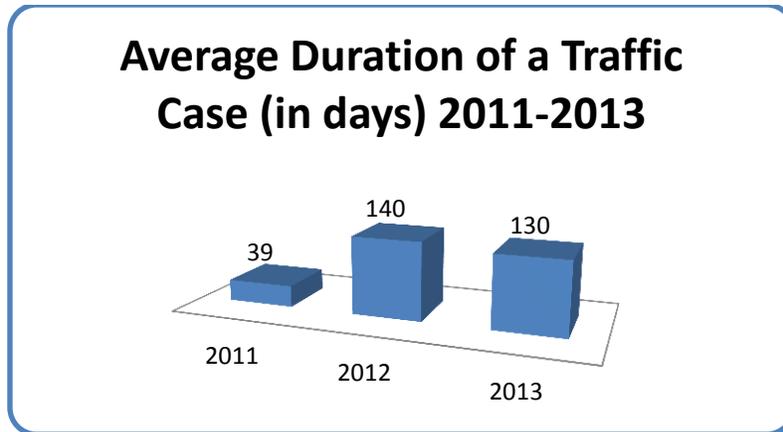
Annual Clearance Rates of Majuro District Court Traffic Cases 2009-2013				
Year	Total Cases Filed	Total Cases Finalized	Total Cases Pending	Clearance Rate
<b>2011</b>	1,372	1,135	237	82.73%
<b>2012</b>	1,666	1,581	322	94.90%
<b>2013</b>	1,970	1,957	335	99.34%
<b>Total:</b>	<b>5,008</b>	<b>4,673</b>	<b>335</b>	<b>93.31%</b>

As the above chart also shows, from cases filed in 2011 through 2013, 335 cases remained pending. The District Court each month dismisses without prejudice abandoned cases that have been pending six months or more.

**c. Average Duration of Traffic Cases Cleared in 2013**

The average duration of District Court traffic cases cleared in 2013 was 130 days. Excluding cases from earlier years cleared in 2013, the average duration of 2013 traffic cases cleared in 2013 is only 46 days.

For Majuro District Court traffic cases filed in the past three years (2011-2013), the average durations of cleared cases in days were as follows:



**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 appealed cases overturned on appeal.

In 2013, none of the 1,957 District Court traffic cases cleared in 2013 were appealed to the High Court. Similarly, in 2011 and 2012, no traffic cases were appealed.

Furthermore, in 2013, there were no District Court traffic cases or decisions overturned from any year on appeal.

**e. Affordability and Accessibility: Fee Waiver; Cases Heard Outside of Majuro; 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 outside of the capital Majuro, the availability of free legal service, and the availability of forms.

**(i) Fee Waiver**

As there is no filing fee for traffic cases, fee waiver is not applicable.

**(ii) Cases Heard on Ebeye**

A third District Court judge is stationed in Ebeye to handle District Court matters including traffic cases filed there.

**(iii) Free Legal Services**

At the District Court level, most traffic offenders are self-represented. Only in more serious cases, such as those involving DUI, do they seek legal assistance and representation by the Micronesian Legal Services Corporation or the Office of the Public Defender, which both provide free legal assistance. Of the 1,970 traffic cases filed in 2013, only 72 defendants (3.65%) were represented by the Office of the Public Defender.

**(iv) Forms**

Consent judgment forms are available at the Clerk’s Office for traffic offenders who wish to plead guilty and pay a fine. Those who use the form do not have to appear in court.

**2. Criminal Cases (Majuro)**

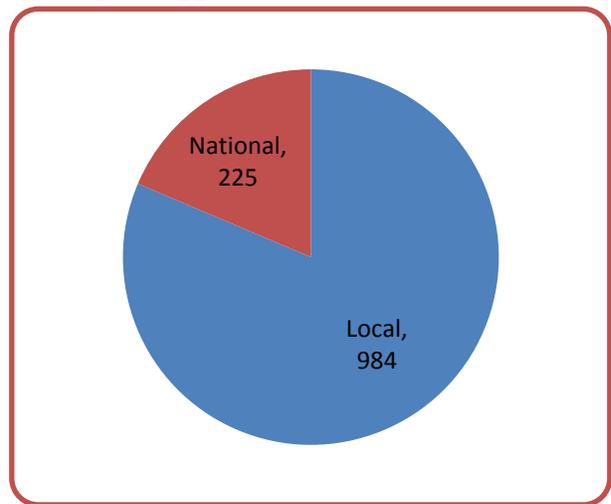
The District Court’s 2013 statistics for Majuro criminal cases cover the following:

- the number and nature of cases filed in 2013;
- the annual clearance rates for the most recent three years;
- the average duration of cleared cases in the most recent three years;
- the percentage of cases appealed and the percentage of appealed cases overturned on appeal; and
- accessibility in terms of fee waiver, cases heard outside of Majuro, legal aid, and forms.

**a. Number and Nature of Cases Filed in 2013**

In 2013, the National Police and Majuro Atoll Local Government Police prosecutors filed in the District Court a total of 1,209 criminal cases in Majuro.

Of the 1,209 criminal cases, 861 were



cleared in 2013, leaving 348 pending at the end of the year. A large number of cases remained pending at the end of the year because police had difficulty locating defendants who relocated to the United States or to the outer islands of the Republic or who gave false addresses.

**b. Clearance Rates: 109.92 in 2013**

The District Court's 2013 annual clearance rate for criminal cases was 109.92 % (1,329/1,209). During 2013, the District Court, counsel, and parties closed 861 cases and 468 cases from previous years. As noted below, the government filed 1,209 new cases in 2013. The District Court's goal is to maintain an annual clearance rate for criminal cases of 100% or better, for each year.

