

PRÉSIDENTING JUDGE ALBERTO C. LAMORENA, III

ANNUAL ADDRESS

ON THE

"STATE OF THE JUDICIARY"

TUESDAY, THE FIRST DAY OF MAY

NINETEEN HUNDRED AND NINETY

FIVE O'CLOCK IN THE AFTERNOON

SESSION HALL, GUAM LEGISLATURE

AGANA, GUAM

SPEAKER JOE T. SAN AGUSTIN, GOVERNOR JOSEPH ADA, LT. GOVERNOR FRANK BLAS, JUDGE CRISTOBAL DUENAS, ARCHBISHOP ANTHONY APURON, MAYOR RAYMOND LAGUANA, MEMBERS OF THE 20TH GUAM LEGISLATURE, JUDGES OF THE SUPERIOR COURT OF GUAM, MAYORS MEMBERS OF OUR COUNSELOR CORP., EMPLOYEES OF THE JUDICIARY, MY DEAR FRIENDS, LADIES AND GENTLEMEN.

ONCE AGAIN, IT IS AN HONOR AND MY PLEASURE TO APPEAR BEFORE YOU TODAY IN MY CAPACITY AS PRESIDING JUDGE OF THE SUPERIOR COURT OF GUAM TO DELIVER THE THIRTEENTH ANNUAL ADDRESS ON THE STATE OF THE JUDICIARY.

IN THE PAST YEAR THE JUDICIARY WITH THE SUPPORT AND COOPERATION FROM THE LEGISLATIVE AND EXECUTIVE BRANCHES HAS ACCOMPLISHED MANY OF ITS GOALS AND OBJECTIVES OF PROVIDING THE QUALITY OF JUSTICE THE PEOPLE OF THIS TERRITORY EXPECT AND THE PEOPLE WORKING WITHIN THE JUDICIAL SYSTEM WISH TO DELIVER.

BUT IN ORDER FOR THE SUPERIOR COURT TO BE RESPONSIVE TO OUR COMMUNITY WE MUST HAVE COURT EMPLOYEES THAT ARE DEDICATED, MOTIVATED AND COMMITTED TO PUBLIC SERVICE.

SINCE I HAVE BEEN THE PRESIDING JUDGE FOR THE SUPERIOR COURT FOR ABOUT THREE (3) YEARS NOW, I HAVE BEEN THOROUGHLY IMPRESSED WITH THE HIGH MORALE OF ALL THE EMPLOYEES. THEIR DEDICATION AND COMMITMENT HAVE BEEN INSTRUMENTAL IN MAKING THE COURT SYSTEM MORE RESPONSIVE TO THE COMMUNITY'S NEEDS. I FEEL THAT SUCH EMPLOYEES DEMAND OUR RESPECT, RECOGNITION AND SUPPORT.

LAST YEAR I INSTITUTED A MOST INNOVATIVE AND EXCITING NEW PROGRAM OF BRINGING MANAGEMENT AND EMPLOYEES CLOSER TOGETHER. 1989 SAW THE INCEPTION OF OUR FIRST-EVER AWARDS PROGRAM -- AWARDS IS AN ACRONYM FOR A WAY TO APPRECIATE AND RECOGNIZE DEDICATION AND SERVICE. THE COMMITTEE WAS CHAIRED BY JUDGE B.J. CRUZ AND WAS COMPOSED OF COURT EMPLOYEES FROM ALL DIVISION WITHIN THE COURT.

THE PROGRAM, WHICH WILL BE AN ANNUAL EVENT, IS DESIGNED TO HELP INSTILL AND ENRICH THE HEALTHY ATTITUDES AND ENHANCE POSITIVE PRACTICES THAT ARE SO ESSENTIAL TO HIGH-LEVEL PERFORMANCE. ATTITUDES ABOUT TEAMWORK, MORALE, QUALITY, PRODUCTIVITY AND ALL OTHER VITAL ISSUES WILL ENCOURAGE EMPLOYEES TO MAKE THE MOST OF THEIR TALENTS, SKILLS, KNOWLEDGE AND ABILITIES.

