

**STATEMENT
OF
STEPHEN SANDER
ACTING DIRECTOR, OFFICE OF INSULAR AFFAIRS
DEPARTMENT OF THE INTERIOR**

BEFORE THE

**SUB-COMMITTEE ON INSULAR AFFAIRS
HOUSE COMMITTEE ON NATURAL RESOURCES**

REGARDING

FEDERAL COURT OPTIONS FOR AMERICAN SAMOA

SEPTEMBER 18, 2008

Madam Chair and members of the Subcommittee on Insular Affairs, thank you for the opportunity to testify on Federal court options for American Samoa.

BACKGROUND

Fa'a Samoa

The people of American Samoa have always shown supreme concern for the preservation of *Fa'a Samoa*, the Samoan way of life. *Fa'a Samoa* is rooted in communal land ownership and the *matai* title system of American Samoa. It was the preservation of the communal land and *matai* systems that prompted the leaders of American Samoa in the 1950s to establish the foundations of their government under an order of the Secretary of the Interior. Included was a court of last resort, the High Court of American Samoa. A Federal District court was not established on American Samoa for fear that it may harm *Fa'a Samoa*. Issues relating to *Fa'a Samoa*, communal land ownership and *matai* titles, are as critical and relevant today for the residents of American Samoa as they were sixty years ago.

Federal Legal Issues and Structure

The issue of Federal court jurisdiction for American Samoa has arisen on numerous occasions. In the mid-1990s, after the publication of a report on white collar crime in American Samoa, there was a serious effort within the Department of Justice to develop legislation that would establish a Federal district court in the territory. However, no action was taken by the Congress.

Recently, at the request of Congressman Faleomavaega, the U.S. Government Accountability Office produced a report entitled, *AMERICAN SAMOA Issues Associated with Potential Changes to the Current System for Adjudicating Matters of Federal Law*. The report provides an excellent historical account and presents options for dealing with issues of Federal law.

The report includes a number of reasons for establishing Federal court jurisdiction in American Samoa:

- (1) Increased prosecution of worthy criminal cases by eliminating current logistical obstacles (high travel costs between Hawaii and the territory, infrequent flights, and the inaccessibility of witnesses for testimony and trial preparation),
- (2) Crime deterrence,
- (3) Alleviation of embarrassment and costs associated with a defendant being removed to Hawaii for trial, and
- (4) Collection of debts owed to the Federal government.

The report also outlines three possible scenarios for establishing a Federal judicial presence in American Samoa:

- (1) Federal court in American Samoa similar to those in other U.S. territories,
- (2) A Federal court in American Samoa that would be a division of the District of Hawaii, and
- (3) Expanded Federal criminal and civil jurisdiction for the High Court of American Samoa.

FEDERAL JUDICIAL JURISDICTION

It appears that there are two questions: Whether or not Federal judicial jurisdiction should be established in American Samoa? And, if a Federal judicial presence is desirable, what form should it take?

The Department of the Interior has no objection to a system that more efficiently considers issues of Federal law relating to American Samoa. Such a system should be backed by the people of American Samoa through expressions of support from the leaders the American Samoa Government. In instituting any changes the Department of

the Interior believes that it will be important for Federal judicial jurisdiction not to include authority over the American Samoan communal land tenure and *matai* systems.

With regard to the structuring of a Federal judicial presence in American Samoa, the Department suggests that the Subcommittee give full consideration to opinion from American Samoa concerning the structure that best would meet the needs of both the Federal government and the territory.