**c. Average Duration of Cleared Criminal Cases: 174 days in 2013**

In addition to annual clearance rates, the efficiency of a case management system can be measured by the age of cleared cases. The average age of District Court criminal cases cleared in 2013 was 174 days.

**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 appealed cases overturned on appeal.

In 2013, none of the 1,329 District Court criminal cases cleared in 2013 were appealed to the High Court. Also in 2013, there were no District Court criminal cases or decisions from any years overturned. This is the same for previous years.

**e. Affordability and Accessibility: Fee Waiver; Cases Heard Outside of Majuro; 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 outside of the capital Majuro, the availability of free legal service, and the availability of forms.

**(i) Fee Waiver**

As there is no filing fee for criminal cases, free waiver is not applicable.

**(ii) Cases Heard on Ebeye**

A third District Court judge is stationed in Ebeye to handle District Court matters including criminal cases filed there.

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

At the District Court level, most defendants are self-represented. Only in more serious cases, such as those involving selling alcohol to minors and assault and battery, do defendants seek legal assistance and representation by the Micronesian Legal Services Corporation or the Office of the Public Defender, which both provide free legal assistance. Of the 1,209 criminal cases filed in 2013, only 20 defendants (1.65%) were represented by the Office of the Public Defender.

### **(iv) Forms**

Consent judgment forms are available at the Clerk's Office for defendants who wish to plead guilty and pay a fine. Those who use the form do not have to appear in court.

## **3. Juvenile Cases (Majuro)**

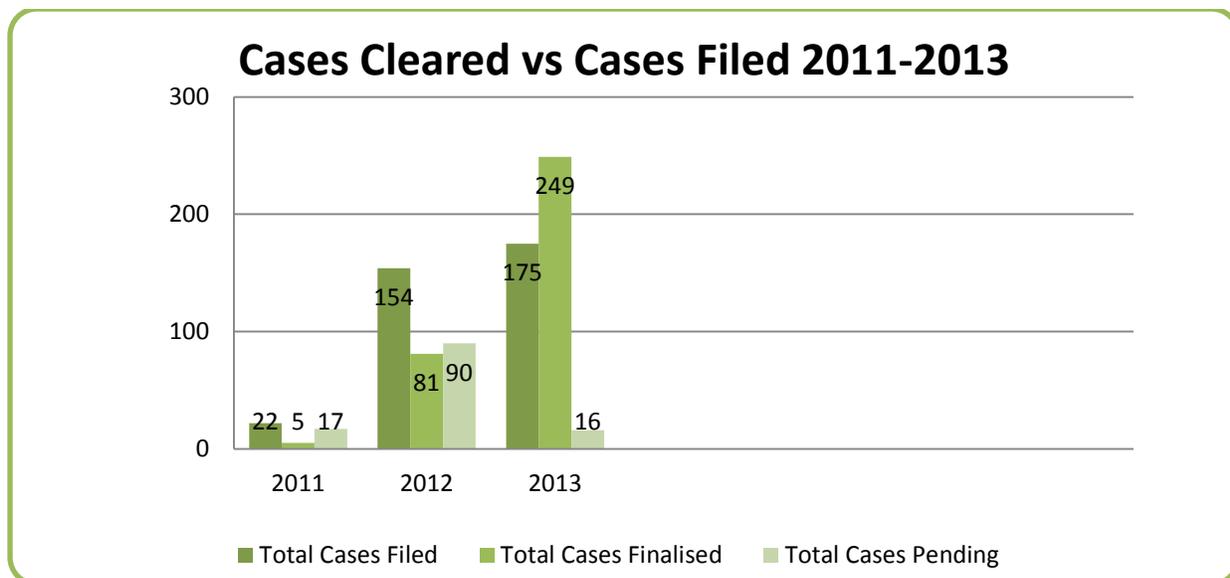
The District Court's 2013 statistics for juvenile cases cover the following:

- the number and nature of cases filed in 2013;
- the annual clearance rates for the most recent three years;
- the average duration of cleared cases;
- the percentage of cases appealed and the percentage of cases overturned on appeal; and
- accessibility in terms of fee waiver, cases heard outside of Majuro, legal aid, and forms.

### **a. Number and Nature of Cases Filed in 2013**

In 2013, the National Police and Majuro Atoll Local Government Police prosecutors filed in the District Court a total of 175 juvenile cases in Majuro. A total of 123 cases involved curfew violations, 37 involved underage drinking and alcohol related charges, and 15 cases involved traffic related charges and littering.

Of the 175 juvenile cases filed in Majuro in 2013, 158 were cleared in 2013, leaving 17 pending at the end of the year. In 2014, all 17 pending cases were cleared.



**b. Clearance Rates: 142.29% in 2013**

The District Court’s efficiency can be measured by case clearance rates. The District Court’s 2013 annual clearance rate for juvenile cases was 142.29% (249/175). During 2013, the District Court, counsel, and parties closed 91 cases from 2012. And as noted below, 175 new cases were filed in 2013. The District Court’s goal is to maintain an annual clearance rate for juvenile cases of 100% or better, for each year. As a result of its efforts to process cases without undue delay, the District Court was able to gradually increase its clearance rate as shown below.

