

# **2015 State of the Judiciary Address**

**Delivered By  
The Honorable Robert J. Torres  
Chief Justice of Guam  
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## **Introductory Thoughts**

Håfa Adai and good evening Governor Eddie Baza Calvo, Speaker Judith Won Pat, Vice Speaker and retired Chief Justice B.J. Cruz, our oversight chairman, Senator Frank Aguon, and all the senators . . . and, in a special way, to my favorite senator, Mary Camacho Torres . . . I think I can say that without hurting any of her colleagues' feelings! And good evening to my brothers and sisters on the bench, to our esteemed guests, to my fellow Judiciary employees, and to my dear people of Guam. I'd like to thank Speaker Won Pat and the Legislature for hosting us here this evening as I, on behalf of the Judiciary of Guam, come before you to convey the progress our branch has made in the past year, and forecast our anticipated needs for the coming year. I'd also like to thank our oversight chair for the wonderful working relationship that I believe has benefitted both our branches.

It is fitting that, as we gather in this legislative hall and present the state of our Judiciary, we all recognize and honor a woman who was not only a member of this body for six terms, but who epitomized the ideal working relationship between our two branches: This year's recipient of the Hustisia Award, Former Senator Pilar C. Lujan. Just a few of her great contributions to the justice system are the establishment of the Supreme Court of Guam through the Frank G. Lujan Memorial Court Reorganization Act and the creation of the Judicial Building Fund to construct the Guam Judicial Center. It is no exaggeration to say that the judicial structure that we are operating in now is, in large part, thanks to the efforts of Senator Lujan. Please join me once again in applauding this very worthy Hustisia recipient.

Last year during my State of the Judiciary Address, I focused on how we were seizing opportunities to improve the way we do business – by providing individualized justice to address legal disputes, by shifting the paradigm by which we view juvenile justice, by finding new and better ways to address the needs of those with limited means to access our justice system, and by maximizing the

use of technology. President Abraham Lincoln said that progress is only possible with a willingness to “think anew and to act anew.” This, truly, is the state of your Judiciary . . . thinking anew and acting anew.

### **Juvenile Justice Reform**

In fact, we are doing just that with one of our most vulnerable populations – our youth. Every day, young children—some no more than a few days old—come under our care. Because of abuse or neglect, these children may spend time, often years, in the system. Juvenile delinquency and adult criminal behavior are likely to follow them. Consider, for a moment, the long-term effects of abuse and neglect: the terrible costs to the children themselves, to our community that loses the participation of a law-abiding and productive adult, to the system that must process and house them in secure juvenile facilities or even in prisons.

We have the unique opportunity to shape the lives of troubled youth by rethinking our approach to juvenile justice. Recognizing the special requirements of treating youth in the justice system, we commissioned nationally renowned experts to critically examine our handling of juvenile matters. Consultants from the Robert F. Kennedy National Resource Center for Juvenile Justice have made three separate site visits to our court, conducting an extensive probation review and giving us an external critique of our effectiveness in managing juvenile cases. Our team is finalizing a comprehensive roadmap of processes, strategies, and performance measures designed to reduce recidivism and focus on achieving positive outcomes for court-involved youth. This review is an exciting opportunity to enhance our performance and ensure we are following best practices.

Our entire approach to juvenile justice is shifting. Last year, the Judiciary embarked on a comprehensive juvenile justice reform effort spurred by the MacArthur Foundation’s *Models for Change* national initiative. We established a cross-sector partnership to address four critical areas in juvenile justice reform: (1) evidence-based practices; (2) juvenile court referral process; (3) juvenile defense and prosecution standards; and (4) developing appropriate court language so youth understand what is happening. Each of these focus areas is chaired by a justice or judge, staffed by a court manager, and comprised of attorneys and stakeholders. Members of this

Legislature also serve on the steering committee, along with court management, the Attorney General, the Superintendent of Education, and the directors of the Guam Police Department, the Department of Youth Affairs, and the Department of Public Health and Social Services.

