

REMARKS

By

The Honorable F. Philip Carbullido

Chief Justice of Guam

State of the Judiciary Address

Monday, May 1, 2006

Judicial Center Atrium

10:00 a.m.

Greeting

Hafa Adai yan Buenas Todo Hamyo!

Governor Camacho, Lt. Governor Moylan, Speaker Forbes, judicial brethren, senators, mayors, members of the consular corps, members of the Guam Bar, our military guests, distinguished guests, family and friends: on behalf of my colleagues from the bench and the employees of the judicial branch, let me welcome you once again to the Courts of Justice.

Tribute: Ten Year Anniversary of the Supreme Court of Guam

This year, the Supreme Court of Guam celebrates its tenth anniversary as Guam's highest tribunal. I would like to spend a few moments recognizing the past justices of the Supreme Court and their roles in transforming the Supreme Court - and the judiciary - into what it is today.

I begin with and pay tribute to our first Chief Justice, the Honorable Peter Siguenza, who remarked, at the formal opening of our courtroom: "We are at a crossroads in the early stages of our development." Nurturing the Supreme Court in its infancy, he went on to say, in his final judicial address given in 1998: "This branch is broken." During his tenure, Chief Justice Siguenza became the primary witness to instrumental changes in the judiciary. He, along with succeeding Chief Justices, played a vital role in solidifying the existence of the Supreme Court through the 2004 amendments to the Organic Act of Guam.

I also would like to honor our second Chief Justice, now-Senator B.J. Cruz. Chief Justice Cruz carried the torch passed on by Chief Justice Siguenza. He wisely stated in his judicial address in 1999, of the three branches of the Government of Guam: "No one segment of our community has the power to heal or even sustain itself without the support of the others. We are all interdependent. . . . As we approach a new millennium, we have the unique opportunity to make a difference."

I want to also pay tribute to retired Associate Justice Janet Healy Weeks, who sat on the first Supreme Court panel. Justice Weeks holds the distinction of being the first woman to be

admitted to the Guam bar, and the first woman judge to be appointed to the bench on Guam and in Micronesia. Her academic excellence and professionalism are exhibited throughout her opinions. She is my mentor and I continue to seek her measured advice in the administration of the judiciary.

Finally, we honor the late Associate Justice Monessa Lujan, who sat on the first Supreme Court of Guam panel in 1996, and served until her untimely death on March 15, 1997. As a lawyer and the first woman of Chamorro descent to serve on the Supreme Court of Guam, she knew the importance of having a local court interpreting local laws. She held steadfast to her duty in shaping the judiciary of Guam. Her dedication to the Supreme Court was obvious in her efforts to ensure that the court was ready to assume its full jurisdiction. Her father, the late Frank Lujan, authored the first legislative bill creating the Court Reorganization Act in 1974. Her mother, former Senator Pilar Lujan, was the principal sponsor of the Court Organization Act of 1993, which gave birth to the Supreme Court. Appearing on behalf of Justice Lujan is her mother, former Senator Pilar Lujan, and her sister, Dr. Davina Lujan.

With the long road that we've traveled in mind, I offer my congratulations to the justices of the Supreme Court – both past and present – on the remarkable contributions you have made to our island and to its legal and democratic traditions. On this, our ten year anniversary - we remember - and we thank you - for your wisdom and sound judgment in the interpretation of our laws; for your courage in the face of controversy and criticism; and for your integrity in the pursuit of justice and civility.

The State of the Judiciary is Advancing: *Progress Through Efficiency*

We have come a long way. And in the end, we have come a long way *together*, thanks to the willingness of the Guam Legislature and the Governor to share our vision of justice. In my first state of the judiciary address, delivered four years ago, I noted that the “recovery of the judicial branch is evident, and a transformation is beginning.” Today, I am pleased to report, that the state of the judiciary is advancing. Transformation is well underway and we are making great strides and progress through qualitative measures of efficiency.

It is our endeavor towards efficiency that I want to talk about today. I am referring to the judicial branch's ability to make due with limited resources, a problem that affects all branches of the Government of Guam. We recognize that no branch or agency of the government is an island. The more efficient the judicial branch operates, the more money that can be allocated to causes that are equally important.

