

FSM NATIONAL AND STATE JUDICIARIES ANNUAL CASELOAD AND PERFORMANCE REPORT 2014

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Message from the FSM Acting Chief Justice



FSM Supreme Court
Acting Chief Justice
Honorable Ready E. Johnny

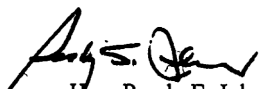
First, I want to extend our collective gratitude to Government of New Zealand, specifically the Ministry of Foreign Affairs and Trade, and Government of Australia, specifically the Federal Court of Australia, for their continuing support and services to the FSM judiciaries through PJDP.

I also want to take this opportunity to thank my colleagues at the FSM state judiciaries for their support and contributions to this report. It is without doubt that the work involved in making this report possible could be tedious and cumbersome but the work was not done in vain. The process of gathering and analysing information on case processing and case-related data is an important management exercise that keeps the judicial leaders abreast of what courts are doing. The reported outcomes give court leaders better understanding of how the courts are doing or performing based on an established standard of court performance. Should there be need for improvement (s) or change (s) in court services, it is best to predicate them upon facts and conclusions drawn from information provided by this kind of report. It is without question that internally this report is critical for court management purposes. Externally, the report gives credibility to accountability and transparency of court purpose and services.

The PJDP 15 key performance indicators are common and universal measuring tools that are excellent guides for our courts. I am sure there maybe other unique indicator (s) for each court that is/are relevant in its own setting. All in all, whether key performance indicators are common or unique, the ultimate performance goal for all courts should be to ensure justice is done in accordance to the rule of law and in a timely, fair and equitable manner.

It is probably difficult but I will encourage my key staff and the state judiciary leadership to continue working together for this cause. By the same token I hope we can find ways to get the leadership of municipal and island courts involve in this annual exercise. First, their participation is needed in order to properly represent this report as a country annual report. More importantly as I already alluded to above, it has both internal and external critical values.

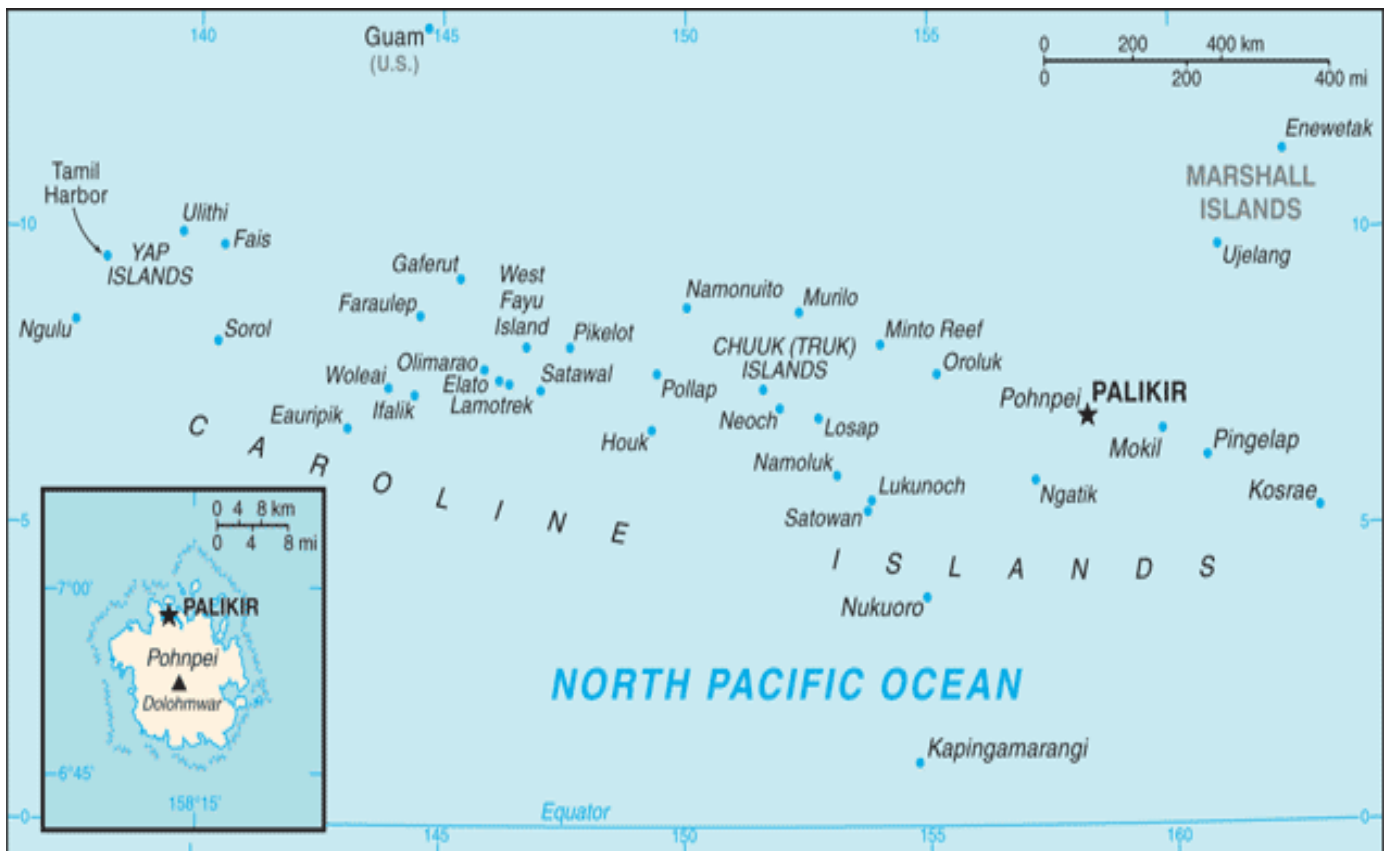
I wish all the courts success in 2015.


