

2009 State of the Judiciary Address
By Chief Justice Robert J. Torres
Speaker Antonio R. Unpingco Legislative Session Hall
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Governor Camacho, Lieutenant Governor Cruz, Speaker Won Pat, distinguished members of I Mina Trenta Na Liheslaturan Guahan, fellow Justices, Judges and Judiciary employees, Archbishop Apuron, Father Gus Gumataotao, Attorney General Limtiaco, Guam Bar president Cynthia Ecube, members of the Guam Bar Association, my ever-supportive wife Mary, Jesse Quenga, family and friends, ladies and gentlemen—Hafa adai.

Today, I am honored to report on the state of our Judiciary for the second time. And for the first time in many years, the Chief Justice is delivering his address at the legislative hall. My theme today is the Judiciary's commitment to promoting a culture of accountability, performance, and transparency. I hope you will see how our commitment to these ideals has allowed the Judiciary to maximize our resources to provide necessary services to the People of Guam.

The Judiciary is keenly aware that the current world fiscal crisis we face is a grave concern for the people of Guam. We know there are economic constraints that will surely affect this year's budget. In anticipation, we have been frugal and innovative. Although we operate on only a small percent of the GovGuam budget, we have taken advantage of cost savings whenever we can, transforming our court system into an increasingly effective branch of government better able to serve the public. And because of the structural reforms we have undertaken at our own initiative, our branch is in a better

position to cope with the present fiscal crisis than it otherwise would have been.

Nevertheless, we are also mindful that troubled times can lead to even greater demands on the court's resources. Domestic violence filings, petitions to modify child support, criminal activity, and business disputes all tend to increase in tough economic times. These cases, often fraught with heated emotions, require our services if these important issues are to be resolved in an orderly and expeditious fashion. If we do not receive adequate resources, it will be difficult to perform our core function of providing accessible justice to the people of Guam. It's not just the court system or its employees who are impacted when the resources aren't there—it is the citizens whom we serve who will bear the ultimate consequences.

As you may know, we have Abraham Lincoln here today to help us celebrate the 51st Annual Law Week. This year's theme is "A Legacy of Liberty: Celebrating Lincoln's Bicentennial." Lincoln is known for his pithiness, and perhaps he phrased it best when he said "You can't escape the responsibility of tomorrow by evading it today." There are a number of critical budget adjustments that we will be discussing with the Legislature. These adjustments, which are essential to the integrity of the justice system and vital interest of the people of Guam, cannot be postponed. There are programs that must not be compromised.

Despite the fiscal pressures we have faced, I am proud of the excellent work we've accomplished during this past year. It is critical that *you*—the

Executive Branch, the Legislative Branch, and most importantly, the people of Guam—understand how our accountability, performance, and transparency have played a pivotal role in the success of our mission.

The strength of any organization is the workforce which drives it. The Judiciary’s employees truly deserve our acclaim. Because of their APTITUDE, they have continued to find innovative and efficient ways to get their jobs done with the diminished resources available.

And speaking of APTITUDE, I’d like to point out how the first three letters of that word – A-P-T – are also an acronym for the values the Judiciary strives to live by, and the theme of my speech today: Accountability, Performance, Transparency – A-P-T. So when I speak of our APTITUDE, I mean more than just our aptitude for success. I also mean our commitment to continually be APT at the work that we do: To be accountable, performance-driven, and transparent.

Two Very Public Achievements

We know what we can accomplish when the Legislative and Executive branches support our vision. When I stood before you at this time last year, I told you about the necessity of having additional judicial officers to assist with the court caseload and the importance of opening a satellite court to serve our citizens and businesses in the northern villages. I explained that the magistrates and additional facilities would help us improve access to justice and relieve congestion at the main Hagatna facility. Our law-makers recognized the importance of the facility and provided for the satellite court in our budget.

Our initial plans for the Northern Court Satellite, or NCS, were modest, and we did not seek to fill the number of magistrate positions recommended by the National Center for State Courts. But I am ecstatic to report that, as of today, we have selected a site, and today I will nominate Alberto E. Tolentino to serve as a magistrate subject to legislative confirmation. We are only a few months away from having a fully operational court to serve the significant number of residents and businesses in Northern Guam.

