

2012 State of the Judiciary Address

By:

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Chief Justice of Guam

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Preserving Our Mission, Protecting the Rule of Law

I am thankful for the opportunity to be here today, May 1st, a day nationally recognized as Law Day. This occasion not only marks an opportunity to recount the accomplishments of the Judiciary of Guam and to announce our aspirations; it is also a time to reflect on the bigger picture – why we as a Judiciary exist, why we must be adequately funded, and what stands to suffer in the absence of a truly stable system of justice.

Our island, in many ways, is in a state of flux. It now appears that the military buildup will be scaled down and further delayed. The price of fuel is rising to record levels. Schools are in need of repair and construction. There is an increase of migrants from the CNMI and the freely associated states caused by regional economic problems. Although the Russian tourist market has been opened, we still wait for a federal decision on China after years and years of business preparation.

Within this flux, it is too easy to think that the courts are irrelevant to the economy and business environment. But something that I have always pressed upon whenever I have had the opportunity to deliver these addresses is the critical role that courts of justice play in ensuring a favorable economic climate, one that invites investment and consumer confidence. Particularly in communities where there is a degree of economic uncertainty – which seems to be nearly every community these days – there must be confidence in the stability and reliability of a system of law and order. A fair, efficient, and fully functioning court system provides businesses with the necessary confidence to invest in an area, by ensuring that their investments are fully protected under the rule of law.

This past February, I attended a meeting of the Conference of Chief Justices, comprised of the chief justices of the fifty states and four territories and commonwealths. Our keynote speaker was Vice President Joe Biden, and in his address, he observed that “the truly exceptional aspect of our American democracy is our deep commitment to the rule of law in our courts.” He talked about a concept he referred to as “insourcing,” where corporations bring manufacturing back to the United States primarily to benefit from the protections provided by the United States court system. In Mr. Biden’s words, “until nations embrace the rule of law where businesses can be sure that they can enforce their contracts, that their intellectual property will be protected, until citizens are free to speak their minds, those nations will never fully realize their true potential.”

Mr. Biden illustrated this point by using the example of Russia – where, even more than 20 years after the dissolution of the Soviet Union, its government is still struggling to become a

prosperous democracy. Mr. Biden recounted a comment made by Russian President Vladimir Putin, who was Prime Minister at the time. Mr. Putin told the Vice President that U.S.-style democracy would not work for Russia. Mr. Biden's response? That adopting the rule of law "is not about imposing American values on any other part of the world." Rather, he said, it is about the demands "shouted by hundreds of thousands of people marching in the streets around the world" in the past year. It is an independent court system and the rule of law, the Vice President said, that sets the United States apart from most other countries. Only when both exist can a nation fully realize its capacity to grow, compete, and win. Mr. Biden called the U.S. court system, and the confidence it inspires, "the glue that holds this all together."

This is as true in Guam as it is in any state in our nation: The protection provided by the court system is what makes it possible for our citizens to innovate and enjoy the fruits of their labor, while protecting their rights and the rights of others; it is what attracts investors and it's what gives our local people the security they need to venture into business in the hopes of growing our economy and improving their standard of living. Guam had a successful trade mission with Taiwan recently, and all reports indicate that Taiwan businesses are looking seriously at making big investments in Guam in the very near future, driven by their desire to align themselves closer with the United States and to avail themselves of the services and protections Guam can offer.

One of the wisest investments of time and resources that our government can make is making our court system as hospitable and secure as possible. Any investment toward this end is an investment in our economy. Our courts are a refuge for those in our society who seek to enforce rights and protect freedoms. Our liberty and our economic stability depend on it. There is no doubt that we as a government must stretch the ever-scarce dollar further than it can ever hope to go. But it is my obligation as the head of the Judicial Branch to impress upon our lawmakers and those in the Executive Branch that financial circumstances cannot diminish or restrict constitutional protections and the rule of law. The consequences of allowing this to happen are crystalized in this year's national Law Day theme: No Courts, No Justice, No Freedom.

We have often heard government leaders speak of *this* challenge or *that* challenge . . . pronouncing that we will operate better when times get better. But the reality is, ladies and gentlemen, that these "challenging times" are the new normal. For years, we have had to deal with cash shortfalls, cutbacks on funding, and consequently, strained services and operations. We simply do not have the luxury of saying that things will get better, because we truthfully don't know when that will happen. We must instead find ways to do better now.