Based on the guidance of the experts from the RFK Resource Center, we have already selected an evidence-based risk and needs assessment tool for juvenile clients. This tool permits us to organize a collective response to the needs of the individual juvenile, refine and improve referrals for behavioral health and social services, and create an effective case management strategy that is both measurable and dynamic. We understand scientific tools can predict the factors that cause criminality, that behavioral approaches reduce recidivism, that education matters, and most importantly, that the traditional methods of correction and detention have little positive effect.

Soon, we will roll out a collaborative training strategy on this risk and needs assessment tool with our probation officers and our partners at DYA, GPD, the AG's Office, and other service agencies. We want to establish a system that matches treatment models with the learning styles of the particular juvenile. And we are very hopeful that by utilizing tools that are data driven, we will make long-range and lasting changes in the lives of the children who end up in our courts.

Our work must not end there. Even after services are made available to juveniles, there is still a need to advocate for these children to ensure the system is working for them. To fill this particular gap in advocacy, I am proposing the formation of a Court Appointed Special Advocate for Children program for Guam. Court Appointed Special Advocates or CASA volunteers are appointed by judges to watch over and advocate for abused and neglected children, and may very well be the one constant adult presence in their lives. Volunteers will get to know the child and use the information they gather to inform judges and others of what the child needs and deserves.

### **Veterans Court**

One of our newest therapeutic court programs focuses on another very special population – our veterans. This important docket is tailored to assist our struggling veterans who end up in the criminal justice systems as a result of addiction, serious mental illness, or both. This court will promote sobriety, recovery, and stability, and will rely on the support of other veterans to serve as

mentors. These veteran-mentors have walked in the same boots and truly understand the unique challenges our servicemen and women face when they return home. Guam has the highest number of veterans per capita in the United States. In the therapeutic environment of the Veterans Treatment Court, we can give these veterans who come into the criminal justice system opportunities for proper care and treatment. The servicemen and women of Guam, our local heroes, deserve nothing less.

### **Manâmkô'**

But as we seek to create a positive legacy in the ways we serve our veterans and our children, we must not forget our elders, the manâmkô' of our island. Sadly, they too are vulnerable to abuse, crime, and neglect. Some of these elderly do not have the capacity to manage their own affairs, or even their own physical care, and they require the appointment of guardians of their person or their estate. Our partners at Adult Protective Services, Guam Behavioral Health and Wellness Center, Guam Legal Services Corporation, and others play an important role to support our Public Guardian's efforts. We thank them for their partnership, and we look forward to their continued support as we launch our current efforts to increase and enhance services to our wards and court-appointed guardians.

In line with the State Justice Institute's 2015 initiative of prioritizing Guardianship, Conservatorship, and Elder Issues, the Judiciary will strengthen existing services and implement other promising strategies to support this population, including specialized assistance from court interpreters and Judiciary staff; increased use of assistive technology in court facilities; and collaborating with partners in conducting home studies before guardians are appointed. We are exploring new procedures for guardians as well, to include regular monitoring, assisting them so they can continue to carry out their fiduciary and financial responsibilities, and creating a guardian peer support program. We expect to establish a pool of trained conservators to care for vulnerable elderly and adults with the financial means to avail of their services. This will enable the Office of the Public Guardian, which is already stretched too thin, to focus its efforts on our indigent population.

If we are to succeed in solving the problems that confront our children, our veterans, and our manâmkos – and all the residents of our island – we must heed the words of Benjamin Franklin, who said: “We must, indeed, all hang together, or most assuredly we shall all hang separately.” We are keenly aware that we can achieve none of these efforts alone. But with a planned strategy and collaboration with our sister branches, and yes, even of the public, we can achieve more.

### **Technology**

Our obligation to fulfill the promise of equal justice for all is fundamental and cannot be compromised. Technology is a powerful enabler that empowers us to meet our core purposes and responsibilities with greater efficiency and economy. We are now paperless when it comes to court calendars and posting of public notices in the courthouse; we have revised our rules to expand the use of videoconferencing; and we are preparing to implement e-filing for the Superior Court later this year. While there has been great progress in this area, there is still room to expand the use of technology to not only optimize operations, but enhance security.