Our plans were mindful of financial constraints and were delayed by budgetary shortfalls—NCS might have opened 6-months earlier were it not for a shortage of funds. But despite these challenges, NCS is about to become a reality. I want to thank you all for your role in this achievement.

Another major accomplishment since my last address is the opening of the Guam Police Forensic Crime Lab. Justice Carbullido and I helped spearhead this project. You, the Legislature, gave us the reins, and we drove the carabao cart. In fact, we turbo charged it! Thanks to our APTITUDE, this \$6 million facility was built in fourteen months, record time for a project of this magnitude. The crime lab is the first and only one of its kind in our entire region. It will enable evidence to be properly examined so that justice can be rendered accordingly.

Our Procurement and Facilities Management division made completion of the crime lab possible. We envision the dream; but they plan for it and then, by the sweat of their brow, they build the dream. We ask them to undertake

many daunting projects, and they inevitably respond as would Bob the Builder: Yes we can! Hunggan, ta na sina!

Our work with the Forensics Lab is not done. The Guam Police Department is cooperating with the Judiciary to purchase new Automated Fingerprint Identification System equipment for the lab. We have obtained authorization to spend \$1.5 million from the Judicial Building Fund to purchase even more equipment.

Throughout this endeavor, the Judiciary has proven to be a reliable custodian of the funding we are tasked with overseeing. The use of the Judicial Building Fund is constantly examined, subject to strict bank covenants, open to public scrutiny, and consequently, properly managed. Our high level of performance and accountability is due in large part to our transparency.

The Tip of the Mountain

The two achievements I've discussed so far are visible indicators of the Judiciary's APTITUDE—of the fact that we can be relied on to properly manage the public's resources for the public's benefit. But these achievements are just the tip of the mountain—they are the initiatives that are most visible from the outside. Like our mountains rooted in the Marianas Trench, much of our work occurs below the surface. In fact, many of our most important achievements are institutional and procedural -- Ones that are not obvious to an outside observer, but enable us to successfully perform in all our endeavors. I hope you will share my pride in the day-to-day work of the Judiciary, and recognize how through APTITUDE, that work is performed competently and efficiently.

Good management requires good planning. Not to over-quote our great president who is here with us today, but as we celebrate the Lincoln Era this Law Day, I am reminded of one his wise sayings: “If I had eight hours to chop down a tree, I’d spend six hours sharpening my ax.” Our Procurement and Facilities division has undertaken the very big job of developing a Judiciary Master Plan that will allow us to chart the direction of our future facilities and better understand the shortcomings of our current facility. The Master Plan will allow the Judiciary of Guam to competently prepare for the expected population increase as a result of natural population growth and the military buildup just on the horizon.

As the Lincoln saying reflects, to perform at a high level and be accountable to the public we serve, we need to make smart decisions about how we allocate our resources and we need to keep our tools sharp. At the Judiciary, we are committed to sharpening our most important tools—our employees. The Human Resources Division has held countless trainings over the past year—including EEO seminars, mandatory customer service training, ethics training, and court-wide waste management training, to name a few.

We have also used our resources to help other entities within GovGuam. We have provided the Public Defender Services Corporation with HR assistance and our Marshals have helped train airport police. Our marshals are also developing a program for the Department of Revenue and Taxation’s revenue officers to help improve collections. We have trained over 150 middle school teachers from GPSS and private school on the juvenile justice system through our Play By the Rules and Children at Risk projects. By

sharing our expertise, we also share our APTITUDE with others who may benefit from the skills of the Judiciary's employees.

Our Commitment to Transparency and Accountability

Over the past year, we have furthered our commitment to serving the people of Guam in the most transparent and accountable manner possible. We recognize that, if our citizens are to develop a full appreciation and understanding of the judicial system, we need to be open.