The Numbers

Let me cite for a moment figures to illustrate the extent of our work here throughout 2005. In the Guam Courts, we processed close to 10,000 civil, criminal, child support, small claims, domestic, juvenile, land registration, adoption, probate, and special proceedings cases. Our Traffic Division has disposed of over 7,000 traffic citations with a clearance rate of 88%. Our Jury Unit has processed and provided an orientation to almost 11,000 jurors. Our Probation Division last year alone handled almost 7,000 criminal cases, conducted around 8,000 urinalysis tests and

attended over 25,000 probation related hearings. Our Marshals processed close to 60,000 documents.

The Human Aspect

While the inclination may be to speak about efficiency strictly in numerical terms, we must not overlook the human effect that an efficient judiciary will create. In other words, we must not forget that when we talk about “cases” and “claims” we are really talking about people.

Judge Elizabeth Barrett-Anderson will tell you about the 12 year-old who assaulted his teacher. Judge Kathy Maraman will tell you about the husband who expressed his love for his wife after marking her with bruises. Judge Michael Bordallo will tell you about the business associates who cannot get along and are squabbling over money. Judge Steve Unpingco will tell you about the manamko involved in a class action suit. Judge Arthur Barcinas will tell you about the guy who bounced thousands of dollars worth of checks made out to a small business. Judge Anita Sukola will tell you about the children she has to remove from their homes because their parents are unfit. Presiding Judge Alberto Lamorena will tell you about the dozens of accused he has to arraign every day. Referee Linda Ingles will tell you about the parent who refuses to pay child support and the 17 year-old who already has 4 reckless driving citations.

Consultation with the State Justice Institute and the National Center for State Courts

Aware of the effect of delays on our people, we have adopted a model of *progress through efficiency*. As part of our efforts to achieve greater efficiency, we consulted with the State Justice Institute and the National Center for State Courts. The National Center, for those who aren't familiar, is a nationally recognized entity that provides assistance to courts all over the United States to help them better serve the public. We tasked the National Center with analyzing our current case flow and determining the cause of the delays in our cases. We also tasked the National Center to assist us in developing time standards for case processing, and to assess the efficiency of our court staff, so that we can better serve the public.

The National Center's report was both enlightening and encouraging. Today I will share with you what we have done to improve efficiency, and what steps we are taking to provide better service to the public.

Towards Efficiency: Pilot Programs Launched by the Judiciary

We have instituted pilot programs that are likely to improve the efficiency of our judicial system by reducing the number of cases. Perhaps *more* importantly, these programs will promote the resolution of disputes through cooperation between parties, rather than court intervention.

In the realm of domestic cases, we have initiated a Mediation Pilot Program, thanks in large part to the efforts of the Court Mediation Subcommittee, chaired by Justice Frances Tydingco-Gatewood and Judge Michael Bordallo. Under this pilot program, in selected child custody cases, the court will refer parents to a mediation session through *Inafa' Maolek*. Mandated mediation will allow the parents of the child to better communicate with each other,

and ideally come to a resolution in the child's best interest. This program is designed to save court resources and prevent an otherwise long and bitter litigation in this extremely personal matter.

We will also be taking steps toward reducing our court's civil docket through a similar Mediation Pilot Program for Civil Cases. Here again, in selected civil cases, the court will require that parties meet for mediation prior to any formal court hearings. The benefits are real - the court's resources will not be burdened, the length of litigation will be shortened, and parties in the end will hopefully save money.

Efficiency, Therapeutic Jurisprudence, and Drug Courts

We have also responsibly managed federal grants and programs totaling over \$4 million from fiscal year 2001 to the present. Each of these programs will ultimately render efficiency and progress for our judiciary and the community. For example, we implemented the Juvenile Drug Court in February 2002, and the Adult Drug Court in August of 2003 under federal grant funding. I would like to thank the Guam Legislature for fully funding both the Juvenile and Adult Drug Courts for fiscal years 2005 and 2006.

The Drug Court program is an example of Therapeutic Jurisprudence, which is a widely recognized concept. We have graduated 111 juveniles, and 50 adults from the two programs. Of these graduates, 80+% of those juveniles have reached their senior year in high school or have obtained their diploma or GED equivalent. Half of the adults were unemployed when they entered Drug Court, but nearly 85% were employed at the completion of the program. Our drug courts also reduce the likelihood that a person will be a repeat offender. In fact, our Adult Drug Court has, to date, enjoyed a 0% recidivism rate, and our Juvenile Drug Court has a recidivism rate of 9%. Compared to 48%, which is the average recidivism rate for drug offenders who do not participate in a drug court program, we are doing remarkably well. As you can see, the success of the drug courts has a profound effect on the individual participants and our community as a whole.

