



## State of the Judiciary Address

The Honorable Robert J. Torres  
Chief Justice  
Judiciary of Guam  
May 1, 2023



**Supreme Court of Guam**

Chief Justice Robert J. Torres, Jr.  
Associate Justice F. Philip Carbullido  
Associate Justice Katherine A. Maraman

**Superior Court of Guam**

Presiding Judge Alberto C. Lamorena III  
Judge Arthur R. Barcinas  
Judge Vernon P. Perez  
Judge Maria Teresa B. Cenzone  
Judge Elyze M. Iriarte  
Judge Dana A. Gutierrez  
Judge Alberto E. Tolentino  
Judge John C. Terlaje

**Guam Judicial Officers**

Magistrate Judge Benjamin C. Sison, Jr.  
Magistrate Judge Jonathan R. Quan  
Family Court Referee Linda L. Ingles  
Administrative Hearings Officer Kristina L. Baird  
Judge Pro Tempore Maria G. Fitzpatrick

## Introduction

Acting Governor Joshua Tenorio; Speaker Therese Terlaje and members of the 37<sup>th</sup> Guam Legislature; my brothers and sisters on the bench: Justice Carbullido, Justice Maraman, Presiding Judge Lamorena, Judges Barcinas, Cenzone, Iriarte, Gutierrez, Tolentino, and Terlaje, Magistrate Judge Quan, Judge Pro Temp Fitzpatrick, and Administrative Hearings Officer Baird; Public Auditor and former Chief Justice Cruz; Mayor Alig; members of the Consular Corps; employees of the Judiciary; my wife Mary and our family; distinguished guests; friends; and all those watching at home or online— thank you for the opportunity to speak with you on the State of our Judiciary.

Seven years ago, I had the privilege of addressing our island as Chief Justice—proud of the work we had accomplished together. Today, I stand before you, even prouder of the progress we’ve made.

Despite the demands of a worldwide crisis, the wheels of justice never stopped turning—shifting to online operations in a matter of days. From virtual hearings and electronic filings to makeshift jury spaces, our courts found creative solutions to administer justice and uphold the rule of law.

None of this would have been possible without the men and women who make this branch run. These employees are not faceless bureaucrats. They’re your neighbor down the street, making sure every case is quickly processed. Your friend who provides counseling to families in need. And your fellow citizen who preserves security any time someone steps foot in the courthouse. They are the judicial branch—and they work diligently to maintain the integrity of one of our most critical institutions.

But despite our successes, the pandemic has also presented new challenges to our judicial system.

Like other jurisdictions across the nation—economic disparity, social isolation, and substance abuse—have all contributed to an environment ripe for criminal activity. Our courts serve as the final line of protection, and our island is counting on us to uphold the rule of law.

As the pandemic hopefully fades in our rearview mirror, the courts cannot sit idly by and expect that we will remain effective. In the wise words of a former court leader: “Yesterday is not tomorrow’s answer.”<sup>1</sup> To ensure a system that truly reflects the needs and priorities of our time—we must leverage technology, bolster treatment programs, and improve access to representation. But this branch cannot do it alone.

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<sup>1</sup> The Honorable John T. Broderick, Jr., former Chief Justice, Supreme Court of New Hampshire

Ladies and Gentlemen, the State of the Judiciary is advancing into a new era, and we must move forward...together.

In the brief time we have together—and I promise to be brief, however long that may take—I'd like to tell you where we are today, and with your partnership, where we hope to be tomorrow.

### **Innovating Services**

One of the ways we've made our courts more open and accessible is through advancements in technology. Our march to modernization has not only transformed how we work, it's fundamentally changed how our people engage with the court system.

Most of our services—including traffic citations, court clearances, fines, and fees—can be resolved online. We've installed cameras and speakers in all of our courtrooms. We livestream the Supreme Court of Guam's hearings. And jurors can now receive updates on their cellphones, making more efficient use of their time when they are called to provide this public service.

But we're also pursuing new initiatives.

We are transitioning to a case management system that will revolutionize access to court files and expedite the resolution of disputes, expanding our E-filing to reduce paperwork and ensure more productive record-keeping, and implementing an E-probation system that will enable us to better manage clients and automate case plan recommendations.

In addition, Online Dispute Resolution, or ODR, will enhance traditional means of resolving disputes. With this platform, parties can conveniently resolve conflicts online, resulting in more affordable and accessible solutions. Digital evidence management will also play a greater role in court proceedings—allowing for the organization, sharing, and presentation of digital exhibits from a single, secure platform.

The resulting need for a digital evidence management system has been spurred not only by the vast amount of content being created—such as smart phone videos, emails, texts, CCTV, social media, and instant messaging—but also by the mounting challenge we face when attempting to categorize digital evidence. Investing in this system will help our courts run more productively and provide greater access for law enforcement, legal professionals, and litigants.