Transparency means that, essentially, there is a sticker on the door of the court, every day, which reads "How's My Driving." We want to know where we are meeting and surpassing the public's expectations, and where we need to improve. To that end, we are administering a "court-tools" survey to our patrons, the first of its kind, to my knowledge, and we're analyzing the results to identify areas in need of improvement.

In many ways, our work is the most transparent of all the branches of government. Except for certain sensitive proceedings that are sealed where justice requires, our court hearings are open to the public. The decisions and opinions of all our courts are made public. If anyone wants to review a court file, in most instances a simple trip to the courthouse or access to the internet is all it takes. But transparency means more than just open court hearings and published opinions – more than just shedding light on the *products* of our work. It is also shedding light on the *process* of our work. Part of the goal of transparency is helping our court patrons better understand what is going on in court proceedings and in court orders, so that they are not functioning in the dark, but with greater awareness of the

process....hopefully removing much of the mystery and uneasiness that many patrons experience when they have to go to court.

To this end, the Courts & Ministerial Division has undertaken special projects relative to indigent defense, pro-se litigation, and interpreter training. The number of self-represented litigants continues to rise – a trend that will surely continue in the foreseeable future. These persons must have *meaningful* access to the courts, or the phrase "justice for all" becomes no more than an empty promise. That requires making necessary tools available, including court information in several languages, user-friendly forms, guidance on how to file and respond to pleadings, and some degree of assistance from legal counsel and interpreters when needed.

Greater transparency also means that language barriers should not deny litigants meaningful participation in proceedings. We currently offer translation services in more than 14 languages, and we are devoted to ensuring court interpreters are certified and provide a higher quality of service to parties who do not speak English or Chamorro. We have done this without additional funding from the Legislature, and will continue to try and augment those services. APTITUDE in action!

We are also transparent in the way we hold ourselves out to the community. While many of our outreach projects continue year round, they culminate during this time of year with the celebration of Law Week. I am very proud of the way that the Guam Bar Association, the District Court of Guam, and the Judiciary have worked together to plan Law Week. Apparently, the American Bar Association was just as proud when it awarded us the 2008

National Law Day Outstanding Activity Award. This would not have been possible without the hard work of the Law Week Committee members. And they have worked just as hard this year to put on a slew of events that began with a golf tournament and 5K run/walk raising funds to help self-represented litigants, and will end tomorrow with the Law Fair at the Micronesia Mall.

Part of our Law Week celebration is the awarding of the prestigious Hustisia Award, which will take place this afternoon at the Supreme Court. The Hustisia award recognizes someone who has contributed significantly to the improvement of the administration of justice and good government in Guam. This year's recipient is our retired Supreme Court justice, Janet Healy Weeks. Justice Weeks was the first female admitted to the Guam Bar, and retired as a member of our bar just this year. It is fitting that we will bestow this honor on her today, as this very day marks the 10th anniversary of her retirement from our Supreme Court. Let's all please stand in recognition of Justice Janet Healy Weeks.

Thank you, Justice Weeks, for your APTITUDE as a member of our bar and our bench.

It's no secret that transparency goes hand in hand with accountability, and we have also made the successes and shortcomings of the Unified Judiciary transparent and open to the public. Time standards govern the disposition of cases and matters pending before the Superior Court of Guam. Our website contains reports for every judge, demonstrating our promise to provide timely and meaningful information to the public. Thanks to this

transparency, cases should no longer fall through the cracks—and members of the bar can shoulder a part of the responsibility of confirming that their cases have been promptly assigned and are being disposed of effectively.

All judges on the bench have been committed to meeting these standards regarding the efficient and prompt disposition of cases, and I would like to take a moment to acknowledge and thank our judges and their chamber staff for this commitment. By abiding by these standards, they have demonstrated their commitment to court-wide APTITUDE. These officers continue to do their best to manage the Superior Court's caseload, despite the fact that we have at least 2 judicial officers fewer than what was recommended in a 2006 study. But in spite of my confidence, I acknowledge with realism that the court's austerity measures and budget cuts will undoubtedly put more pressure on our judges to comply with our time standards.