Last year, I mentioned that we had applied for a technical assistance grant from the State Justice Institute for a courthouse security assessment, which we were awarded. As part of this assessment, we analyzed internal operations and procedures, and identified both the challenges and the opportunities that arise from the management of the criminal justice system. However, the Judiciary is just one link in the very important chain of Public Safety – and when any one of the other links is weak, the entire system suffers.

When people think of public safety and where dollars are best spent, the most obvious thought is to hire more police officers and get more patrol cars on the street. But there’s another very critical, and often overlooked, component, and that’s a strong and stable management information system, or MIS, unit. The Judiciary is the trustee of all criminal history information in Guam. As the trustee, we recognize that criminal justice information is a lifeline to law enforcement and a cornerstone of protecting our island. That is why we are committed to the success of the Homeland Security Fusion Center, which enables front-line law enforcement, public safety, emergency response, and private sector security personnel to lawfully gather and share information to identify emerging threats and prevent acts of terrorism. Our commitment is reflected in the full-time

assignment to Homeland Security of an experienced marshal who is our Criminal Justice Information Systems chief officer.

The Judiciary also functions as the nerve center for the Virtual Computerized Criminal History system, or VCCH system, which houses the most up-to-date criminal history data used by all of the law enforcement entities operating on the island. Unfortunately, we cannot realize the full capabilities of the VCCH until GPD invests in and upgrades its Law Enforcement Records Management System, or LERMS. We have agreed to reallocate federal funds originally earmarked for the Judiciary to GPD to help advance their MIS system. But even with what we're sacrificing to support GPD, it's not enough to complete their upgrades.

While officers and vehicles are important, the executive branch and the Legislature must recognize that the safety of these officers and the management of detainees and inmates are contingent on having access to accurate criminal history information. This data will better guide the work of law enforcement and improve the government's response to the rising crime rate and potentially dangerous arrest situations. Without access to this data, law enforcement and corrections agencies are missing an important opportunity to optimize their work. We cannot afford to undervalue the investment in a strong MIS program for these agencies.

### **Security and Safety**

Our security assessment also raised several concerns, which now require us to find ways to expand and improve upon our current facilities. The predictable challenge, however, is that there are no funds identified to do that. Our present facility is 25 years old, and although well maintained, was originally designed for just five courtrooms. We now have ten courtrooms in our Hagåtña facility alone! That's double what our blueprint ever envisioned.

We also have challenges in managing the increased flow of detainees through our courthouse. The clearest solution to immediately address this problem is to maximize our use of technology to conduct video appearances. Our ability to capitalize on the use of videoconferencing requires that DOC, DYA, and the Hagåtña Detention Facility be fully capable and equipped to manage this technology. The goal, of course, is to create connectivity to all our courtrooms, which requires

that these detention facilities have multiple lines to accommodate simultaneous hearings. A well-equipped and maintained videoconferencing system will undoubtedly drive down costs – not only of transportation, but of guarding detainees while they are being transported and held. This lowers the risk of flight, injury, and other potentially risky scenarios. We must all support this endeavor.

The issue of security and our facilities is intricately linked with our efforts to revamp our management of juvenile matters. Currently, providing federally mandated sight and sound separation between adult offenders and juveniles has proven to be one of our most complex challenges. To respond to this situation, we are in the process of relocating certain divisions of the court and converting space into yet another courtroom. We are also developing alternative methods to ensure that we promote safe conditions for the care and custody of juvenile detainees.

We are pursuing grant funding to realize some of these plans, but even these grants coupled with the Judicial Building Fund, will not support all the changes required. Last year, the Legislature increased the appropriation for the constitutionally required cost of indigent defense, and we are thankful for that. But nearly half of the collections previously allocated to the JBF are now dedicated to supplement indigent defense. Otherwise, the delivery of effective, efficient, and quality legal representation for indigent criminal defendants will be severely affected. We must therefore identify and balance these security needs of juveniles with our commitment to indigent defense.

Addressing our security needs also requires improvement in strategies for the use of our marshals. We are actively responding to the challenge of the Legislature to contain overtime costs, and I think we've been successful in this regard. Marshals do, however, provide security for Saturday and holiday magistrate hearings and weekend visits at Erica's House. They go out after regular working hours and at night to serve warrants and process protective orders. Truly, for our marshals, work is not 8-5.