Year	Total Cases Filed	Total Cases Finalized	Total Cases Pending	Clearance Rate	Average Days Disposal Time
<b>2011</b>	22	5	17	22.73%	229.20
<b>2012</b>	154	81	90	52.60%	179.94
<b>2013</b>	175	249	16	142.29%	213.31
<b>Total:</b>	<b>351</b>	<b>335</b>	<b>16</b>	<b>95.44%</b>	<b>207.48</b>

Also the above chart shows, from cases filed in 2011 through 2013, 16 cases remained pending. The District Court each month dismisses without prejudice abandoned cases that have been pending six months or more.

**c. Average Duration of Cleared Juvenile Cases: 213.31 in 2013**

In addition to annual clearance rates, the efficiency of a case management system can be measured by the age of cleared cases. The average age of District Court juvenile cases cleared in

2013 was 213.31 days. District Court juvenile cases cleared in the past three years (2011-2013), the average durations of cleared cases in days are as shown above.

#### **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 appealed cases overturned on appeal.

In 2013, none of the 249 District Court juvenile cases cleared in 2013 were appealed to the High Court. Similarly, in 2011 and 2012, no juvenile cases were appealed.

Furthermore, in 2013, there were no District Court juvenile cases or decisions from any years overturned on appeal.

#### **e. Affordability and Accessibility: Fee Waiver; Cases Heard Outside of Majuro; 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 outside of the capital Majuro, the availability of free legal service, and the availability of forms.

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

As there is no filing fee for juvenile cases, fee waiver is not applicable.

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

A third District Court judge is stationed in Ebeye to handle District Court matters including juvenile cases filed there.

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

At the District Court level, most juvenile offenders are self-represented. Only in more serious cases do they seek legal assistance and representation by the Micronesian Legal Services Corporation or the Office of the Public Defender, which both provide free legal assistance. Of the 175 juvenile cases filed in 2013, no juvenile offenders (0%) were represented by the Office of the Public Defender. The Office of the Public Defender represented 5 juvenile offenders in 2011 and one in 2012.

**(iv) Forms**

Consent judgment forms are available at the Clerk’s Office for juvenile offenders who wish to plead guilty and pay a fine. Those who use the form do not have to appear in court.

**4. Small Claims Cases (Majuro)**

The District Court’s 2013 statistics for Majuro small claims cases cover the following:

- the number and nature of cases filed in 2013;
- the annual clearance rates for the most recent three years;
- the average duration of cleared cases;
- the percentage of cases appealed and the percentage of cases overturned on appeal; and
- accessibility in terms of fee waiver, cases heard outside of Majuro, legal aid, and forms.

**a. Number of Cases Filed in 2013**

In 2013, a total of 392 small claims cases were filed in Majuro.

Of the 392 small claims cases filed in Majuro in 2013, 247 were cleared in 2013, leaving 145 pending at the end of the year. Cases that remained pending at the end of the year involved defendants who reside in the outer islands.

**b. Clearance Rates: 71.43% in 2013**

The District Court’s efficiency can be measured by case clearance rates. The District Court’s 2013 annual clearance rate for small claims cases was 71.43% (280/392). During 2013, the District Court, counsel, and parties closed 280 cases from previous years. And as noted below, 392 new cases were filed in 2013. The District Court’s goal is to maintain an annual clearance rate for small claims cases of 100% or better, for each year

<b>Year</b>	<b>Total Cases Filed</b>	<b>Total Cases Finalized</b>	<b>Total Cases Pending</b>	<b>Clearance Rate</b>
<b>2011</b>	252	195	57	77.38%
<b>2012</b>	335	314	78	94.03%
<b>2013</b>	392	280	190	71.43%
<b>Total</b>	<b>979</b>	<b>789</b>	<b>190</b>	<b>80.69%</b>

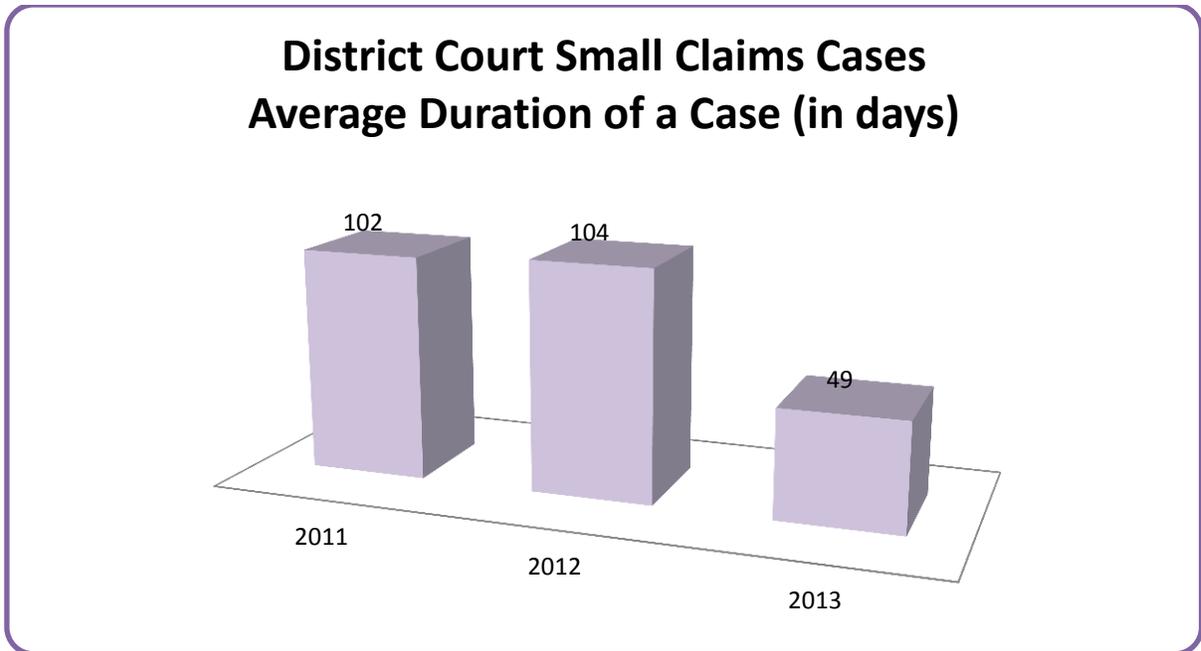
Also the above chart shows, from cases filed in 2011 through 2013, 190 cases remained pending.

