

Appointment of Justices to the High Court in American Samoa

Briefing Paper for the 2011 Senior Plenary Session of the IGIA

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Issue: The American Samoa Government (ASG) would like to appoint its own Chief Justice and Associate Justices, an authority which the Secretary of the Interior has exercised for six decades.

Background

- In contrast with the judiciaries in the other three U.S. insular areas for which the Office of Insular Affairs (OIA) exercises the Secretary's authority, the High Court of American Samoa is substantially dependent upon OIA for its finances and even more significantly for appointments to its bench.
 - Local leaders in Guam, the U.S. Virgin Islands (USVI) and the Commonwealth of the Northern Mariana Islands (CNMI) determine their own judicial systems. Local revenues fund the Guam, USVI and CNMI judiciaries, whose employees' salaries are according to the local pay rates of their respective insular areas.
- Currently OIA provides ASG with an annual operations grant totaling \$22,700,000, which funds ASG's education and health systems and the High Court.
 - The High Court's share of the annual ASG operations grant is approximately \$855,000, of which OIA withholds \$346,500 for the direct payment of salary and benefits to the Chief Justice and Associate Justice of American Samoa, who are OIA career-service employees.
- So long as ASG's Executive and Legislative Branches have preferred to maintain this system for the High Court, a practice with which the other insular areas dispensed decades ago, OIA has been willing to continue this assistance and to exercise this authority.
- However, it is OIA's policy to promote insular self-government and local responsibility. Concerning this particular issue, OIA has determined that the ASG operations grant should be held constant, thereby encouraging ASG leaders to assume greater responsibility, both fiscal and managerial, for more aspects of ASG's functions.

Details

- OIA does not have additional budgetary resources to provide more funds to ASG for its operations, including the High Court.

- OIA officials will need to discuss with the Governor of American Samoa and other ASG leaders how ASG can set aside the additional funding needed to pay for more Associate Justices and associate judges.
 - These discussions should include (1) the need for additional personnel vis-à-vis ASG's education and health priorities and how these priorities might affect the current distribution of ASG's operations grant and (2) the possibility of adopting the practices of the Guam, USVI and NMI judicial systems, namely, applying local rates of pay and increasing local authority over appointments, thus making funding available for more High Court employees.
- The American Samoa Constitutional Convention Committee that was convened in the summer of 2010 decided against including a proposed amendment to the AS Constitution that would give American Samoa the authority to appoint its own justices. In November 2010, American Samoans voted down the entire packet of proposed amendments.

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