
REPUBLIC OF PALAU: PILON COUNTRY REPORT

2021

October 28, 2021
ATTORNEY GENERAL'S OFFICE
MINISTRY OF JUSTICE

I. Major Law and Justice Sector Developments

- a. Appointments of a New Associate Justice and four (4) Part-time Associate Justices to the Palau Supreme Court, Trial Division.
 - On February 8, 2021, President Surangel S. Whipps, Jr. appointed Honora E. Remengesau Rudimch as an Associate Justice and four (4) Part-time Associate Justices, namely, Antonio L. Cortes, Richard W. Pollack, Arthur R Barcinas and R. Barrie Michelsen of the Palau Supreme Court, Trial Division.
- b. Establishment of the Office of Professional Standards
 - On March 10, 2021, by way of Executive Order 444, President Surangel S. Whipps, Jr. established the Office of Professional Standards within the Ministry of Justice. The Office is tasked with the monitoring, enforcing, licensing, qualification, and monitoring of all other professional standards applicable to law enforcement officers. The Office shall receive complaints against Ministry personnel, and arrange for all appropriate training for all offices, bureaus, and divisions of the Ministry of Justice.
- c. Creation of the Division of Transnational Crime
 - On March 10, 2021, also by Executive Order 444, President Surangel S. Whipps Jr. established a Division of Transnational Crime which is primarily responsible for investigating transnational financial crime, gambling, and smuggling of drugs or persons. The Division now includes the Narcotics Enforcement Unit which focuses on violations of laws related to illicit drugs. The division also now includes the Anti-Human Trafficking unit which focuses on aggressive, proactive action to identify and eliminate human trafficking within the Republic.
- d. Enactment of New Corporations Act
 - On September 29, 2021, President Surangel S. Whipps Jr. signed into effect RPPL 11-10, the new corporations act. The new Act is to ensure good governance and lawful business practices. It had been noted that the old act needed to be modernized to address modern legal business associations and practices in the Republic of Palau.

II. Significant Court Decisions

a. ROP v. Yobech, 2020 Palau 26

- Mr. Yobech was found guilty by the Court of Common Pleas of one count of Negligent Driving and one count of Driving Under the Influence. He appealed his conviction on a number of grounds, the chief argument being that the Court of Common Pleas did not have jurisdiction over his prosecution. According to Mr. Yobech, since the Constitution granted the Supreme Court original and exclusive jurisdiction in matters where the national government was a party, then the Court of Common Pleas lacked the Jurisdiction to hear and convict him. The Court of Appeal ruled against it, stating that the “original and exclusive jurisdiction” only applied in cases where the national government was a real party in interest and not one with a nominal, formal or technical interest in the claim. Therefore, in bringing a prosecution for a minor criminal offense, the Republic of Palau was not a party within the meaning of the Constitution.

b. In the Matter of J.O. et al., Juvenile Case No. 21-004.

- Juvenile was charged via a Petition of Juvenile Delinquency for a number of alleged acts of juvenile delinquency. By way of a pre-trial motion, the Juvenile sought to dismiss the petitions, raising the issue that despite being filed as a petition, the Juvenile was essentially being prosecuted as a regular criminal case. This resulted in the juvenile being treated similar to an adult which was a violation of the Delinquent Children Act which calls for alleged juvenile delinquents to be given preferential treatment in criminal cases. Further, due to there being no special rules or proceedings for juvenile delinquency proceedings, the juveniles’ constitutional right to due process was being violated.

The Court ruled against the Juvenile’s arguments. In regards to the flexible treatment of alleged juvenile delinquents, the Court highlighted that the use of the criminal procedures did not replace the protections in the Delinquent Children Act, nor did it immediately convert the proceedings into criminal proceedings. Any finding of juvenile delinquency would not count as a criminal conviction. Any confinement would not be a punishment but a measure of rehabilitation. The Court also ruled that the Juvenile’s right to due process had not been violated. The Juvenile had been given notice of the allegations, required the presence of his parents and attorney at all

proceedings, and the sealing of the records would not be reversed without notice to him. The Supreme Court also recognized a Memorandum of Understanding entered into by the Bureau of Public Safety and the Attorney General's Office regarding the special procedures for juveniles as evidence that the juvenile was treated within the mandate of the Delinquent Children Act.

c. *ROP v. Yin Quan et. al., TCC 20-0895-TCC20-0903*

- Following a raid conducted by a Joint Task Force made up of Officers from the Division of Labor, Criminal Investigation Division, and the Bureau of Public Safety, the Attorney General's Office was able to successfully prosecute a number of gambling and illegal employment cases. The raid uncovered an illegal gambling site which resulted in the seizure of over 40 laptops, banking coding devices, and cellphones. Through a verified petition for civil forfeiture, the Attorney General's Office was able to attain the legal forfeiture of the goods as they were used in the commission of gambling, which is one of the offenses covered under the Civil Forfeiture statute in the Republic of Palau. A majority of the defendant's pled guilty to the charges, and conceded to the forfeiture of the items, and have left the Republic and are not allowed to return.