Last year, upon resuming the role of Chief Justice, I spoke to you about the need to get back to the basics of running our respective branches of government, and to deal as seriously as we can with our bleak financial reality. Today, I report to you that the Judiciary of Guam has made measurable progress in the past year toward greater court efficiency – ensuring that your third branch of government is operating responsibly and reliably.

While the challenges we face today are just as critical as they were a year ago, I am pleased to report that our efforts to streamline, to strategically plan for the future, and to reexamine our

core mission and values are yielding tangible benefits – not only for our internal operations, but for court patrons and the general public. And this progress is not mere coincidence; it is the direct result of critically examining our needs and carefully planning to meet those needs.

Although the Judicial Branch remains challenged to meet the increasing demands for our services, I proudly report to you today that the state of your Judiciary is organized, dependable, and efficient.

CMS

One way we continue to improve the Judiciary is by embracing new technologies and better ways of doing things. This is what we have done with the launch of our new Case Management System, or CMS. The CMS Project consists of two phases. Phase I went live in October 2011 and Phase II is presently underway.

For the Judiciary, the new CMS means that we can more effectively allocate our workload and maintain the most efficient operation possible. Employees will no longer be tied up processing payments and producing receipts. We will be able to streamline intake and processing by pooling databases and eliminating work which, with our previous non-integrated system, was duplicative or redundant. We will reduce the cost and risk associated with transacting payments, by automating tasks that are presently done manually. That's what the new CMS means to us.

But here's what the new CMS means to you – the patrons, the lawyers, the general public. Shortly after October of this year, you will be able to pay your traffic tickets and court fines, fees, and restitution online from your home computer without driving to the Hagåtña facility or the Northern Court Satellite, looking for parking, and standing in line. You will be able to apply and pay for your court clearances online. If you are called for jury service, you will be able to fill out your jury questionnaire online, which will speed up the process when reporting for duty.

Law school graduates and attorneys can apply for the Guam Bar Examination online. Attorneys may also opt to pay their annual dues and submit their registration statements to the Guam Bar Association without ever having to leave their offices. Not having to take the time off from work or use your lunch hour to do your court business; not having to bear the expense of fuel, or the inconvenience of inundated parking and long lines – these are among the ways our new CMS will make our court system more efficient and more inviting for economic development.

The Judiciary is moving with the national trend of becoming a paper-on-demand court. As part of Phase II of our CMS, we will implement e-filing in the Superior Court – an option that, until now, has only been available in the Supreme Court. Electronic filing will allow more patrons to access our records, 24 hours a day, from their homes and offices. Lawyers and pro se litigants will be able to file their pleadings from their offices or public kiosks, saving time and reducing costs.

A big “thank you” goes out to our CMS project team: Justice Robert Torres, Deputy Administrator of the Courts Robert Cruz, Project Coordinator Lorrie Perez, Mike Duenas from our MIS division, Carl Perez, Valerie Tenorio, and June Carino, as well as to all our employees who have taken the time to both train and be trained. I must also recognize and thank Mr. Tony Babauta, the U.S. Department of Interior Assistant Secretary for Insular Affairs, for helping us secure much-needed funding and support from the Department of Interior. With the new CMS now in place, the Judiciary is transforming the way we do business. We especially appreciate the patience of the judges, court employees, members of the bar, and court patrons as we have implemented our new technology.

This CMS overhaul will take us a long way toward greater efficiency. Technology is making our government more responsive, user-friendly, and better able to survive in these challenging economic times.

Something the public may not know is that the Judiciary has spearheaded the federal mandate to create Guam’s “Fusion Center” of criminal information, which is required by federal law following September 11. Thanks to the work of Criminal Justice Automation Commission led by Justice Torres and MIS Administrator Pete Leon Guerrero, the Virtual Computerized Criminal History Records system will give all law enforcement agencies operating in the island access to standardized criminal history information.

These are just two examples of how the court has embraced technology to increase efficiency and optimize productivity. And our new Case Management System, borne out of the Judiciary’s 2007 Strategic Plan, shows how our attention to strategic planning has enabled the Judiciary to become a better servant to our patrons.