The Legislature has asked all law enforcement entities to devise a plan to hold down overtime costs. To this end, we are looking to launch our marshal reserve program. Our initial request is to fund twelve marshal reservists, which would alleviate the need for our full-time marshals to

work overtime, without sacrificing service and protection. This is a valuable program that the Legislature should get behind.

## **POST**

Last year, even before the Guam Peace Officer Standards and Training Commission (better known as the POST Commission) established new standards for the education, training, and physical fitness required of all peace officers, the Judiciary had already begun making plans for our law enforcement employees. The impact of the POST Commission standards is significant for us: nearly one-third of our workforce – all marshals and probation officers – are directly affected by the POST Commission standards. To ensure that they achieve full compliance, we created an action plan that addresses all three components of the new standards.

As part of our plan, we reviewed each employee's academic and training records, engaged in a strategic partnership with the Guam Community College, and partnered with our current health insurance provider to assist our employees in passing the Physical Fitness Qualifying Test. We held our first diagnostic test in February of this year – just two months after the new standards were passed into law. Two weeks from now, our employees will undergo their second diagnostic test. This quarterly assessment schedule will give our law enforcement officers a better understanding of where they are, and allow them to gauge where improvement is necessary. Next year, we will roll out monthly diagnostic tests, and in December of 2016, we will hold the first mandatory Physical Fitness Qualifying Test.

Not only will our marshals and probation officers be fully certified in accordance with the new POST Commission standards, but they will be better trained, more physically fit, and better able to serve the people of Guam. And as a show of my support for their efforts, I, too, will strive to be POST-compliant. For a man of my young age, that will mean that I will have to keep my waistline under 39 inches, be able to run 1.5 miles within 16 minutes and 22 seconds, and do 28 sit-ups and 15 pushups, each within one minute. And I do intend to pass!

## **Professional Development and Support**

Our law enforcement officers are not the only Judiciary employees who will receive the support and benefits of additional training. All who walk through our doors in search of justice deserve the most competent and skilled workforce we can provide. To meet this goal, we are creating a structure that provides a comprehensive and continuing training program for all our employees.

We have established our first-ever Professional Development Plan, or PDP, to address the training and educational needs of employees in all of our divisions. We will have a Judicial Educator on staff, who will develop curricula for those wanting to learn or strengthen skills to better perform in their current positions, and potentially, to prepare themselves for other positions. Working with the Judicial Educator, employees will create their individual PDP to align their goals with training opportunities and division objectives, so that we can be assured that we receive the benefits of our investment. Ultimately, our vision is to offer evening instruction in the areas of verbal and written communication, computer-related training, customer service, legal process, probation duties, intake, and the like. Human capital is the most important asset we have, and we believe that our employees are well worth this investment of time and effort.

### **Justice Corps**

Another aspect of our skilled workforce is our new Justice Corps Program, an initiative in partnership with AmeriCorps and the Serve Guam! Commission, which gives 20 undergraduate and graduate students a first-hand opportunity to learn about the Judiciary and to serve their community, while receiving financial assistance for their education. The Judiciary was selected to receive a nearly \$180,000 grant to implement this service program, and after a rigorous selection, screening, and training process, 20 students are now the inaugural members of our Justice Corps Program. Will our Justice Corps members please stand and be recognized.

Their service to the Judiciary will not only meet the Serve America focus areas – including education, veterans and military families, and healthy futures – but they will have a direct personal impact on the people of Guam. As part of their duties and responsibilities, the Justice Corps members will support court patrons at the new Judicial Services Center, assist Probation clients with school and course enrollment, provide tutoring and homework assistance, conduct workplace skills classes, and facilitate recreational therapy for at-risk juveniles. The four Justice Corps

members who are veterans will be especially effective in the Veterans Treatment Court mentor program, providing their fellow veterans and families with peer support and connecting them with services such as housing, employment, and benefits. We have high hopes for our new program, and we believe these bright young stars will show the best of what the Judiciary and the future has to offer.