Validating the success of our drug courts, the Supreme Court of Guam last year established the drug courts as courts of record. They are now a permanent division of the Judiciary of Guam.

Efficiency, Therapeutic Jurisprudence, and Other Specialty Courts

We have also incorporated the model of Therapeutic Jurisprudence in other areas of our court system – such as our Mental Health and DUI Courts. Our domestic violence cases are also heard in specialized courts and our Client Services Division assists by providing treatment through the diversionary program. Problem-solving courts provide for efficiency through the consolidation of resources. For example, offenders facing similar charges often need the same types of services. These individuals will attend hearings, treatment, and recreational therapy as a group.

Through the efforts of Judge Maraman and the Mental Health Court Subcommittee, we have also begun a one-year pilot program to hear cases where a defendant's mental state is at issue. Following the therapeutic court model, individuals with mental illnesses are diverted from the criminal justice system. They are then placed in a community-based and integrated mental health treatment service or program.

By directly addressing these behavioral issues through treatment, we reduce the likelihood that the same population will come through a revolving door - a problem that is seen in traditional criminal justice systems throughout the world. I commend our Judges for taking the lead in responding to these underlying problems.

Although these problem-solving courts appear to cost money up front, research shows that these programs typically reduce the overall government and taxpayer spending. For instance, in addition to lowering recidivism rate, specialty courts are also a cost-saving alternative to incarceration. In fact, national research has shown that for every dollar invested in drug court, ten dollars are saved by corrections. More importantly, specialty courts will provide proper treatment to offenders and will provide us with a safer community to live, grow and work in.

The Promulgation of Court Rules to Improve Efficiency and Enhance Public Service

We have also promulgated other court rules to improve efficiency and better serve the public.

Our new Crime Victim and Witness Protection Program rules are in effect. Under these rules, victims and witnesses are assured that a standard protocol is in place for their protection. This includes: having a separate area for victims and witnesses who are awaiting court hearings; the use of a roving marshal patrolling the halls of the Judiciary building; and procedures to notify victims of changes in the custody of the accused.

Our committee on Judicial, Attorney, and Community Education has also been hard at work. Chaired by Justice Frances Tydingco-Gatewood and Judges Elizabeth Barrett-Anderson and Anita Sukola, the Committee has formulated Rules of Court for Orders of Protection in Family Violence Cases. These Rules apply to cases where a person seeks an order of the court for emergency and immediate relief from acts of family violence. The new rules standardize the procedure and create consistency in these types of cases.

Toward a User-Friendly Court System: Technology in the Courts

We are living and working in an era of rapid change in technology. Our courts must be prepared to adapt and utilize these technological advances. I am pleased to report that we are on our way to becoming a user-friendly court system, thanks in large part to our tech-savvy Justice, the Honorable Robert J. Torres, and our very talented MIS Division.

We have explored the appropriate use of information technology to help the work of judges, and to facilitate court procedures. The Judiciary, the bar, litigants, and the public will all benefit as a result. I'd like to share with you some of the projects that we've embarked on to

illustrate this point.

With the use of our newly installed digital-recording system, judges and court staff now rely on high quality equipment for recording court proceedings. These digital records allow for easier storage and access.

Last year, a feasibility study was conducted on the readiness of the Superior Court of Guam to implement an electronic filing system. This e-filing system will be similar to the system that we've launched in the Supreme Court of Guam. The on-site study included an analysis of the court's case flow, processes, and technological structure. Information was gathered and efforts are underway to move the Superior Court toward electronic filing.

It is hoped that the entire Bar will move along with us to start filing matters electronically. In fact, in the next few years, e-filing will be mandatory. As our experience in the Supreme Court has shown, e-filing reduces time and costs for all parties.

We have also used technology to reduce the significant amount of resources associated with transporting individuals to the court. Our videoconferencing rules for juvenile proceedings are now in effect. Through the use of this technology, a juvenile housed at DYA can see and hear what goes on in the courtroom. The judge in turn will be able to communicate with the juvenile. We are also in the process of drafting rules for the use of video conferencing technology in magistrate hearings for detainees at DOC. Altogether, videoconferencing eliminates the safety risk involved in transporting these individuals. This effort conserves resources not only for the court, but other government agencies, and the savings trickle down to the tax payer citizens of Guam.