**c. Average Duration of Cleared Small Claims Cases: 49.34 days in 2013**

In addition to annual clearance rates, the efficiency of a case management system can be measured by the in the age of cleared cases.

The average duration of District Court small claims cases cleared in 2013 was 49.34 days, a significant drop compared to previous years.

For Majuro District Court small claims cases cleared in the past three years (2011-2013), the average duration of cleared cases in days were as follows:



#### **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 appealed cases overturned on appeal.

In 2013, none of the 392 District Court small claims cases cleared in 2013 were appealed to the High Court. Similarly, in 2011 and 2012, no small claims cases were appealed.

Furthermore, in 2013, there was no District Court small claims cases or decisions from any years overturned on appeal.

**e. Affordability and Accessibility: Fee Waiver; Cases Heard Outside of Majuro; 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 outside of the capital Majuro, 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, plaintiffs did not request a fee waiver in any of the 2013 District Court small claims cases. The filing fee for small claims cases remains low at only \$5.00 dollars.

**(ii) Cases Heard on Ebeye**

A third District Court judge is stationed in Ebeye to handle District Court matters including small claims cases filed there.

**(iii) Free Legal Services**

At the District Court level, most plaintiffs and defendants in small claims cases are self-represented. Only in a few cases do defendants seek legal assistance and representation by the Micronesian Legal Services Corporation or the Office of the Public Defender, which both provide free legal assistance. Of the 392 small claims cases filed in 2013, only 7 defendants (1.8%) were represented by the Micronesian Legal Services Corporation or the Public Defender. Others appeared *pro se*.

**(iv) Forms**

Small claims forms are available on the court's website ([www.rmicourts.org](http://www.rmicourts.org)) or at the Clerk's Office.

In summary, a total of 3,746 cases were filed in the Majuro District Court: 1,970 traffic cases; 1,209 criminal and local government ordinance cases; 175 juvenile case; 392 small claims cases; and no other civil cases.

**5. Caseload for Judges and the Clerks.**

The average number of new cases heard by the two District Court judges in Majuro was 1,886.5 cases, and the average number of new cases per court clerk (two from the RMI Judiciary and two from Majuro Atoll Local Government) was 943.25. In 2013, the average number of cases heard by the two Majuro judges was 1,610, and the average number of cases per court clerk was 1,073.

**6. Ebeye.** In 2013 on Ebeye, 449 cases were filed in the District Court: 44 small claim cases (43 cleared and one pending); 70 traffic cases (66 cleared and 4 pending); no juvenile cases; 41 criminal cases (35 cleared and six pending); and 294 local government ordinance cases (290 cleared and four pending).



The average number of cases heard per District Court judge in Ebeye was 449, and the average number of cases per court clerk was the same.

No 2013 Ebeye District Court cases were appealed or overturned on appeal.

In all Ebeye District Court small claims cases, the parties were self-represented. The PD represented the defendant in 53 of the 66 traffic cases that were cleared (80.30%), in all of the 35 criminal cases that were cleared (100%), and in three of the 290 ordinance cases cleared (1.03%). In the remaining 287 ordinance cases, six were represented by private counsel and 281 defendants paid the ticket without contesting the matter.

## **E. Community Courts**



On the smaller outer islands the RMI 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 2013, there were 25 serving Community Court judges and five vacancies. Currently, there are three



vacancies for which the Commission is waiting recommendations from local government councils: 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 RMI 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 RMI Judiciary held a one-week workshop for Community Court judges. The next workshop was held August 11-15, 2014. The RMI Judiciary intends to continue providing trainings for Community Court judges every two years.

## **F. Travel to the Outer Islands and Ebeye**

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

The RMI 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 RMI Judiciary would seek a budget increase to cover this cost and related expenses (for example, 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 RMI 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. Other Services: Births, Deaths, Marriages, Notarizations, and Record Checks.**

In addition to deciding cases, the courts help the people through confirming delayed registrations of births and death, performing marriages, notarizing documents, issuing record checks. 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 2013 on Majuro, the High Court and the District Court processed 294 delayed registrations of birth, 12 delayed registrations of death, and performed 72 marriages.



The clerks notarized 552 documents. Upon request, clerks will go the hospital or homes to notarize documents for those who cannot make it to the courthouses. Also, the clerks issued 72 criminal record checks and 146 corporate litigation checks.

**2. Ebeye.** In 2013 on Ebeye, the District Court processed 30 delayed registrations of birth, 1 delayed registration of death, and performed 12 marriages. The clerk also notarized 218 documents (1 sick visited and 6 visits to High Chief).