THE PROGRAM EXPRESSES A CARING ABOUT THE WORKFORCE, RECOGNIZING ACCOMPLISHMENTS, WHILE SIMULTANEOUSLY PROVIDING AN IMPETUS FOR ALL TO STRIVE TO ACHIEVE THEIR FULL POTENTIAL, NOT JUST FOR OR ON BEHALF OF THE COURT SYSTEM, BUT MORE IMPORTANTLY, FOR THE BETTERMENT OF THEMSELVES -- PRIDE IN AND ADHERENCE TO THEIR RESPECTIVE DUTIES AND RESPONSIBILITIES -- AND A HEALTHY BOOST TO SELF ESTEEM AND SELF WORTH. THIS, I BELIEVE, ULTIMATELY RESULTS IN MORE CONFIDENT, AMBITIOUS AND PRODUCTIVE EMPLOYEES. I'M SURE YOU WILL AGREE WE ALL BENEFIT IN THE LONG RUN.

THIS PROGRAM AFFORDS US AN OPPORTUNITY TO RECOGNIZE THE INNOVATION, DEDICATION, COMMITMENT AND EXEMPLARY EFFORTS OF INDIVIDUALS AND SECTIONS WHO RENDER THEIR BEST EFFORTS FOR THE BETTERMENT OF THEIR RESPECTIVE DIVISIONS IN THE COURT -- AND SUBSEQUENTLY, OF COURSE, THE PEOPLE OF GUAM.

I NOW TAKE THIS OPPORTUNITY TO CONGRATULATE THE FIRST RECIPIENTS OF THE AWARDS PROGRAM FOR 1989, THE HONORABLE JUDGE JOAQUIN V.E. MANIBUSAN, WHO HAS DEVOTED MORE THAN THIRTY (30) YEARS OF SERVICE TO THE PEOPLE AND GOVERNMENT OF GUAM AS PART OF THE JUDICIAL SYSTEM, MR. HENRIQUE MENDIOLA RECIPIENT OF THE SUPERVISOR OF THE YEAR AWARD AND MS. VERA FLORES WON EMPLOYEE OF THE YEAR AWARD.

IN ADDITION TO RECOGNIZING EMPLOYEES WHO EXCEL, THE COURT ALSO IS ENCOURAGING ITS EMPLOYEES TO TAKE ADVANTAGE OF FORMAL IN-HOUSE TRAINING PROGRAMS AND OTHER EDUCATIONAL OPPORTUNITIES THAT ARE AVAILABLE TO THEM. PLANS ARE NOW BEING FORMALIZED TO UPGRADE STANDARDS OF MARSHALS EMPLOYED BY THE SUPERIOR COURT THROUGH FORMAL TRAINING AND HIGHER EDUCATION. I THINK YOU WILL BE AS PLEASED AS I AM TO KNOW THAT AS OF TODAY, WE HAVE TWO DEPUTY MARSHALS ENROLLED IN THE THIRTIETH CYCLE POLICE ACADEMY TRAINING, AND TWO OTHERS SCHEDULED TO ATTEND THE TWO-WEEK "FUGITIVE INVESTIGATOR'S COURSE" AT GLYNCO, GEORGIA IN THE FALL.

AS A RESULT OF THESE EDUCATIONAL OPPORTUNITIES AND AN INCREASE IN DEPUTY MARSHALS, THE MARSHAL'S DIVISION'S PRODUCTIVITY HAS RISEN BOTH IN QUANTITY AND QUALITY OF SERVICE. IN 1989, THE DIVISION RECEIVED 21,880 DOCUMENTS FOR SERVICE IN 1989, AN INCREASE OF 8% OVER 1988, AND RETURNED 20,430 DOCUMENTS, REFLECTING AN INCREASE OF 10% OVER 1988. THE NON-SERVICE RATE HAS DROPPED FROM 26% IN 1988 TO 20% IN 1989. IN 1989, 411 CRIMINAL WARRANTS OF ARREST WERE SUCCESSFULLY RETURNED AS COMPARED TO 97 IN 1988. THIS WAS DUE LARGELY TO THE WARRANT TASK FORCE THAT WAS IMPLEMENTED IN 1989. THE DEPUTY MARSHALS, BESIDES ISSUING DOCUMENTS, ALSO PROVIDE INTERNAL SECURITY FOR THE COURTS ENSURING THE PUBLIC SAFETY IN

OUR COURTS AND THE HANDLING OF INMATES AND ARRESTEES MAKING COURT APPEARANCES. BECAUSE OF THEIR LATTER DUTIES, I REQUESTED LAST YEAR TO PERMIT THEM TO RECEIVE HAZARDOUS PAY ALONG WITH POLICE OFFICERS AND CORRECTION OFFICERS.