Hon. Ready E. Johnny

Introduction

The Federated States of Micronesia (FSM) became autonomous and self-governing on May 10, 1979 and an independent sovereign nation on November 03, 1986. It was admitted to the United Nations on September 17, 1991. Formerly it had been a part of the Trust Territory of the Pacific Islands (TTPI). Although its total land mass is only 270 square miles, it is spread across more than one million square miles of the Western Pacific Ocean, (Fig.1). The FSM consists of four major island states (listed from west to east): Yap, Chuuk, Pohnpei, and Kosrae, and includes over 607 islands. Located above the equator about 2,500 miles southwest of Hawai'i, about 1,800 miles north of eastern Australia and about 1,500 miles east of the Philippines. Its 2010 estimated total population was approximately 102,843 people, an overall decreased of about 0.4% since 2000 census. The four FSM States vary widely in population; Kosrae 6,616; Yap 11,377; Pohnpei 36,196; and Chuuk 48,654. source: Office of FSM SBOC, 2010 census of population and housing).

Fig. 1. Islands of the FSM



Report

The initial objective of this report was to present an overview of court/judiciary performance of FSM as a nation. The first report was done for calendar year 2013 which served as a pilot report. The assumption was to gather and compile all information on case processing and related data in all courts of the FSM; national, state and municipal/island courts. It was proven difficult to gather data from all courts especially from the municipal/island courts. The physical distance and lack of or poor communication infrastructure were some of the primary reasons among others for the difficulty. Thus the effort was to focus on the national and four (4) state courts after the state chief justices agreed to it in May, 2014. The information gathered was very useful in establishing baseline data for each court. Some of the courts provided data up to three prior years where trends could be established. Though the report maybe not include the municipal and island courts data the bulk or approximately 95% or more of the total caseload for FSM are filed and handled at the state and national courts.

For this annual report (2014), one of the states did not comply with the reporting requirements after nearly two months delay. Thus the report was prepared and submitted without its data.

It is the intend of the FSM Supreme Court and the participating State Courts to engage in measuring court performance in terms of quality, efficiency and effectiveness of their services. The information is very important for management purposes internally. More importantly it gives credence and credibility to accountability and transparency of courts' purpose and services to the people.

The data was analyzed and reported in accordance with 15 PJDP key performance indicators (kpi) adopted by PJDP Program Executive Council (PEC) in 2011.

Overview of FSM judiciary systems

General information:

FSM is a federation of four states, Kosrae, Pohnpei, Chuuk and Yap. The power to govern is shared between the national and state governments. The highest court of the nation is FSM Supreme Court, formed under Article XI of the FSM Constitution. The FSM Supreme Court is a court of limited jurisdiction that functions separately and independently of the four state courts.