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

<b>Birth, Deaths, Etc. 2009-2013</b>					
	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>
<b>Births</b>	297	253	289	233	324
<b>Deaths</b>	10	3	4	3	13
<b>Marriages</b>	44	57	49	77	84
<b>Notarizations</b>	851	809	962	967	770
<b>Criminal Checks</b>	23	72	92	110	72
<b>Corporate Checks</b>	0	0	6	33	146

## H. Court Staff



In 2013, the RMI 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 three 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., Monday through Friday, except holidays. In case of emergencies, the courts will open on weekends and 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)

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

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

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

## I. Professional Development and Regional Conferences

*“To manage the RMI Judiciary’s personnel in accordance with sound leadership and management practices”* is the fourth goal of the RMI Judiciary’s 2014-2018 Strategic Plan. Consistent with this goal, Strategies 4.1, 4.2, and 4.3, and internationally recognized practice, in 2013 the RMI 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. Also, six of the seven clerks attended professional development workshops. The participants found that the programs met or exceeded their expectations, and addressed recognized training needs. Funding for such programs came from the RMI Judiciary’s annual operating budget, the Compact of Free Association, Australia, and New Zealand. The RMI Judiciary’s 2013 professional development activities are set forth below.



In January 2013, High Court Associate Justice James H. Plasman, District Court Presiding Judge Milton Zackios, District Court Associate Judges Jimata Kabua and Tarry Paul attended a four-day PJDP-sponsored Judicial Sentencing Process Training/Workshop in Yap State, Federated States of

Micronesia. Associate Justice Plasman was the chief facilitator/presenter for the sessions devoted to judges. Among the topics covered were the following: the purposes of sentencing, sentencing tools, sentencing procedure, appellate issues in sentencing, application of sentencing factors, writing the sentencing order, and the role of custom in sentencing.

In late February, District Court Associate Judge Ablos T. Paul attended the Pacific Judicial Development Program sponsored Capacity Building Training of Trainers Workshop in Auckland, New Zealand. This 10-day intensive certification-level workshop continued the capacity building approach to training-of-trainers developed by the PJDP. The training aimed to equip participants to be confident and competent trainers, and to enable them to build capacity within their own country and region.



In March 2013, Chief Justice Ingram attended three conferences in New Zealand and Australia. First, Chief Justice Ingram attended the 19th AIJA Oration in Judicial Administration held in Auckland, New Zealand. The theme of the oration was "The Pursuit of Excellence and Innovation in Courts and Tribunals." Most of the presenters delivered paper on the International Framework for Court Excellence, a court performance tool that had just been revised to address the concerns of smaller jurisdictions. The IFCE, as revised, may provide the RMI Judiciary with a suitable framework for improving its performance and services. Also at the oration, Chief Justice Ingram presented a paper entitled "Successful Leadership in Times of Crisis," outlining the elements of successful leadership during emergencies. Immediately after the AIJA oration, Chief Justice Ingram attended the Pacific Judicial Development Program's conferences for National Coordinators and Chief Justices, also held in Auckland. The purpose of these conferences was to review and adopt regional court improvement projects for the 24-month period commencing in July 2013. The projects will be funded by New Zealand and administered by the Federal Court of Australia. The projects included the promotion of National Judicial Development Committees, Time Standards, Annual Reports, Codes of Conduct, Juvenile Justice, and Access to Justice. The RMI Judiciary has taken, and will continue to take, advantage of the PJDP's projects. Finally, Chief Justice Ingram traveled to Sydney, Australia, to attend the 6th World Conference on Family Law and Children's Rights including a two-day visit to the Family Court of Australia to learn of recent innovations in family law.

In mid-March 2013, TRC Associate Judge Grace Leban attended the National Judicial College course "Fundamentals of Evidence." At the course she was introduced to the fundamental principles of evidence with a focus on using the rules to decide evidentiary issues. The course was designed to benefit judges without law degrees who are looking for a better understanding of evidence.

In late April 2013, District Court Associate Judge Tarry Paul attended the National Judicial College course "Logic and Opinion Writing (JS 621)." After the course he was able to define basic terms and concepts in the formal study of logic; describe the premises of inductive reasoning; explain the anatomy of an opinion with the use of orientation paragraphs; issue statements, findings of fact and conclusions of law or disposition; and state the emphasis to be given to style, such as focus, sentence structure and revision.

In late May 2013, TRC Chief Judge Walter Elbon, District Court Presiding Judge Milton Zackios, and District Court Associate Judge Jimata Kabua attended the National Judicial College course “Evidence in a Courtroom Setting.” Participants reviewed the Federal Rules of Evidence (upon which the Marshall Islands Rules of Evidence are based) and compared them with the rules of evidence in their jurisdictions. This was a highly interactive seminar in which judges from different jurisdictions and backgrounds can openly and vigorously examined the rules of evidence in the everyday courtroom setting. Participants examined those evidentiary issues that cause the most difficulty for judges including ethical issues, relevancy, lay and expert witnesses, impeachment, privileges, best evidence and demonstrative evidence, authentication, hearsay and its exceptions, electronic evidence and judicial notice.

In June 2013, High Court Associate Justice James H. Plasman attended the Pacific Regional Consultation for Judges on Human Rights and Contemporary Pacific Issues. As part of panel discussion on domestic violence, Justice Plasman delivered a paper on the judicial response to gender based violence in the Marshall Islands. Other topics covered during the consultation included Challenges to Judicial Independence and the Rule of Law; Protecting Constitutional Government in times of political crisis—Lessons from Solomon Islands and Nauru; a workable balance between democratic principles and traditional governance in Palau's state governments; Equality and Non-discrimination— emerging principles and their application; The challenge of disability rights; De-criminalization of anti-sodomy law in India—tackling the issues of Constitutional Morality, Public Health and Individual Rights. Also part of the program was a visit to the Brisbane Family Court and discussion of various family court issues.