Indeed, further constraints on our budget will have far-reaching effects, undermining the progress we have made and future projects we hope to implement. We've been extremely frugal, working with a 2009 fiscal budget that decreased nearly 10% from the previous year. The allotments we've received have been inconsistent. And although the Financial Management Division continues to work diligently to ensure we pay our employees and pay our bills, this situation has caused a cash flow epidemic whereby vendor payments have been delayed and court services eliminated. I want to thank the Governor and the Department of Administration for working with us to address our allotment concerns. Thanks to the \$2 million released to us yesterday, we did not have to issue notices today of an impending 32-hour work week for our judicial employees. I also want to

thank the executive branch for their good-faith commitment to continue working with us to ensure we get the rest of the money due to us before the end of the fiscal year.

Thank you also to Senator Frank Aguon, our committee chairperson, and Senator Jim Espaldon for introducing Bill 100, which looks to provide a more permanent solution to our funding issues.

The Judiciary has made many efforts at cost containment over the past several months. Yet despite these money-saving measures, I regret that APTITUDE alone cannot solve the need for adequate funding.

There are severe limits to how much we can reduce the services that we are required to provide. For example, providing legal counsel to indigent criminal defendants is not a program that can simply be eliminated as part of our cost containment measures—it is a constitutional responsibility.

Addressing Challenges to Probation and Therapeutic Courts

I must alert you, however, that, with a hiring freeze and funding limitations, the day is fast approaching when our probation and therapeutic court systems will collapse.

Let me begin by explaining why these programs are so important to the island of Guam. Both probation and our therapeutic courts share a common goal, intimately tied to the work of the Judiciary-- to rehabilitate offenders and give them a second chance; to reduce recidivism and help offenders reclaim their lives and become productive citizens. But the costs of

processing and supervising thousands of individuals each year as they pass through our therapeutic courts and probation system take a tremendous toll on our resources.

A functioning probation system helps ensure offenders meet their obligations to victims and become productive members of society. However, our system is taxed to its limit. In 2008, there was a 52% overall increase in individuals under the supervision of the probation division, which includes those supervised both by Adult and Juvenile Probation. Probation officers interviewed and processed over 62,000 clients this past year. All the while, the division has endured a loss of 10% in personnel.

While I hate to get bogged down with numbers, in this case, the numbers are very telling. They speak of a workforce tasked with handling thousands upon thousands of cases – cases that are not just statistics; these cases represent individuals and families in need of services.

We are doing the best we can to persevere. The Pacific Judicial Council, utilizing federal funds, is organizing a training to assist probation officers in re-engineering and re-tooling the way they prepare their probation reports, so that the reports contain information that is more useful for judges to make reasoned decisions about such things as appropriate prison terms, the amount of fines, or release conditions for offenders. But there is more that needs to be done.

Probation goes hand in hand with our therapeutic courts in improving public safety and welfare. In the 1990s, therapeutic models for handling cases

involving alcohol and drug addiction began to emerge. These models recognized that treatment is a necessary component of any effort to achieve lasting modification of criminal behavior, stopping the revolving door by which offenders continually reenter the justice system. With the essential support of the legislative and executive branches, therapeutic courts with rigorous treatment programs, for both adults and juveniles, have now been established, resulting in reduced recidivism, safer streets, and a return to sober, law-abiding lives for hundreds of our residents.

We have relied on a strong partnership with other government agencies, private providers, and non-profit organizations to carry out the drug court mission and we all share in its success. The Guam Chamber of Commerce, in partnership with us, has helped nearly 350 men, women, and youth successfully graduate from the drug court program and benefit from a second chance in life.

We must be clear that when we underfund or eliminate programs, there are real human consequences. Let me tell you about “Joe.” Joe, a father of four from Dededo, found himself in a bad way, and ended up with a drug habit and a drug arrest. He was given the benefit of the drug court program. Thanks to the constant monitoring, the counseling, and the discipline imposed on him through the program, Joe has gotten a new lease on life. He has been clean and sober for several months, holds a steady job, and provides for his family. Though our therapeutic courts, he was treated as a whole person – not just a criminal, not just an addict, not just a man with family problems. Without the support of this and similar types of court

programs, Joe's story, and that of many others like him, could have had a very different ending.