Strategic Plan

Having a Strategic Plan allows us to focus on our future with a charted course, rather than ambling along, then looking around with surprise and consternation at where we’ve ended up. It allows us to establish reasonable outcomes and measures for success. The Judiciary’s Strategic Plan is our way forward, our blueprint for the next 3-5 years. It’s how we know where we need to be, and it’s the surest set of directions on how to get there.

For these reasons, in 2011, we undertook the task of updating the Judiciary’s Strategic Plan, beginning with a comprehensive survey to gain an honest assessment of the Judiciary’s strengths, weaknesses, and public perception. 1,231 people took the time to respond to the survey; of that number, 776 were court users and litigants, and the remaining were employees and external partners. Across the board, our Judiciary received high marks in the areas of accessibility, fairness, quality, and effectiveness. Court users also gave our judges high ratings for fairness. And customer service was most frequently mentioned by court users and litigants as being our greatest strength. For this, I thank and applaud our court employees.

This survey also shed light on areas where our operations were perceived less favorably. The performance area that was rated the lowest among all survey groups was timeliness in the issuance of decisions and in bringing cases to closure. We are keenly aware that timely decisions are a vital component of a healthy system of justice, and the Judiciary continues to work toward substantial compliance with our established time standards. Back in 2006,

during my previous term as Chief Justice, the Supreme Court adopted a rule to revise time standards and reporting of all criminal and civil cases filed in the Superior Court.

Generally speaking, all criminal cases should be fully adjudicated within 12 months, and all civil cases should be concluded in 18 months or less, even for the most complex matters. The rule also sets much shorter time standards for other matters such as uncontested domestic cases and juvenile delinquency proceedings.

Our Ethics Prosecutor, Mr. Bruce Bradley, works diligently with the Courts and Ministerial Division and the judges' chambers to prepare regular updates to the judicial efficiency reports published on our website. In addition to expecting our trial judges to comply with these time standards, we have recently adopted time standards for the Supreme Court to ensure that ALL matters brought before the courts are expeditiously resolved. I encourage all of you to visit our website, where you will find a detailed explanation of our time standards as well as reports of each trial judge's compliance. Our time standards recognize that an integral component of moving cases efficiently to closure is to ensure that each part of the case, such as resolving pending motions, is also moved along in a timely manner. And because timeliness was a performance area in which the Judiciary was not as highly rated, we resolve to do better. You will see in our updated Strategic Plan that significant attention was given to addressing timeliness.

Our Strategic Plan was made possible largely through funding from a grant from the State Justice Institute, and thanks to the hard work and tireless efforts of our Court Programs division under the leadership of Jackie Zahnen Cruz, as well as our employees and stakeholders. I especially want to thank those who took part in a three-day retreat facilitated by Dr. Brenda Wagenknecht-Ivey, a nationally recognized court consultant, which was geared toward identifying key points out of the myriad of issues facing our island and our courts. The end product is a clear roadmap, setting the course of the Judiciary through 2015. With this comprehensive plan, we also created a separate document that sets forth various strategic projects to be accomplished in the next 12-18 months, and which will ensure that we meet our larger goals in the long-range plan.

Many of our strategic projects are focused on solutions designed to address all issues of timeliness – from getting a case moved through the system more quickly, to decreasing the time it takes to complete routine court business. These projects include offering more court services online, such as paying fees and fines and facilitating jury procedures. We also will be offering more court services at the Northern Court Satellite, to possibly include certain probation services. We know that these are purely administrative and logistical improvements to increase efficiency.

The other component, however, is identifying the barriers that are keeping cases from moving through the system – from filing to closure – in a manner that comports with the hallmark philosophy of American jurisprudence that justice delayed is justice denied. Therefore, a key strategic project during the next few months is to review and revise our judicial time standards for effectiveness, to find out what obstacles in the system may be hindering us from achieving 100% compliance.

Although much has been accomplished, much remains to be done. Prepared with our updated Strategic Plan, we have a clear vision of our way forward. Looking ahead, I envision the Judiciary as an operation that is increasingly streamlined. Our court patrons will no longer have to fight over spaces in our parking lots, or stand in long lines at the traffic and cashier counters, or wait to be processed when called for jury service. I see a court system that is even more collaborative with its community partners, finding new ways to share the costs of delivering quality service to our people. In the very near future, the Judiciary will experience a loss of institutional knowledge due to the retirement of many long-time employees. However, we have anticipated the need for a proper succession plan in our 2012 Strategic Plan. By ensuring that there is continuity in how we operate, I am confident that this transition will be as seamless as possible. One thing remains constant, and that is our commitment to our core mission. This, I assure you, will never be compromised.

