

AMERICAN SAMOA
COUNTRY REPORT
2019 PILON ANNUAL MEETING
Attorney General's Office

American Samoa is proud to finally become an active participant in the activities of PILON. We hope to not only learn from fellow members, but also to contribute significantly to the conversation and efforts to make the islands of the Pacific as safe as they are beautiful. The following is a summary of the achievements and updates in the law and justice fields for the recent past for the Territory of American Samoa, as well as the needs and priorities of the Territory going forward into the next year or two.

MAJOR LAW AND JUSTICE SECTOR ACHIEVEMENTS

In 2014, the American Samoa Fono passed the Sex Offender Registration and Notification Act. This important piece of legislation established the island's sex offender registration database, as well as the legal requirement for sex offenders to register after conviction and to periodically renew their registration. The law created the SORNA office under the umbrellas of the Attorney General's Office and tasked this office with registering sex offenders and maintaining the database. The staff of the SORNA office works closely with their counterparts in the United States to ensure compliance with federal legal requirements, as well as to ensure the local procedures are as efficient and thorough as possible. The law requires anyone who is convicted of a sexual offense, regardless of sentence, to register. The offense convicted of determines the length of time a person must register and how often he/she is required to renew and update their information. The registration and renewal must take place in person.

Additionally, in 2014, the Fono also enacted a mandatory reporting statute for child abuse and/or neglect cases. This law requires doctors, nurses, hospital personnel, school employees, mental health professionals, social workers, and workers in a family care home or child care center who have reasonable cause to know or suspect that a child is or has been abused or neglected to immediately report it to the Department of Human and Social Services, who must then report it to the Department of Public Safety. Violation of this statute may be punished criminally with imprisonment for up to one year and a fine of up to \$1,000, or both.

As of January, 2019, American Samoa's elder abuse law is in effect. This legislation greatly increases the punishment ranges for anyone who physically abuses, neglects, sexually abuses, or financially exploits anyone 60 years of age or older.

SIGNIFICANT COURT DECISIONS

While our appellate court has not handed down any significant decisions in the criminal justice area in the last year or so, our trial court has had a couple important trials over the last two years. In June 2018, our Criminal Division Chief and former Deputy Attorney General successfully persuaded a jury to convict a police officer who was working as a guard at the Juvenile Detention Center after he smoked methamphetamine on the job, gave methamphetamine

to juvenile detainees, and allowed these juveniles go visit their families in order to get money for him to buy more drugs. The jury found him guilty on four felony counts and three misdemeanor counts. He was ultimately sentenced by the judge to 20 years in prison. After the trial, he pled guilty to Deviate Sexual Assault in a related case in which he was involved in sex acts with a female juvenile detainee. The court sentenced him to seven years imprisonment in this case, to run consecutive to the 20 years in the trial.

In February 2019, two of our prosecutors successfully tried a man for shooting an assault rifle at two of our police officers while they were on patrol. Luckily, neither officer was injured, even though three shots hit the patrol vehicle with one of the officers driving. The jury convicted him of five felonies and two misdemeanors, including assault in the first degree and corruption of a juvenile. His minor nephew was a co-defendant in the shooting. He was sentenced by the judge to 30 years imprisonment.

PILON STRATEGIC PRIORITIES

Cybercrime—The biggest challenges facing American Samoa with regards to the prosecution of cybercrime cases is the lack of resources and training for police, prosecutors, and judges. Fortunately, up until recently, the internet has been very unreliable on the island. As such, residents do not seem to be as dependent on or involved with the internet as people are in other parts of the world. Because of this, we haven't seen a significant presence of cybercrime cases in our Territory.

Corruption—Combatting corruption on the island is hindered primarily by the abuse of the traditional matai system, where village Matais' convince victims of corruption to allow them to handle the matter instead of reporting it to law enforcement. This results in the perpetrators getting away with it and encourages them to continue their behavior. The other problem we face in the area of corruption is the lack of reporting and cooperation by victims, even when the village matai is not involved or trying to prevent them from informing law enforcement. Many of the victims are immigrants who inherently do not trust the government or police to protect them.