Joe's story is shared by hundreds of adult and juvenile drug offenders. His story is a testament to the wisdom of funding drug courts. Drug courts are costly, but they are a proven method of resolving problems for people with alcohol and drug addictions. These resolutions don't represent just the closure of another case, but a permanent and positive change in the life of the person who appears before the court. As we manage scarce financial resources, we must consider that our treatment-oriented courts are just a fraction of the cost of incarceration.

We have strived to improve and expand important programs that help our family members get back on their feet. We obtained a federal grant to help launch our mental health courts. Using our drug courts as a model, we began a Mental Health Court initiative for cases in which mental health treatment is an alternative to incarceration. Here again, the benefits of this new approach to a chronic problem are evident – inspired not only by their success in other jurisdictions, but by our culture of social and familial support structures.

We know these therapeutic courts work, and we certainly have the APTITUDE to expand the program to eventually include a specialty court for DUI offenders. But realistically, we must acknowledge that therapeutic courts are resource intensive. To be successful, these programs require more work, closer monitoring, and more frequent court hearings. However, a short-term investment today pays off with long-term dividends—those

offenders who are rehabilitated early on do not become even greater burdens on the justice system in the future. And perhaps even more importantly, these programs embody our traditional commitment to family—to taking care of our brothers and sisters, not writing them off.

Addressing Challenges in Caring for Families

We must also focus attention on the people served by Family Court. Our client counseling services has incurred a 20% increase in case referrals and a 20% decrease in personnel. These professionals have shown resourcefulness in continuing to provide effective services to victims, perpetrators, their families and the community through counseling, education, outreach and intervention. These employees work daily to help nurture and hopefully mend individuals and families as a whole, focusing not on the single event that brought them into the system, but on the familial and institutional dynamics that led to the problem in the first place.

We also must recognize the efforts of the Office of Public Guardian. Currently, our public guardian serves as a fiduciary, overseeing estates and personal affairs for nearly sixty individuals who are unable to care for their own personal needs and property. We currently have an interim Public Guardian, but I am happy to announce that I have offered the position to Attorney Marcelene Santos, and she has graciously accepted. Starting this July, Marcie Santos will be Guam's Public Guardian.

Part of i Liheslatura's express intention in creating the OPG was that the office would also serve as a watchdog for private guardianships, monitoring through reporting requirements to ensure that private fiduciaries are not

abusing their role. The need for such monitoring is great and becomes greater with each passing year, with the aging of the Baby Boomer generation. However, the OPG has not yet been given the resources that would permit the division to step up and assume the responsibility of overseeing these private guardianships. The OPG is already challenged to ensure responsible guardianship of our elders' welfare and estates. Despite the OPG's APTITUDE, the investment of additional public resources cannot be forestalled indefinitely.

Finding Other Sources of Funding

I have shared with you my concern about the need for additional resources to serve the men, women, and children who rely on court programs. Now I would like to share with you how we have been able to creatively find funding to make possible a number of worthwhile programs that our regular budget did not provide for.

Our Court Programs Division's sole mission is to aggressively pursue federal funds and other grants in an effort to maximize our ability to serve the community. Because of their efforts, we have been successful in obtaining over one million dollars in federal funding for calendar year 2008. These federal funds support programs that help our courts identify at-risk youth and provide services to keep them in school and off the streets. They also include programs that help us rehabilitate and counsel offenders

The federal funds we receive enable us to more effectively manage our cases and provide additional services. A four-person staff has been able to raise annual funds that exceed their personnel costs by four- or five-fold—that's

an excellent return on the dollar, in any economic climate. However, our current staff is stretched to its limit managing the grants for the programs we currently have. Part of our continued success in obtaining grants is our history of compliance. We remain accountable by meticulously following stringent reporting and compliance requirements for the grants we have already secured. But these requirements make it difficult for our Court Programs division to devote much time toward searching for new grants.