I COMMEND THE LEGISLATURE FOR FOLLOWING MY RECOMMENDATION IN PASSING PUBLIC LAW 20-132 SPONSORED BY SENATOR CARL T.C. GUTIERREZ, PROVIDING HAZARDOUS PAY TO DEPUTY MARSHALS, AND TO PROBATION OFFICERS AND ALTERNATIVE SENTENCING OFFICERS, WHO ALSO DIRECTLY HANDLE OR ENCOUNTER DURING THEIR COURSE OF EMPLOYMENT INMATES AND ARRESTEES.

LAST YEAR THE ALTERNATIVE SENTENCING OFFICE HANDLED DEFENDANTS WHO AS PART OF THEIR SENTENCE PROVIDED THE COMMUNITY WITH 30,280 HOURS OF FREE MANPOWER FOR THE GOVERNMENT OF GUAM AND NON-PROFIT ORGANIZATIONS. THE PROBATION OFFICERS LAST YEAR EXPERIENCED, AS A RESULT OF AN INCREASE IN FELONY CONVICTIONS, A 58% INCREASE IN PRETRIAL AND PRE-SENTENCE INVESTIGATION REPORTS. THE PROBATION OFFICERS ALSO MAKE/SUBMIT REPORTS TO THE COURT ON THE AMOUNT OF RESTITUTION OWED TO THE VICTIM AND MAKES SURE THE DEFENDANT PAYS RESTITUTION TO THE CRIME VICTIM. A TOTAL OF 40 CASES AMOUNTING TO \$36,111.22 WERE ASSESSED BY THE COURT AS A CONDITION OF THE DEFENDANTS' SENTENCES AND \$11,972.37 OF THAT AMOUNT HAVE BEEN PAID TO THE VICTIMS. THE

DIVISION ALSO MAINTAINS SEMINARS SUCH AS "THE CHILD SEXUAL ABUSE" SEMINAR TO EDUCATE EMPLOYEES AND HOW TO APPLY THE LATEST TECHNIQUES AVAILABLE IN THEIR PROFESSIONS.

LAST YEAR THE COURTS AND MINISTERIAL DIVISION EXPERIENCED A DRAMATIC INCREASE IN CASES FILED DURING CALENDAR YEAR 1989 AS COMPARED TO 1988. IN 1989 THE SIX JUDGES OF THE SUPERIOR COURT OF GUAM WERE ABLE TO HEAR OVER 21,000 AS COMPARED TO 14,600 IN 1988:

IN 1988, THERE WERE 703 CRIMINAL CASES FILED. INCREASING TO 1,222 IN 1989. THESE FIGURES REFLECT A MARKED INCREASE OF 72.9% IN FELONY CASES -- TO INCLUDE MURDER, RAPE, BURGLARY AND DRUG-RELATED CASES AND A 74.2% INCREASE IN MISDEMEANOR CASES.

THE JUVENILE PROBATION OFFICE, REPORTED 230 CASES FILED IN 1989, A DECREASE OF 27.2% FROM 1988. UNFORTUNATELY, THIS "DECREASE," DOES NOT NECESSARILY MEAN THAT THE OFFENSES COMMITTED BY JUVENILES HAS DROPPED.

THE DECLINE IN CASES FILED IS ATTRIBUTED PRIMARILY TO THE IMPLEMENTATION OF THE PRE-ADJUDICATION DIVERSION PROGRAM WHICH WAS DESIGNED TO "RESCUE" NON-FELONY OFFENDERS FROM FORMAL PROCEDURES ASSOCIATED WITH COMING BEFORE THE FAMILY COURT.

THE PROGRAM, COMPLETING ITS FIRST FULL YEAR, IN EFFECT, PLACES THESE TYPES OF OFFENDERS IN AN INFORMAL PROBATIONAL STATUS WITH THE JUVENILE PROBATION OFFICE. OF 176 CASES REFERRED, 134 SUCCESSFULLY COMPLETED THEIR PROBATIONARY PERIOD WITHOUT FURTHER INFRACTIONS OF THE LAW.