Program Highlights

The Judiciary of Guam succeeds today because our extraordinary employees and community partners come together in productive ways to make our system of justice work better tomorrow than it does today. Our collective commitment is the reason we can be confident about tomorrow. The highlights of each division and the specific goals and aspirations for our future development are detailed in the documents provided in your informational packets. However, I'd like to give you a sense of the volume of matters that came before the Judiciary last year.

A staggering 9,294 cases were filed in the Superior Court in 2011, including 2,027 criminal cases. 1,984 new civil cases were filed, along with 2,125 small claims cases and 14,921 traffic citations. Add to this the 1,228 juvenile cases, 482 child support cases, and 878 domestic cases brought before the court. In 2011, the Judiciary's jury unit processed nearly 12,000 citizens who were called for jury service, and Probation supervised almost 8,000 probationers last year.

I don't mean to overwhelm you with numbers, but I present these statistics to show how often, and how directly, our courts impact the lives of the people in our community. One example is the positive impact our five school resource officers, or SROs, have made in Guam's public high schools. Their aim is to deter juvenile offenses, which not only makes the schools safer for our children, but reduces the demands on our juvenile docket. Also in an effort to reduce this high volume of cases, we in the Judiciary are looking for ways to assist litigants whose cases may be resolved through non-litigation means.

In 2011, the Judiciary revived a dormant mediation program with the goal of sending more filed civil cases to mediation. Opportunities for mediation have been limited by the lack of trained and affordable mediators. In response to this, the Judiciary, in partnership with the District Court of Guam, organized a week-long mediation training in October 2011. This program provided nearly 40 hours of instruction by the most prestigious private mediation firm in the United States, Judicial Arbitration and Mediation Services, or JAMS. They were joined by mediators from the Ninth Circuit and local mediator Attorney Pat Wolff. I'd like to thank Chief Judge Frances Tydingco-Gatewood for her efforts to bring out trainers of such

high caliber. Because dozens of attorneys and judges from Guam and throughout our region participated in this intensive training, we now have trained mediators available to litigants. There are tangible advantages to mediation: Mediation is often less costly than litigation, and it gives parties an opportunity to resolve their *differences*, which often goes further than simply resolving a case. Our renewed court-annexed mediation program represents an example of business-friendly administration of justice.

I would be remiss if I did not mention our specialty courts and the judges and employees who staff these courts. We have seen much success with our specialty courts, which integrate traditional case management with judicial supervision, monitoring, treatment, and ancillary services such as job training. For each specialty court, there is a collaborative team made up of a judge, prosecutor, defense counsel, probation officer, substance abuse or mental health treatment provider, a coordinator, and an evaluator.

By providing “wraparound services,” we are able to target the underlying problems that lead people into the criminal justice system. They allow the courts to do much more than adjudicate guilt or innocence; they allow the courts a chance to change lives. Our specialty courts are a prime example of what a court system can do when it has the resources to do its best work.

As a specific example, we launched the Adult Drug Court Program ten years ago under the leadership of Presiding Judge Lamorena. According to an evaluation released last August, our Adult Drug Court was recognized as “making a significant impact in addressing Guam’s substance abuse problems.” The evaluator, Judge Ron Ibarra from Hawaii, concluded that “[t]he program is well developed and coordinated and has established a solid framework for coordinating the many agencies and services involved to address the needs of program participants.”

Our Mental Health Court addresses needs of a misunderstood and underserved segment of our community – citizens who are mentally impaired and developmentally disabled. For the last three years, the Judiciary has worked with the Department of Mental Health and Substance Abuse to provide treatment and monitoring, as well as to coordinate case management among the agencies. Now that the grant supporting the program has expired, we will need funding from the Legislature to ensure the program’s continued viability.

The Juvenile Drug Court, established in 2002, and the Family Violence Court, which became operational in 2010, offer therapeutic adjudication, requiring victims and offenders to approach systemic problems.