In mid-July 2013, High Court Chief Justice Carl B. Ingram attended the Judicial Governance Programme conducted by the Subordinate Courts of Singapore, together with the Singapore Civil Service College. The 5-day training program provided participants with a systematic review of key reforms that have been implemented in Singapore, and it highlighted the different approaches that have been adopted, including developments in and challenges to judicial processes and management. The program’s main themes were as follows: Fundamentals of Good Court Governance; Delivery of Quality Justice; Strategy Development; Case Management Practices; Alternative Dispute Resolution; International Framework for Court Excellence; and Innovative Use of Technology.

In late August 2013, High Court Associate Justice James H. Plasman attended the National Judicial College course “Best Practices in Handling Cases with Self-Represented Litigants.” Course participants learned how better to 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.

In late September 2013, Assistant Clerks of the Court Nikki Holly and Tanya Lomae, who are responsible for the RMI Judiciary's finances, attended the 2013, 24<sup>th</sup> Annual Conference of the Association of Pacific Islands Public Auditors ("APIPA") which was held in Saipan. The



2013 APIPA conference offers four tracks: Audit, Audit Supervisor, Finance, and Advanced Finance. The two clerks attended the Finance track, which included the following courses: Assessing Risk in Your Organization; How to Clean Up Your Audit: Enhancing Internal Controls over Grants; An Organization's Responsibility in Establishing Performance Measures; and Process Improvement in Finance Operations: What Is the Process? And What Everyone Should Know When Reviewing



Government Contracts.

In October of 2013, Chief Clerk of the Courts Ingrid Kabua and Assistant Clerks Travis Joe, Hainrick Moore, and Stephen Clark, attended the PJDP Court Annual Reporting Workshop in Brisbane, Australia. At the workshop, court officers involved in the production of their court annual report were educated on court reporting, the 15 PJDP Cook Island indicators, and in general, what it takes to create a good annual report. Tools, graph or chart creators providing different ways of displaying data and information, and a report template were provided to all participants to assist in the production of their court annual reports.

In October 2013, Chief Clerk of the Courts and RMI Judiciary National Coordinator Ingrid K. Kabua attended the PJDP sponsored 5<sup>th</sup> National Coordinator's Leadership Workshop in Brisbane, Australia. The intention of the meeting was to provide an opportunity to confirm and coordinate PJDP



activities on a regional and bi-lateral basis; to provide an overview of the progress of activities and toolkits; and to enable interaction, exchange and building capacity to continue leading judicial development nationally.



In late October 2013, Chief Justice Ingram attended the Pacific Judicial Development Program's 5th Chief Justices' Leadership Workshop held in Brisbane. The workshop opened with a report from the PJDP Implementation Team on the progress of the PJDP's programs and a report from the national coordinators (of which Chief Clerk Ingrid Kabua was

one) on the way forward. Thereafter, the chief justices reviewed the various PJDP programs with the program consultants and the suggestions from the national coordinators and approved a schedule for delivery of the projects over the next year. The Marshall Islands will benefit from projects on legal writing, time standards, and performance standards.

In late October 2013, High Court Chief Justice Carl Ingram attended the 15th Conference of Chief Justices of Asia and the Pacific in Singapore from October 28 to October 30 ("CJ's Conference") and the Asia Pacific Judicial Reform Forum in Singapore from October 31 to November 1, 2013 ("APJRF Conference"). Participants at the CJ's Conference heard presentations and participated in discussions on the following topics: integrity; independence; transparency; and promoting trade and development. Participants at the APJRF Conference heard presentations and participated in discussions under the following topics: public and international confidence in the legal systems; judicial rule in interpreting constitutions and laws; corruption in legal systems; and judicial training and skills development.

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

To enhance access to justice, the RMI Judiciary regularly reviews and amends or seeks amendment of its rules of procedure and evidence. Over the past 10 years, the RMI Judiciary has proposed or adopted 20 sets of amendments.

In 2013, the RMI Judiciary has submitted to Cabinet for its consideration 10 bills regarding the following:

- clarifying the distinction between parole and probation officer;
- increasing fees for service of process;
- increasing the salary of Community Court judges;
- providing a "needs test" for the Office of the Public Defender;
- de-criminalizing traffic offenses;
- regarding the terms of Traditional Rights Court judges;
- regarding the terms of District Court judges;
- regarding legal representation for the RMI Judiciary and the use of local counsel as pro tem judges;
- increasing the term and jurisdiction of Community Court judges; and

- amending the legal profession act to provide for police prosecutors and other matters. The first five bills were passed into law in 2013. The RMI Judiciary is seeking to get the second five adopted in 2014.

Also in 2013, the RMI 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 2013, 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 four Community Court judges.

#### **V. ACCOUNTABILITY: CODES OF CONDUCT AND COMPLAINTS**

The third goal of the RMI Judiciary’s Strategic Plan includes “*to be accountable.*” To enhance its transparency and accountability, the RMI 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 RMI 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 RMI Judiciary’s code can be found on its website, [www.rmicourts.org/](http://www.rmicourts.org/) under the heading “The Marshall Islands and Its RMI Judiciary.” The provisions for lodging and processing complaints against judges start on page 12 of the code. In 2013, 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 percentage of complaints per case filed has been less than 1% for all courts and all judges.