Each State has its own independent judiciary system/structure. The judiciary structures vary depending on the dictates of each state's constitution. Yap, Chuuk and Pohnpei States organized island/municipal courts because they are comprised of many islands. The number of island and municipal courts varies between the three states, depending on the number of island groups and municipalities in each state. Kosrae State, however, has no municipal courts because it is a one-island state

The State Courts of Chuuk and Yap State have oversight over their island/municipal courts. The island/municipal courts are in essence lower courts of the state courts. For Pohnpei State, the structure is different; each island/municipal court was created by its own local constitution therefore operates separately and independently of the state court.

The bulk of all cases in the FSM are filed at the four state court and the national court.

Divisions:

The national and three of the state courts have trial and appellate divisions. Kosrae State Court has only trial division and its decisions are appealable to the FSM Supreme Court Appellate Division. The Yap and Chuuk State Courts serve as appellate courts for their island and municipal courts. In Pohnpei, each island and municipal court has its own individual appellate division.

Specialized Courts:

In Pohnpei and Kosrae judiciaries have land courts that oversee land matters. Chuuk and Yap do not have land courts but have land offices under their executive branches.

There are no special courts on family, juvenile or bankruptcy in any of the jurisdictions.

National and State Judiciaries

NATIONAL JUDICIARY

FSM Supreme Court:

The trial division has original and exclusive jurisdiction in cases affecting officials of foreign governments, disputes between states, admiralty or maritime cases, and in cases in which the national government is a party except where an interest in land is at issue.

The national courts, including the trial division of the Supreme Court, have concurrent original jurisdiction in cases arising under the FSM Constitution; national laws or treaties; and in disputes between a state and a citizen of another state, between citizens of different states, and between a state or a citizen thereof, and a foreign state, citizen, or subject.

When jurisdiction is concurrent, the proper court may be prescribed by statute.

The appellate division of the Supreme Court may review cases heard in the national courts, and cases heard in state or local courts if they require interpretation of the FSM Constitution, national law, or a treaty. If a state constitution permits, the appellate division of the Supreme Court may review other cases on appeal from the highest state court.

When a case in a state or local court involves a substantial question requiring the interpretation of the FSM Constitution, national law, or a treaty, on application of a party or on its own motion the court shall certify the question to the appellate division of the Supreme Court. The appellate division of the Supreme Court may decide the case or remand it for further proceedings.

STATE JUDICIARIES

Kosrae State Court: Chief Justice, Hon. Aliksa B. Aliksa

The Court's territorial jurisdiction extends to the whole of the State. The Kosrae Constitution contemplates that justices of the FSM Supreme Court may decide cases which arise within Kosrae and fall under the original jurisdiction of the Kosrae State Court



The State Court has original jurisdiction in all cases, except cases within the exclusive and original jurisdiction of inferior courts. The State Court has jurisdiction to review all decisions of inferior courts. Decisions of the highest division of the State Court may be appealed to the appellate division of the Supreme Court of the Federated States of Micronesia. The courts of the State constitute a unified judicial system for operation and administration. The Court entertains civil or criminal actions arising from municipal law.

Pohnpei Supreme Court: Chief Justice, Hon. Benjamin F. Rodriguez

The Pohnpei Supreme Court is a court of record and is the highest court of Pohnpei State. The trial division of the Pohnpei Supreme Court has original jurisdiction over



all civil and criminal cases within the jurisdiction of Pohnpei

The appellate division of the Pohnpei Supreme Court has appellate jurisdiction over all matters in the trial division and over the decisions of all inferior courts and adjudicatory bodies. No appeal on any matter relating to Pohnpei Constitution, Pohnpei law, customs and traditions may be made to any other court, except the Pohnpei Supreme Court. Pohnpei State Court also has a land court.

Chuuk State Supreme Court: Chief Justice, Hon. Camillo Noket



The trial division of the Chuuk State Supreme Court has original and exclusive jurisdiction over disputes between municipalities and cases arising under the Chuuk State Constitution. Except for those matters which fall under the exclusive jurisdiction of the Supreme Court of the Federated States of Micronesia, the trial division of the Chuuk State Supreme Court has concurrent original jurisdiction with other courts to try all civil, criminal, probate, juvenile, traffic, land cases, disputes over waters in the State of Chuuk, cases involving state laws, and cases in which the State Government is a party.