Sexual and Gender Based Violence—Our biggest hurdle when it comes to prosecuting sexual and gender-based violence cases is a lack of education on the part of the community regarding these cases. This results in families and villages shaming the victim and alienating her when she chooses to report the crimes. There is also a problem with these topics still being taboo to talk about. This leads not only to victims being hesitant to report and follow through with prosecution, but also with juries being resistant to convicting.

Other—The use and importation of methamphetamine is currently a huge problem for our island. Fighting the war on drugs is currently the biggest priority for our law enforcement agencies and courts. Investigations are hampered by the small size of the island and the close-knit communities. It is very difficult for our police officers to work to gain intelligence and build cases against the drug dealers who are supplying the methamphetamine to the users. We have been working closely with the US federal agencies to get our drugs tested for prosecution in court.

SIGNIFICANT ISSUES AFFECTING THE LAW AND JUSTICE SECTOR AND OPTIONS TO ADDRESS THESE ISSUES

One of the challenges we have in American Samoa, being a United States territory, is that we have three distinct branches of government who all function independently. We as law enforcement and prosecutors, must attempt to lobby the legislature to pass needed legislation when needed. Ultimately, the Fono decides what laws to pass, when to pass them, and what language they will include.

Beyond this, the other issues facing us are the lack of skilled lawyers, funding, training, and expertise in the areas that deserve the greatest attention. It is difficult for us to keep prosecutors on the island for longer than two years. By the time they have adjusted and are up to speed on the needs of the island, it is time for them to depart and return to the United States. Additionally, it is difficult to find the funding for additional police officers, forensic testing, and other items that would strengthen the cases we take to court.

We also battle the slow and cumbersome system of bureaucracy that exists on the island. It takes a great deal of time and effort in order to get the funding and approval for training and testing. It is frustrating for those individuals who are combatting crime on a daily basis to also have to fight the bureaucratic machine to get anything done.

SIGNIFICANT INITIATIVES/PROJECTS INVOLVING THE MEMBER COUNTRY AND ITS LAW AND JUSTICE SECTOR

We have revived our Multi-Disciplinary Team meetings on a quarterly basis. This gives all our agencies involved in sexual violence cases an opportunity to get together to discuss cases and any issues they are facing in the handling of these cases. It also allows us to form stronger working relationships between agencies by giving each agency representative a contact at the other agencies in the event of a question or problem that arises in a case. This team is currently working on getting a new supply of sexual assault exam kits on the island as well as formalizing the policies and protocols for responding to sexual violence cases.

We recently hosted two ladies from Oregon who came down and trained a group of nurses and doctors to become Sexual Assault Nurse Examiners. This is a huge step forward in the approach taken towards the medical exams of sexual assault victims, making the collection of forensic evidence an important secondary focus of the exams behind the medical treatment of the victim.

Additionally, several community and governmental agencies have recently come together to create a Sexual Assault Response Team. This team will allow those working with victims in a variety of ways to better work together in a comprehensive approach to providing needed treatment, counseling, and other services to the victims of sexual crimes. This team has been meeting and receiving quite a bit of training recently. The training should continue into 2020.

The American Samoa Alliance against Domestic Violence and Sexual Assault (ASDVSA) has also done quite a bit of training for some members of our agencies in the area of domestic violence. This has included both webinars and off-island, in-person trainings in the United States.

TECHNICAL LEGAL ASSISTANCE

Our main training priorities going forward into next year includes more training through the SART Team and the American Samoa Alliance against Domestic Violence and Sexual Assault (ASDVSA). This will provide more invaluable training for our victims' advocates in the areas of sexual and domestic violence.

Our biggest need in the criminal justice fields at the moment are funding and resources to establish both an inpatient and outpatient treatment and rehabilitation facility for both adult and juvenile drug addicts. Currently, we are severely lacking in treatment options on the island for drug abuse.

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