With respect to attorney conduct, the RMI Judiciary has adopted the American Bar Association Rules of Professional Responsibility. Provisions for lodging and processing complaints against attorneys can be found on the RMI 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 2013, no complaints were lodged against attorneys, however, from 2012 there were six complaints pending review by the attorney-committee. The Chief Justice of the High Court has encouraged the committee to resolve the complaints as soon as they can.

With respect to court staff, the RMI Judiciary maintains a complaint box at the courthouses. In 2013, 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 administer the RMI Judiciary's buildings and equipment in accordance with sound management practices"* is the fifth goal of the RMI Judiciary's Strategic Plan.

### **A. Facilities**

Over the past five years, the RMI 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. With funds collected from fees, the RMI Judiciary 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. Also in 2013, Pacific International Inc. completed renovation of the chambers of the Traditional Rights Court and Bingo Construction Company repainted the Majuro Courthouse. The RMI Judiciary hopes to re-roof the Majuro Courthouse in 2014 and in the future acquire solar panels for both the Majuro and Ebeye courthouses.

## 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 RMI 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 RMI 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 RMI 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 RMI Judiciary uses the Internet to enhance access to justice.

## C. The Library



The RMI 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 RMI Judiciary has up to date online access to United States case law and secondary sources through a WestLaw Internet subscription.

## VII. SALARIES AND COMPENSATION

At current pay levels, the RMI Judiciary is having difficulty retaining and attracting qualified personnel at all levels. In 2009, the Nitijela hired away one of the RMI 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 RMI Judiciary cannot function. To stay competitive, the RMI 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 RMI 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 RMI 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 RMI Judiciary respectfully asks the Cabinet and the Nitijela to appoint a Nitijela committee to examine judicial compensation.

## VIII. THE ANNUAL BUDGET AND AUDIT REPORT

*“To manage the RMI Judiciary’s financial resources in accordance with sound financial practices”* is the sixth goal of the RMI Judiciary’s Strategic Plan. This is evidenced not only by the work of the courts, but also by the RMI Judiciary’s management of the funds made available to it.

For FY 2013, the Nitijela appropriated \$1,038,507 for the RMI Judiciary: \$615,904 for salaries and wages and \$422,603 for all others. Less audit expenses of \$8,308 paid out by the Ministry of Finance, a total of \$414,295 was paid to the RMI Judiciary for its operational funds.

Of the \$1,038,507 Nitijela appropriation for FY13, the RMI Judiciary expended only \$958,483. The unexpended balance is attributable to Marshallese salaries and benefit, particularly the Associate Judge vacancy (Iroij Representative) of the Traditional Rights Court that was filled later in 2013 and the 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 2014, as more and more Community Court judge positions are being filled. However, the money the RMI Judiciary did spend, a Deloitte and Touche audit confirms that the RMI Judiciary spent the money well.