The Judiciary's Support of a Modern Forensic Science Laboratory

In our efforts to be in sync with technology, we also fully support the construction of a new, cutting-edge forensic science laboratory.

The legislature has entrusted us with taking the lead in the design, finance, and construction of the new crime lab. This includes acquiring the professional services needed for the initial stages of the project, with funding to come from the Judicial Building Fund.

After meeting with representatives from the Guam Police Department and Guam Community College, it was concluded that we needed to hire a project management consultant. This project manager would be tasked with the program planning and procurement to select the design and construction contractors. The project manager would also assist the Judicial Council in pursuing a loan for the financing of the construction. Unfortunately, Rural Development Authority has informed us that the project manager was a disallowed expense utilizing the Judicial Building Fund. This is the case, even though local law authorizes the use of the Judicial Building Fund as a funding source.

We are well aware that a properly equipped and well-functioning crime lab is a critical tool for law enforcement agencies - the court system included. The efficiency of the crime lab in

processing evidence will in turn reduce the amount of time in which a case will proceed to court. In the end, the community is better served.

We realize the importance of the work conducted by the crime lab personnel, and we thank them for their many years of service, despite the conditions of the existing lab. Rest assured that regardless of our initial setbacks, we are hard at work to get this project off the ground, and we have made it a priority. We have now turned to the Guam Economic Development and Commerce Authority to assist us in refinancing our entire Judicial Building Fund loan and to come up with the seed money to launch this project. Guam *will* get its state-of-the-art forensic science laboratory.

Progress and the Guam Sex Registry

I am also pleased to report that Guam's Sex Offender Registry is fully functional and regularly updated.

It should be noted that under the laws of Guam as they exist today, the responsibilities of establishing and maintaining the Sex Offender Registry are *shared* by the Guam Police Department, the Department of Corrections, and the Superior Court of Guam. Our Probation division - and in particular - the Sex Offender Unit, has taken on the primary responsibility for registering convicted sex offenders and keeping the registry current. Thanks to the hard work and initiative of probation officer Ruben Payumo, who heads the Sex Offender Unit, we have made much progress.

In December of last year, a Special Task Force within the Judiciary was created for the sole purpose of locating within our community all individuals who failed to register or update their information. The work of the Task Force, completed in one month's time, was successful. While some individuals complied with the reporting requirement, others refused to report to the Registry. The names of these individuals were forwarded to the Attorney General's office so that charges could be brought for failure to register or update. To date, two individuals have been charged with failure to properly register. More charges are pending.

Improving Efficiency through Time Standards

One goal of the judiciary system is to provide the people of Guam access to the courts, or as the expression goes, "their day in court." The goal of an *efficient* judiciary system is to ensure that a day in court does not turn into weeks, months or years of litigation.

With that goal in mind, the National Center conducted a workshop with the justices, judges, and members of the bar. The workshop was fruitful. Following the recommendations of the National Center, we will be implementing time standards so that cases will proceed through the court system in a timely manner. Delays prevent a timely resolution of conflicts, and also prevent others in need of resolution from gaining access to the court system. We are well aware that justice which is not affordable - or justice which is delayed - is justice denied.

Under our new time standards, judges, parties, and litigants will be expected to cooperate to ensure that cases are completed within a specified period of time. For example, based on the National Center's recommendations, our new time standards for criminal cases will be as follows. One hundred percent of all felony cases, from charging to sentencing, should be concluded within 12 months; 50% of misdemeanor cases should be concluded within 6 months; and 100% of misdemeanor cases should be concluded within 12 months. In addition, for domestic cases, 100% of all uncontested domestic cases should be concluded within 1 month, 90% of all contested domestic cases should be concluded in 9 months, and finally 100% of all contested domestic cases should be concluded within 15 months.

Our legislative oversight chairman, Senator Robert Klitzkie, has been working closely with us to enhance judicial services for the public. Senator Klitzkie's planned legislation on judicial reform will help us facilitate expedient, yet deliberate resolution of cases filed in our court system through a similar use of time standards. Senator Klitzkie, thank you for your support. We need the continuing assistance of the legislature in the coming fiscal year for essential tools, resources and equipment to do the job expected of us.

Recognition of Judiciary Employees

Of course, all of our efforts at efficiency could not be possible without the hard work of our court staff. There is one observation by the National Center that did not surprise me at all - and I quote- "The Courts of Guam are well served by their staff. As a whole, they are a dedicated, competent group of employees." I could not agree more. To our court staff - and on behalf of your justices and judges – *un Dangkulu Na Si Yu'us Ma'ase*.