When jurisdiction is concurrent, the appropriate court may be prescribed by statute.

The appellate division of Chuuk State Supreme Court has jurisdiction to review all decisions of the trial division, inferior state courts (if any) and of the municipal/island courts. Decisions of the appellate division may be appealed to the Supreme Court of the Federated States of Micronesia, whose decisions are final.

Yap State Court: Chief Justice , Hon. Cyprian Manmaw



The Yap State Court has original and appellate jurisdiction as prescribed by law. The Court makes and promulgates rules governing the practice and procedure in civil and criminal cases, which shall have the force and effect of law, provided that the Legislature may establish or change such rules by law. The State Court is a court of record.

The State Court decisions shall be consistent with the Yap State Constitution, State traditions and customs, and the social and geographical configuration of the state.

2014 Case Statistics by Courts

CASES PENDING 2013

	FSMSC	POHNPEI	KOSRAE	CHUUK	YAP	TOTAL
Criminal	14	57		534	13	618
Civil	116	262		479	5	861
Traffic	0	80		216	6	302
Juvenile	0	2		47	6	55
Probate	0	0		100	0	100
Others (A)	1	10		3	6	20
Mediation	0	0		0	0	0
Appeal	14	43		23	0	80
Total	145	454		1,402	36	2,036

CASES FILED 2014

Criminal	11	134		86	247	478
Civil	67	293		198	182	740
Traffic	0	420		183	296	899
Juvenile	0	11		22	25	58
Probate	0	0		77	71	148
Others	0	56		0	127	183
Mediation	0	0		0	0	0
Appeal	24	7		7	2	40
Total	102	921		573	950	2,546

Notes:

- A. Others:
 FSMSC- Bankruptcy
 Pohnpei--- Land cases
 Kosrae--Small claims
 Yap--Small claims

CASES DISPOSED 2014

	FSMSC	POHNPEI	KOSRAE	CHUUK	YAP	TOTAL
Criminal	4	70		329	234	637
Civil	69	135		311	168	683
Traffic	Na	400		198	272	870
Juvenile	'na	3		31	24	58
Probate	'na	0		92	68	160
Others	0	51		0	137	188
Mediation	'na	'na		'na	'na	0
Appeal	13	0		8	2	23
Total	86	659		969	905	2,619

CASES PENDING 2014

Criminal	21	121		291	10	443
Civil	113	420		366	6	905
Traffic	'na	100		201	17	318
Juvenile	'na	10		38	3	51
Probate	'na	0		85	4	89
Others	1	15		3	14	33
Mediation	na	na		na	na	0
Appeal	25	50		22	0	97
Total	160	716		1,006	54	1,936

Performance Indicators

FSMSC POHNPEI KOSRAE CHUUK YAP TOTAL

1. Clearance rate

Cases disposed over cases filed

Criminal	36%	52%		383%	95%	133%
Civil	103%	46%		157%	92%	92%
Traffic	na	95%		108%	92%	97%
Juvenile	na	27%		141%	96%	100%
Probate	na	na		119%	96%	108%
Others	na	91%		na	108%	103%
Mediation	na	na		na	na	na
Appeal	54%	0%		na	100%	58%
Total	84%	72%		169%	95%	103%

2. Average case duration (days)

Criminal	278	ua (B)		1253	ua	
Civil	610	ua		566	ua	
Traffic	na (C)	ua		501	ua	
Juvenile	'na	ua		95	ua	
Probate	'na	ua		837	ua	
Others	'na	ua		na	ua	
Mediation	'na	na		na	na	
Appeal	379	ua		1676	ua	
Total avg.	422			821		

3. Percentage of cases appealed

Total	13%	1.1%		0.72%	0.22%	
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4. Appeal overturn rate

Total	14%	ua		0%	ua	
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Notes:

B. ua– unavailable

C. na– not applicable

5. Percentage of cases granted fee waiver

(D)

Criminal	100%	ua		ua	ua	
Civil	100%	ua		ua	ua	
Traffic	100%	ua		ua	ua	
Juvenile	100%	ua		ua	ua	
Probate	100%	ua		ua	ua	
Others	100%	ua		ua	ua	
Mediation	100%	ua		ua	ua	
Appeal	100%	ua		ua	ua	
Total avg.	100%					

6. Percentage of cases disposed via circuit

Criminal	0	ua		ua	ua	
Civil	0	ua		ua	ua	
Traffic	na	ua		ua	ua	
Juvenile	na	ua		ua	ua	
Probate	na	ua		ua	ua	
Others	0	ua		ua	ua	
Mediation	na	ua		ua	ua	
Appeal	100%	ua		ua	ua	
Total avg.						