III. **PILON Strategic Priorities**

a. **Cyber-Crime**

- No legislation has been introduced or amended in the last year.
- Significant operations and cases are detailed in *ROP v. Yin Quan et al.* listed under heading II above.

b. **Corruption**

- No new legislation has been introduced or amended in the last year.

Significant Cases

ROP v. Marvin Ngirutang, CR 20-265

On April 7, 2021, Associate Justice Kathleen M. Salii sentenced former Angaur State Governor Marvin Ngirutang pursuant to a plea agreement. Mr. Ngirutang had been charged

in relation to the misuse of government funds that had been appropriated for the repair of the Regina IV, an Angaur State vessel. Mr. Ngirutang admitted that his misuse of the funds consisted unjustified expenditures of state funds for travel without proper documentation, which violated the national travel policy adopted by Angaur State. Mr. Ngirutang took a number of flights to Taiwan using the Regina IV funds without any proof of travel for government business. As part of his sentence, Mr. Ngirutang was to make full restitution to Angaur State, in the amount of \$72,905.53, within 11 months. Mr. Ngirutang was also sentenced to perform 629 hours of Community Service, and had a one year imprisonment suspended on the condition that he make full restitution and complete his community service hours.

c. Sexual and Gender Based Violence

- No legislation has been introduced or amended within the last year.
- No significant court decisions.

IV. Technical Legal Assistance

a. Current Law and Justice Training Priorities

The Training of Law Enforcement in the Republic of Palau is always a priority and an on-going process throughout the year. In the month of August, the Office of the Attorney General conducted trainings with the Patrol Division regarding misdemeanor infractions and charging, covering the basic rights of defendants and the legal requirement of being informed of the charges against them, as well as the specific conduct that is being charged. Trainings were also conducted with the Criminal Investigation Division regarding the required states of mind in criminal offenses, and how to conduct investigations and collect evidence that may give light to these states of mind. The Law Enforcement Academy recently commenced, and the Office of the Attorney General will be conducting trainings at the Academy over the months of October and November. The areas covered will include Constitutional Rights, Criminal Procedure, Practical Police Prosecution Skills, Criminal Statutes, Search and Seizure, Domestic Violence, Sex Offence and Human Trafficking.

b. Training and Technical Assistance Provided to the Country in the last 12 months

Due to travel restrictions, outside training and technical assistance has been minimal. However, there have been a few trainings conducted.

Training	Training Body	Date
Financial Crime Investigations	Joint Interagency Task Force	September 17, 2021
Arms Trade Treaty Training.	Arms Trade Treaty Org.	September 21, 2021.
Cybercrime & Electronic Evidence	Joint Interagency Task Force	July 2021.

V. Contact Information for Key Law and Justice Agencies

Agency	Key responsibilities	Contact person and position	Phone number and email
Attorney General's Office	Prosecution of criminal matters. Providing Legal Advice to Statutory Bodies. Registrar of Corporations.	Ms. Ernestine K. Rengiil, Attorney General. Office of the Attorney General.	Republic of Palau, PO Box 1365, Koror, Palau. 96940. Tel. (680)488-2481/2487 Fax. (680)488-3329
Anti-Human Trafficking Unit, Division of Transnational Crime, Bureau of Public Safety	Human Trafficking Monitoring and Policing	Mr. Kenny M. Sengebau, Acting Chief of the Division of Transnational Crime	(680)488-4952
Division of Maritime Security & Fish & Wildlife Protection	Policing of Maritime, Fisheries, and Protection and preservation of protected life forms within Palau	Mr. Emerson Nobuo, Acting Chief of the Division of Maritime Security and Fish and Wildlife	(680) 488-5206
Bureau of Public Safety	Corrections, Patrol, Traffic, Criminal Investigation, Fire and Rescue, Transnational Crime, Juvenile Justice, Maritime Security and Fish and Wildlife Protection	Mr. Ismael Aguon, Director of the Bureau of Public Safety	(680) 488-2423)