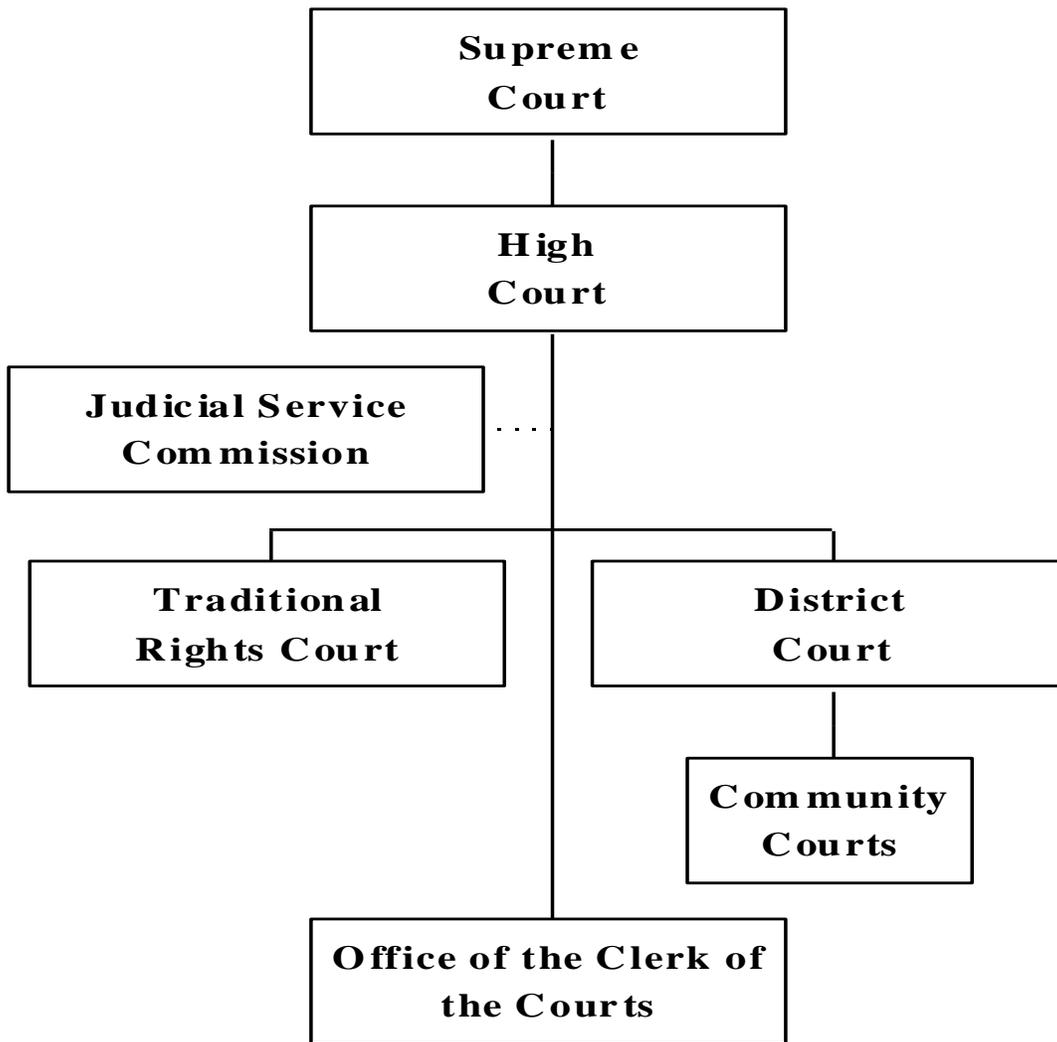


Earlier this year, the RMI Judiciary received its first audit carried out by Deloitte and Touche. Deloitte reported a clean audit with no unresolved findings for FY 2013. Attached as

Appendix 3 is the statement of revenues, expenditures, and changes in the RMI Judiciary Fund balance, Year ended September 30, 2013.

The RMI Judiciary by act has its own special revenue fund (“RMI Judiciary Fund”). Court fines and fees (excluding national criminal fines) collected by the Office of the Clerk of the Courts are deposited into this fund. As highlighted in the Significant Events or Accomplishments section of this report (page 6), funding for the new ground floor courtroom was made possible through the RMI Judiciary Fund. Due to the project, the RMI Judiciary’s total expenditures for FY 2013 were significantly higher than the total revenues received leaving a negative net change in the fund balance of \$133,971, as shown on the statement. However, with monies from the RMI Judiciary’s special revenue fund, the fund balance at the end of the year was \$163,599. Fines and fees collected by the Office of the Clerk of Courts and deposited into the RMI Judiciary Fund in FY 2013 totaled \$47,427. The fund balance at the end of the year, \$163,599, and all monies collected to date will be used to fund a new courthouse roof as the current roof has begun to deteriorate. However, we may need additional funds from the Nitijela to complete the project and to install energy efficient solar panels on the new roof.

**ORGANIZATIONAL CHART  
FOR THE  
MARSHALL ISLANDS JUDICIARY**



**JUDICIARY PERSONNEL**

**Justices and Judges**

Supreme Court Chief Justice Daniel N. Cadra (9/21/13-9/20/23)

High Court Chief Justice Carl B. Ingram (10/5/13-10/4/23)

High Court Associate Justice James H. Plasman (1/6/12-1/5/14)

Traditional Rights Court Chief Judge Walter K. Elbon (7/04/10-7/03/20)

Traditional Rights Court Associate Justice Nixon David (4/7/13-4/6/17)

Traditional Rights Court Associate Justice Grace L. Leban (7/04/10-7/03/20)

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 Toko Botla (12/2/2012-12/1/2016)

Arno Community Court Associate Judge Thompson Joseph (12/2/2012-12/1/2016)

Arno Community Court Associate Judge (vacant)

Aur Community Court Presiding Judge Benty Jikrok (3/3/13-3/2/17)

Bikini and Kili Community Court Presiding Judge Jiton Leer (8/25/13-8/24/17)

Ebon Community Court Presiding Judge Aaron Silk (9/23/12-9/22/16)

Enewetak and Ujelang Community Court Presiding Judge (vacant)

Jabat Community Court Presiding Judge Tari Jamodre (7/29/12-7/28/16)

Jaluit Community Court Associate Judge (vacant)

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

Lae Community Court Presiding Judge John Braine (3/3/13-3/2/17)

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

Likiep Community Court Presiding Judge Riton Erakdik (3/18/12-3/17/16)

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 (7/29/12-7/28/16)

Mili Community Court Presiding Judge Mack Lajinna (9/23/12-9/22/16)

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 Jackel Moore (11/17/13-11/16/17)  
Wotho Community Court Presiding Judge Carlmai Antibas (9/23/12-9/22/16)  
Wotje Community Court Presiding Judge Lincoln Lakjohn (3/18/12-3/17/16)  
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 Filimon Manoni, 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 Stephen Clark  
Assistant Clerk of the Courts Tanya Lomae  
Bailiff Morrison Riklon, Captain  
Bailiff Jukku Benjamin, Sergeant  
Bailiff Valentin Boon, Police Officer III  
Bailiff Nang Jack, Police Officer I  
Maintenance Langmeto Peter

### Appendix 3

#### MARSHALL ISLANDS JUDICIARY FUND

##### Statement of Revenues, Expenditures, and Changes in Fund Balance Year Ended September 30, 2013

Revenues:	
Nitijela appropriation	\$ 958,483
Fines and fees	47,427
Interest	1,024
Other	<u>27,666</u>
Total revenues	<u>1,034,600</u>
Expenditures:	
Salaries and wages	544,188
Capital outlay	293,196
Utilities	94,549
Leased housing	69,600
Communications	48,393
Travel	42,781
Supplies and materials	33,901
POL	12,852
Repairs and maintenance	8,483
Professional services	3,100
Miscellaneous	<u>17,528</u>
Total expenditures	<u>1,168,571</u>
Net change in fund balance	(133,971)
Fund balance at the beginning of the year	<u>297,570</u>
Fund balance at the end of the year	\$ <u>163,599</u>