Notes

D.- FSM Supreme Court has no filing fees, except for Bankruptcy cases. All State Courts have court fees.

7. Percentage of cases received legal aid

Criminal	100%	ua		60%	ua	
Civil	50%	ua		88%	ua	
Traffic	0	ua		1%	ua	
Juvenile	0	ua		9%	ua	
Probate	0	ua		100%	ua	
Others	0	ua		na	ua	
Mediation	0	ua		na	ua	
Appeal	50%	ua		100%	ua	
Total avg.	67%					

8. Documented complaints processed

	0	na	na	na	0	
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9. Complaints against Judicial Officer

	0	na	na	na	0	
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10. Complaints against staff

	0	na	na	na	0	
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11. Average cases per Judicial Officer

Criminal	4.4	26.8		17.2	98.8	36.8
Civil	26.8	58.6		39.6	72.8	49.45
Traffic	na	84		36.6	118.4	59.75
Juvenile	na	2.2		4.4	10	4.15
Probate	na	0		15.4	28.4	10.95
Others	0	11.2		0	50.8	15.5
Mediation	na	0		0	0	0
Appeal	5	1.4		1.4	0.8	2.1
Total avg.	40.8	184.2		114.6	380	179.9

	FSMSC	POHNPEI	KOSRAE	CHUUK	YAP	TOTAL
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12. Average cases per staff

Criminal	ua	ua		ua	ua	
Civil	ua	ua		ua	ua	
Traffic	na	ua		ua	ua	
Juvenile	na	ua		ua	ua	
Probate	na	ua		ua	ua	
Others	ua	ua		ua	ua	
Mediation	na	ua		ua	ua	
Appeal	na	ua		ua	ua	
Total						

13. Annual Report

	Yes	ua		ua	'ua	
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14. Information on court services is public

	Yes	Yes		Yes	Yes	
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15. Publishes judgments on internet

	Yes (E)	Yes (F)		Yes (G)	Yes (H)	
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Notes

E. FSMSC website: www.fsmsupremecourt.org

F. Pohnpei State Supreme Court: www.Pohnpeijudiciary.com

G. Chuuk State Supreme Court: www.chuukssc.org

H. Some Yap State Court judgments can be accessed on FSMSC website above.

Afterword

This annual performance report for the FSM judiciaries was put together with the assistance of all of the Chief Justices and relevant staff from the national and three of the four state courts. The report included the case processing information and case-related data from each court for the calendar year 2014. It provided the case load for each court as baseline data and information on which performance trends over time can be analyzed and measured.

It is envisioned that this exercise will also assist each court internally to manage, monitor and evaluate its case flow processes and activities better. The information is also useful for budget development and process, program monitoring and strategic planning purposes.

This report was made possible because of the collective effort and support of all judicial leadership of the national and state courts. Though the courts are separate and independent, the leadership agreed to share relevant information on case processing and other case-related data and information to measure court performance. The agreement was done in good faith. However, it is not a binding one, therefore it is difficult to enforce it if one of the courts decided not to share or participate.

This is the second FSM report as a country. The data and information will establish a performance trend that can help each court learn and understand more about its own performance so it can design or develop ways and means to improve its services. Assuming such to be the case, together the collective improvements from each court will help strengthen FSM judiciaries as a whole. Though the challenge remains to keep the courts together, there is no question on how important it is to collaborate because it is through collaboration that all the courts can get the support and benefits from the outside donors that have genuine interest to improve administration justice in the island nations. All the courts are facing challenges of funding reduction in public sector and it will most likely get worse before it gets better if ever. Against such odds, collaboration and sharing have the potential to help judiciaries deal with their challenges to ensure court fundamental purpose of timely, equitable and fair administration of justice to all the citizens, residents and the users of the court systems are assured .

The importance of reporting performance cannot be adequately expressed because it is an important measurement on what courts do. In this era of competitive funding there is no telling how important this kind of report could mean to the FSM Judiciaries because if something can be measured it can be managed and if it can be managed it can be easily funded.