We're also leveraging technology to better promote public safety in the community. The goal of our Electronic Monitoring program has always been to reduce recidivism and community risk. Officers assigned to the EM Unit can supervise and monitor defendants 24-7 and immediately search, apprehend, and detain individuals who violate designated geographic boundaries. Beginning next month, we will expand our EM program to post-conviction cases for individuals

in our Adult Reentry Court and under probation. By extending this program to nonviolent offenders convicted of a crime, we can provide a cost-effective alternative to incarceration, saving taxpayers money while ensuring that individuals adhere to the conditions of their release.

The Judiciary of Guam is committed to enhancing public safety, and this expansion represents a critical step toward meeting this goal. But perhaps more importantly, it allows individuals convicted of nonviolent offenses to continue contributing to their families while serving their sentence—increasing the likelihood of successful reentry into society and away from the system.

### **Strengthening Treatment**

We can also support reentry by working with all of you to strengthen treatment. Every single one of us knows someone who's been affected by drug or alcohol misuse, and we've seen the toll it takes on families, individuals, and our community as a whole.

Methamphetamine continues to be a growing concern on our island, and we must approach it with the same vigor and commitment as other public health crises. Rather than relying on emotional reactions of denial and blame, we need a scientific and evidence-based approach to reducing recidivism and methamphetamine use.

The data says the same. A meta-analysis conducted in 2021 of 116 studies on custodial sanctions found that prisons alone are unlikely to reduce reoffending unless they are transformed to focus on changing people.<sup>2</sup> In short, rehabilitation is essential to ensure public safety. And though the work has begun, we know there's so much more to do.

In 2022, we saw over 8,600 cases filed at our court, granting us unique insight into the most pressing challenges facing our community. This has allowed us to implement targeted treatment programs and initiatives. Like other problem-solving courts, our treatment courts look to the underlying issues that bring people into the system. Successful completion in any of our programs requires extensive sessions, judicial monitoring, and most importantly, the participant's resolve.

I know that not everyone who enters these programs will prevail, and that can be demoralizing for all of us who care about their progress. But I can tell you that the return on investment made in treatment courts has exceeded every expectation.

In the last year alone, we have served over 200 participants across our seven treatment courts. Add to that the 108 children who were provided services through the Guam Family Recovery program, an initiative launched in 2017 in response to the high rate entering Child Protective Services. Using

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<sup>2</sup> Petrich, Damon & Pratt, Travis & Jonson, Cheryl & Cullen, Francis. (2021). Custodial Sanctions and Reoffending: A Meta-Analytic Review. *Crime and Justice*.

evidence-based treatment, therapeutic intervention, and drug and alcohol testing, we recently celebrated our graduates who not only achieved a substance-free life, but also the safety and return of their children.

These accomplishments exemplify all that is good in our judicial system. They reinforce that there can be rehabilitation, instead of just a revolving door; that resources are effectively spent on treatment, rather than mere retribution; and that our court system can help people regain their lives and their families.

But the results also highlight the importance of collaborative efforts between our court system and other community stakeholders, including law enforcement, healthcare providers, and social service organizations.

When inmates transitioning into the community are not provided adequate treatment and programming, their chances of re-offending increases.

As a result, we have worked closely with key service providers to help build up treatment capacity. In recognition of their commitment to the legal system and the cause of justice, I am pleased to announce that the 2023 Hustisia Award will be given to one of these valuable providers: the Guam Behavioral Health and Wellness Center, or as some fondly refer to it: “GBHWC.”

Since its creation 40 years ago, GBHWC has grown into the multi-service facility we have today. During the past three years, when our community was gripped by anxiety, fear, and a sense of isolation, GBHWC stepped up to expand its outreach and safeguard the well-being of our community.

You know, you have to add 671 now because of GBHWC!

In our people’s darkest hours, these dedicated professionals, under the leadership of Director Therese Arriola, were a beacon of light to those in our community who struggle with mental health issues and substance misuse. Please join me in thanking and congratulating the Guam Behavioral Health and Wellness Center.

### **Improving Access to Legal Representation**

Another serious challenge we face is the scarcity of constitutionally required counsel. This year marks the 60th anniversary of the landmark case of *Gideon v. Wainwright*, which cemented our mandate to provide legal representation in all criminal cases to those who cannot afford a lawyer. As *Gideon* aptly recognized, “[L]awyers in criminal court are necessities, not luxuries.”

Unfortunately, the decreasing number of lawyers who represent indigent defendants poses a potential crisis for our legal system.

There are many reasons for this decline, including an aging bar and a lack of younger lawyers with an interest in criminal law. Compensation rates have also been a factor, as the hourly rate for appointed cases is far less than the rates charged by most lawyers in Guam. Each of these has contributed to a decline in the number of attorneys willing to serve indigent defendants, exacerbating the heavy caseload of remaining attorneys.