Deepest gratitude goes out to our employees, stakeholders, and community partners such as the Guam Chamber of Commerce, who continue to contribute to the success of our therapeutic courts: the Adult Drug Court, Juvenile Drug Court, Family Violence Court, and Mental Health Court.

And finally, the newest of our specialty courts is the DWI Court, which started as a pilot program in 2010 and continues to operate today. Since its inception, the DWI Court has been presided over by Judge Elizabeth Barrett-Anderson, now Senior Judge Pro Tem. At the start of the program, Judge Barrett-Anderson faced an incredible backlog of uncharged DWI

cases between 2009 and 2010. In the first six months, the court achieved nearly 98% clearance of these uncharged cases. The participants received intensive drug and alcohol counseling and frequent testing. In its first year, from November 15, 2010 to November 15, 2011, a total of 988 cases were processed. And more cases are filed every month.

This is an appropriate time to recognize Judge Barrett-Anderson, known fondly in our court system as “Judge EBA,” for her thirty-one years of government service, including fifteen years as a judge in the Superior Court. Even after her retirement a few weeks ago, she has graciously agreed to continue her service, taking on Senior Judge Status while we wait for her replacement to be confirmed. Personally, and on behalf of the Judiciary, I thank you, Liz, for your unwavering dedication to preserving and promoting the rule of law.

Concluding Thoughts

Earlier this year, Guam was privileged to host a most esteemed guest – the Honorable Sonia Sotomayor, Associate Justice of the United States Supreme Court. In a visit that happened thanks to the persistence of Chief Judge Tydingco-Gatewood, Guam’s legal community, island leaders, and perhaps most importantly, our local students, had the rare opportunity to personally interact with a U.S. Supreme Court Justice. Justice Sotomayor was candid, conversant, and captivating as she visited with all sectors of our community. But the word I most often heard from her audiences as they described her was “inspiring.” Indeed, she inspired me, and in many ways, reminded me of why I love the law. The law represents stability, order, and security; the law is firm yet able to adapt to the changing times; and above all, as Justice Sotomayor reminded all of us, the law exists to serve the people, and not merely to govern them.

The Judiciary of Guam serves a very important function in our community and we are committed to providing quality, reliable, and accessible justice to all Guam’s residents and businesses. We have been able to maintain a sound operation in the past, but we – like all the branches – are strained under the weight of our economic and social realities. In addition to our financial constraints, I note also that 38 Judiciary employees – that’s more than 10% of our workforce – presently serve as reservists and guardsmen for our nation’s armed forces; 9 of them are currently on active duty deployment and 6 are away for training. When these employees are responding to the noble call to defend our freedom, our remaining employees honorably carry their load to ensure that court services operate without interruption. The successes and accomplishments we enjoyed in 2011 were possible thanks to two things: first, the Judiciary finds innovative ways to get our work done more efficiently and with fewer resources; and second, our employees perform their duties with dedication. But the increasing workloads, without the resources to support this increase, are becoming a burden too heavy for this branch to bear.

We rely on the collective support of the Legislature and the Governor in order to continue fulfilling our mission, and to ensure that our justice system remains accessible, reliable, and stable. I am acutely aware – and very much appreciate – that funding is tight for everyone. But by design of our system of government, the people of Guam depend on you to provide

the resources to our branch. Without your help and support, there is little more that the Judiciary can do than what we are already doing to sustain this court system.

I come before you today to respectfully ask for your support. We have always done and are continuing to do our part to operate under the new normal of tight financial times. Recently, the Governor has asked all of us to find ways to cut our expenses even further. And as partners with you in this crisis, we will find ways to comply to all extents possible. However, to continue to achieve our constitutional and statutory mandates and live up to the expectations of our community, we need your assistance – not just in funding, but perhaps also to reexamine the many mandates that determine our cost of doing business.

I am always grateful for opportunities such as this to gather with the leaders of my fellow branches of government, and to reflect upon the things we share in common rather than our differences – our shared sense of purpose, pursued with respect and commitment to do our best, in whichever branch we serve, in order to build a stronger Guam, a stronger community. We all serve the people of Guam. We work, every day, so that our community, our citizens, will have a tomorrow that lives up to the promise of liberty and justice for us all.

Si Yu'os Ma'ase.