There's a well-known saying in business—you need to spend money to make money. The millions of dollars we can get from the federal government require management, and without sufficient personnel, we will not be able to manage additional federal grants. With the federal government giving away hundreds of millions of dollars in its economic stimulus package, now is the time to aggressively seek additional funding.

In my mind, every dollar invested today in grant-seeking results in a three or four dollar match by the federal government. To continue to lead GovGuam in bringing federal funds to the island, we need to fund additional staff in this division. Wise management -- APTITUDE -- requires that we maintain our ability to seek grants and comply with reporting requirements.

Addressing Technological Challenges

Finally, I would be remiss to not raise an issue I spoke about in my last address --the Judiciary's outdated and badly crippled case management system. The truth is that while the rest of the world is living in the age of Bluetooth technology, our case management system is stuck in the age of

green screens. We must upgrade this system soon, or risk catastrophic collapse.

An integrated case management system is critical to our ability to provide all three branches of government and the public with the type of information and access that enables the judicial system to remain accountable and effective. We cannot move forward to implement a modern case management system without recognition of the need to fund its purchase. I understand that resources are extraordinarily tight this year, but a brighter future is on the horizon. And I will continue to make this an issue until the day when we finally get a reliable, stable case management system in place.

We do not seek technology for technology's sake. We acknowledge that not all efficiency measures require a technological fix. For example, we recently adopted a simple "mailbox rule" allowing for the court to serve attorneys at their court mailboxes. This saves on time and resources and maximizes our efficiency, as marshals who would otherwise be required to effect service at the attorneys' offices may now concentrate on other more pressing tasks. However, if we do not improve technology to help us increase the present pace of resolving our cases, the backlog will continue to mount and we will reach a point where it will be nearly impossible to dispose of these cases.

Conclusion

We have all felt the impact of the recession in our businesses and in our personal lives. We are feeling it as well here in the Judiciary. Unfortunately, our belt-tightening did not just begin this year. For the past

five years, our funding has been stagnant, and we have done our best to provide 2009-level service with 2004-level funds. For the past five years, while working with a status quo budget, we have responded admirably to the increased demand for our services. Through our APTITUDE—our accountability, our performance, and our transparency—we have given the people of Guam the most efficient, most responsive judicial services their tax dollars can provide. But when everyone is just starting to cut the fat, we in the courts have already made cuts that reach to the bone.

The Judiciary's budget is less than five percent of the overall GovGuam budget, but we play a huge role in protecting the safety and security of our citizens. Even in the best of economic times, the administration of justice is difficult to achieve given the sheer volume and complexity of the cases we hear. But we continue to press on. As the branch entrusted to protect the very ideals of justice and fairness, this is nothing less than our sacred duty.

We are frequently reminded that government cannot do everything; and we recognize in times like these, we most certainly cannot *afford* to do everything. However, there are some things that only government *can* do, and these mandates and legal responsibilities must be carried through. Administering justice under the law is a function that only government can fulfill. The determination of guilt and innocence, property rights and parental rights, legal privileges and powers, are judgments only government can make. Administering justice is one of the principle reasons governments exist. If we neglect our fundamental obligations to the people in administering the law, we break trust with them, and ultimately, lose their confidence.

Oliver Wendell Holmes, one of America's most respected jurists, once said: "Greatness is not so much where we stand, as in what direction we are moving. We must sail sometimes with the wind, and sometimes against it, but sail we must. And not drift, nor lie at anchor." I am determined that the Judiciary's active commitment to a culture of APTITUDE will continue to help us move forward.

We at the Judiciary are striving to meet our fundamental obligations to the people of Guam, to perform at the highest level in administering justice. I hope the efforts I have described assure you that, as your Chief Justice, I am always mindful of the fact that we are accountable to you...*I am accountable to you.*

Although our institutional cultures and decision-making processes are very different, all our branches of government share fundamental commitments to fairness, justice, and public service. We look forward to a year of positive, collaborative work with the Legislature and the Executive branch, and to together sailing in the right direction. For the preservation of the rule of law and the sacred goal of justice for all, "Sail we must."