This impacts our juvenile delinquency cases, juvenile special proceedings, and Persons In Need of Services (or PINS) cases. In these Family Court cases, the effective assistance of counsel is crucial to protect the rights of youth, parents separated from their kids, and children in need of safety and placement.

Our branch has rolled out several initiatives to address this crisis. Last month, the Supreme Court raised not only the hourly rate but also the cap on amounts paid for legal services. In addition, we've made our payment process more efficient and timely, paying appointed counsel within 45 days of submitting their vouchers, instead of the 60 days originally permitted under the rules.

But we must remember that this issue transcends court operations. Justice for only those who can afford it is not justice at all—only a system where the most vulnerable members of society face the highest risk of imprisonment.

We need the help and commitment of all three branches to ensure access to legal counsel is not just a right on paper, but a reality for every individual, regardless of their ability to pay.

Our entire judicial system depends on the dedicated work of lawyers. But we can't turn a blind eye to the storm cloud coming our way from the chronic shortage of attorneys. With over one-third of our Guam Bar approaching retirement, we must take proactive measures to attract and retain young legal talent.

While we commend the private attorneys who share their talents with the community and help the less fortunate, we need more lawyers to pursue a career in public service. Every attorney who works for the Judiciary is proud to serve our community. But pride alone won't pay off student debt, cover the cost of childcare, or enable them to purchase a home. To recruit and retain the best legal minds, we must adjust compensation to reflect recent changes in government employee pay scales, market rates within the legal industry, and the cost of living.

If we fail to act, we will continue to drive seasoned attorneys away from local public service and towards opportunities in the federal government, private sector, or even the mainland. And we will

miss out on recruiting bright and capable individuals who have the desire to serve but lack the means to return home.

As we look to the future, I offer this gentle reminder: it's easy to ignore the importance of lawyers until we find ourselves in need of one, but the reality is that many members of our community rely on attorneys every day to protect their rights and have their voices heard.

By providing competitive compensation for government lawyers, we can build a pipeline of local talent and ensure that our island has a robust legal system that serves all our people.

### **Fiscal Year 2024 Budget**

Today, we transmitted the Judiciary's budget request for Fiscal Year 2024. In it, you'll find that, with your help, the Judiciary is prepared to continue our mission and fulfill our mandates.

For our operating budget, we are requesting a moderate increase to account for the organic growth of personnel services. But we're also seeking support for critical initiatives you've asked us to carry out.

This includes the Guam Criminal Law and Procedure Review Commission. Unanimously passed by this legislative branch, the Commission is tasked with conducting a comprehensive and systematic review of the Criminal and Correctional Code in Title 9, the Criminal Procedure Code in Title 8, and other criminal statutes throughout the Guam Code Annotated.

Given the importance of the Commission's work, we request your support in fully funding its operations, including adequate staff and resources, to ensure that we can fulfill its vital mission. This Commission is a great example of inter-branch collaboration for the good of the community, and I am hopeful it will receive the financial backing it needs.

We also need to grow our data collection efforts to better serve those impacted by our courts.

Like any successful organization, we need data so that all members of the justice system—litigants, attorneys, judges, law enforcement, and treatment professionals—are equipped to do their jobs and evaluate the effectiveness of our efforts.

Data is not just important, it's essential. It provides us with insights on what works and what doesn't and helps us make the most of taxpayer resources. That's why we're urging for increased investment in data collection and analysis in the upcoming budget. In the coming weeks, I look forward to meeting with you and appearing before this body to more thoroughly discuss our budget



request and justify why the Judiciary’s proposal deserves due consideration and approval to meet our community’s needs.

### **Concluding Thoughts**

As I wrap up this address—and I promise that will be soon—I want to take a moment to thank all of you for your ongoing cooperation and support. Without it, we would not be able to fulfill our duty as the third branch of government.

Today is National Law Day. This year’s theme reminds us of the importance of civics, civility, and collaboration in upholding our democracy. It challenges us to ensure a system that is fair, impartial, and worthy of the public’s trust—and reminds us that no single branch can shoulder that responsibility alone.

As lawmakers, you play a vital role in crafting our laws. Our executive branch administers what you author, and our judges resolve the disputes which may arise from them. It’s a partnership that requires mutual respect and understanding.

I realize that not everyone will agree with every decision made by our judges. We are not perfect. But we’ve always strived to decide cases based on the facts and interpretation of the laws before us. In my nearly forty years in the legal profession, I have never met a judge who did not try their best to apply the law fairly and impartially.

As former US Chief Justice Charles Evans Hughes once said: “[I]n the great enterprise of making democracy workable, we are all partners.” When our time in service comes to an end, we will not be judged solely on our individual actions or words, but on how well we served the people, together, and how well our government worked for them.

I believe we can meet that mission. I believe that with the dedicated minds of our three branches, we will build a better justice system, and with it, a brighter future.

*Un Dangkulo na si Yu’os Ma’ase’, Maraming salamat po,* and thank you for listening.