The Judiciary's Role in the Economy

For all that we have achieved, and for all that we must continue to do, I want to focus for a few minutes on how an effective and efficient judiciary contributes to a growing economy.

When industries – private companies and military alike - consider relocating to Guam, they will consider our infrastructure, our schools, our skilled work force and our tax structure. Just as important, however, is a strong, professional and efficient court system. An industry wants to be assured that it will receive fair and consistent treatment in legal disputes – both for itself and its employees.

It is known in the corporate world that higher risks and higher transaction costs often impede economic growth. To reduce these risks and costs, the decisions handed down by our courts must be predictable. Parties must be able to rely on our courts to follow the rule of law. This means holding other branches of government and parties to a contract accountable. When a business is satisfied with the court's adherence to the rule of law, there is predictability. In other words, good rulings and opinions handed down by our courts teach all others - including government entities and private individuals alike – how to act, how to conduct their affairs, and what to expect. This stability, coupled with the assurance that decisions will be handed down in a timely fashion, will provide the assurance that Guam is a good and fair place to do business.

Consequently, businesses will invest and reinvest in Guam. Our island's economy will flourish and our community will thrive.

This is not a novel principle. It is widely believed by nations and international corporations that an efficient court system is essential to growing the economy. And the benefits of a strong economy cannot be overemphasized. The benefits are realized, not only by our local businesses, but also by every person in our community. It is for the benefit of the people of Guam that economic development as well as social progress are sought and sustained. Individuals and families will be given a chance to improve their own lives. A growth in the economy will mean more opportunities for business, gainful employment, and fair competition.

Increased Military Presence and the Judiciary's Ability (or Inability) to Respond

Of current interest to our island and the economy is the positioning of significant Department of Defense assets. This includes the planned realignment of over 8,000 Marines, not including dependents, beginning hopefully in 2008.

The general consensus is that this is a big opportunity for our island and our economy to grow. The reality however - the bigger social picture - is that *this is an infusion of approximately 18,000 people*. We are talking about an increased demand on infrastructure, and an increased demand for services. We are looking at the increased demands for housing, the need for schools and daycare, phone lines, power lines, water lines.

Perhaps even more important, we are also talking about the human aspect - the unavoidable consequences of *any* kind of population surge: more divorce cases, more child custody and support issues, an increase in lawsuits, more criminal cases, and more challenges to our government.

Can we handle the reality?

The Judiciary's Request: Keep Pace; Efficiency is not A Fixed Destination

Alexander Hamilton observed 200 years ago: "the judiciary has the power neither of the sword nor of the purse, but merely judgment." As the sole body to which the power of the purse has been given by the Organic Act, I ask the senators of the Guam Legislature to consider the role that you play in preserving and, indeed, improving our court system.

I can say with confidence that our courts have - to this day - provided a respectable level of service to the public. What I *cannot* promise - is that we will be able to meet - on a status quo budget - the increased demands for services that will come hand-in-hand with the growing number of cases and the arrival of thousands of military personnel and their families. The Judiciary's Reality is this: in the very immediate future, maintaining the level of efficiency that I have shared with you today will be nearly impossible without adequate resources. We simply do not have the carrying capacity.

Although we have accomplished much, now is not the time to rest on our laurels. Efficiency, you see, is not a fixed destination. Together, we - the executive, legislative, and judicial branches - share the same goal. We *all* want to provide excellent customer service to the people of Guam. The people of Guam deserve it. They demand it. And we will do all we can in the Judiciary to provide it.

In a couple of weeks, when we present our budget to the Legislature, we will not be asking for funding to hire *more* people to respond to the increased workload. What we will be asking, instead, is to give our bench and our court staff the tools to be efficient, the tools to meet national standards, and tools to stay abreast of the rapid changes in court technology.

Closing

We only ask for the resources necessary to keep pace with the rest of the world. As said by the Red Queen in *Alice in Wonderland*: “It takes all the running you can do, to keep in the same place. If you want to get somewhere else, you must run at least twice as fast . . .” Our judicial branch can only run so fast with the resources and tools we currently have; winning this race requires the continued support of our island’s elected leaders.

Si Yu’us Ma’ase and Thank You for allowing me this opportunity to address you.