### **Second Magistrate**

There appears to be a “new normal” in the justice system – a normal that includes more felonies and fewer misdemeanors being filed than in previous years; more vigorous prosecution and defense; exponentially more jury trials; and an enhanced sense of urgency on the part of judges and attorneys to move cases forward without delay. And in all honesty, it has been a challenge for our judicial officers to stay ahead of the demands of this new normal.

There has been some public discussion recently about the need to fund more judicial officers. However, it’s important for us to be fully aware of where additional judicial officers are needed. As things stand now, the judges in our family and specialty courts are functioning at remarkably high levels, but with our existing case age and time standards, there is a strain on our judges assigned to these resource and time intensive therapeutic courts.

We feel that the best approach to address the immediate needs of our courts, and at the same time, to get a real understanding of whether these needs are cyclical or truly the new normal, is a two-fold approach: first, to have the Legislature fund the additional magistrate judge already authorized by law; and second, to amend the statutory authority of our magistrates to follow the federal magistrate model, so they are allowed to perform additional duties such as disposing of procedural motions in criminal and civil matters and addressing discovery disputes.

The additional magistrate is a position that we need now, and we have drafted proposed legislation to expand magistrate duties, which we will transmit to the Legislature in the near future. The Judicial Council has also approved the creation of a committee to assess our need for a specialty business court with a full-time judge to handle certain civil proceedings, so that these cases will not have to take a back seat to criminal cases. Many anticipate the military buildup and an

expansion in the tourism industry, with corresponding commercial growth. Inevitably, this economic development will likely have an effect on the number of procurement challenges, civil disputes, and commercial litigation. We hope that the work of this committee will be completed within the next few months, and that a recommendation will follow shortly thereafter. The Judiciary is sensitive and responsive to the needs of our business community.

### **Looking Forward to the Future**

Over the last four years the Judiciary has made significant progress in accomplishing the business of the third branch of government. Our approach has been to use strategic planning to manage this branch and guide our court to focus on our primary mission. I am pleased to report that the Judiciary of Guam will be entering into a memorandum of agreement with the Office of the Attorney General and the Public Defender Services Corporation to approach the next three years in a strategic and coordinated manner. We plan to concurrently launch three separate but still collaborative strategic planning efforts. This integrated approach is a first for Guam, and together we will be able to address and resolve issues that will improve the criminal justice system for all our people.

### **Concluding Thoughts**

The Judiciary is currently celebrating Law Week – in fact, today is Law Day. As part of our celebration, we continue to educate and entertain our community, and to increase their understanding about the importance of the rule of law. One of our most rewarding Law Week events is our mock trial plays. This program began eight years ago with only 40 students and two schools. This year, more than 400 students from 13 schools will perform 15 different plays. We will close Law Week with the Race Judicata 5K: Under “Colors” of Law, where runners will be doused in colored powder in support of Erica’s House and Oasis Empowerment. And for the first time, we also celebrate Juror Appreciation, to honor the thousands of jurors who come before our courts to perform their civic duty and who put into practice the fundamental American ideal of justice under law. We thank these men and women, and private companies, government agencies, small businesses, schools, and all those who support their employees called to jury service.

This year, the Law Day theme is “Magna Carta: Symbol of Freedom Under Law.” Perhaps more than any other document in human history, Magna Carta has come to embody a simple but

enduring truth: No one, no matter how powerful, is above the law. As we celebrate the 800th anniversary of the Magna Carta and the importance reflected in that ancient but wise document, may we all be reminded of the principle that ours is a government of laws rather than of men.

The Judiciary strives daily to perform our mission of deciding cases pursuant to these laws fairly and expeditiously. But as always, we cannot do it without the support and shared vision of the legislative and executive branches. Cooperation and innovation remain essential as we respond to the demands that our responsibility for justice places upon us, and we must continue to embrace opportunities to advance our mutual concerns. I am forever grateful for the time, attention, and courtesy you have extended to me and to your fellow public servants from the Judiciary.

We have much to be proud of, and much to be thankful for. Our court system, with judges, clerks, and our court family leading the way, has worked hard to bring an exemplary level of service to our cause. I am confident that our sister branches will again join in partnership to fulfill our common mission: serving the people of Guam. What a privilege that is for all of us.

Dångkolu na Si Yu'os Ma'åse.