JURY ACTIVITIES HAVE ALSO INCREASED BY 49% IN 1989, WITH 3,362 JURORS APPEARING FOR SELECTION. PETIT JURORS INCREASED BY 32%, WITH 54 JURY SELECTIONS HELD. THIS INCLUDED TWO MAJOR TRIALS HEARD LASTING IN EXCESS OF 30 DAYS EACH. EIGHTY-FIVE (85) GRAND JURY SESSIONS WERE HELD, HEARING 295 CASES AS OPPOSED TO 201 CASES IN 1988.

CIVIL CASES HOWEVER DROPPED SLIGHTLY FROM 1,280 CASES FILED IN 1989 AS COMPARED TO 1,288 IN 1988.

SINCE THE IMPLEMENTATION OF PUBLIC LAW 20-28 ON JUNE 13, 1989, WHICH RAISES THE FILING LIMIT FROM \$1,000 TO \$10,000, THE SMALL CLAIMS DIVISION OF THE SUPERIOR COURT HAS RECORDED AN INCREASE IN CASES FILED OF 9.4% FROM 1,571 IN 1988 TO 1,718 IN 1989.

TRAFFIC COURT UNDER JUDGE MANIBUSAN REPORTED AN ADDITIONAL 42,403 CASES FILED WITH THE TRAFFIC VIOLATION BUREAU AT THE END OF CALENDAR YEAR 1989 AND A CARRY OVER OF 28,355 FROM 1988 GENERATED OVER \$1,200,000 IN REVENUE, AN INCREASE OF 15% FROM 1988. OF THE MONIES COLLECTED, SOME \$41,000 WAS FROM HANDICAP PARKING INFRINGEMENTS, PURSUANT TO PUBLIC LAW 18-28 AND LITTER FINES, PURSUANT TO PUBLIC LAW 17-87, AND DEPOSITED INTO THE GENERAL FUND. THE BALANCE OF THE AMOUNT WENT DIRECTLY INTO THE JUDICIAL BUILDING FUND.

IN 1989, A TOTAL 1,756 DOMESTIC CASES WERE FILED AS FOLLOWS: 1,297 DIVORCE CASES, 226 CHILD SUPPORT AND CUSTODY CASES, 104 UNIFORM RECIPROCAL ENFORCEMENT SUPPORT ACT (URESА) CASE, 48 SEPARATE MAINTENANCE CASES AND 39 ANNULMENTS. THE COURT FURTHER SUPPORTS AND ANTICIPATES THAT THE LEGISLATURE WILL PASS BILL 1220, "AN ACT TO CREATE AN EXPEDITED PROCESS FOR CHILD SUPPORT PROCEEDS..." AS INTRODUCED BY SENATOR PILAR LUJAN WHICH WILL SUBSTANTIAL INCREASE OUR DOMESTIC CASE LOAD. THE ATTORNEY GENERAL ANTICIPATES AN ANNUAL TOTAL OF OVER 4,000 CASES TO BE FILED. WE SUPPORT BILL 1220 IF IT WILL ALSO INCLUDE AUTHORIZATION REQUIRING ADDITIONAL PERSONNEL FOR THE COURT TO ACCOMMODATE THE LARGE INFLUX OF CHILD SUPPORT ENFORCEMENT CASES.

AS A RESULT OF THE INCREASED CASELOAD FOR 1989 AND PRIOR YEARS AND IN ANTICIPATION OF EVEN MORE CASES FILED IN THE SUPERIOR COURT NEXT YEAR, I AM RECOMMENDING PASSAGE OF TWO PIECES OF LEGISLATION. FIRST, I AM REQUESTING LEGISLATION THAT WILL ADDRESS THE MICROFILMING AND DISPOSITION OF COURT RECORDS. THE PASSAGE OF THIS LEGISLATION WILL GREATLY ASSIST THE COURTS AND MINISTERIALS DIVISION IN THE HANDLING AND STORAGE OF COURT DOCUMENTS. THE PROBLEM NOW IS THAT A SEPARATE STORAGE RECORD AREA MUST BE IDENTIFIED TO STORE DUPLICATED MICROFILM RECORDS IN THE EVENT THE ORIGINAL RECORDS ARE DESTROYED. IN THE FUTURE, SPACE FILINGS WILL NOT BE ABLE TO ACCOMMODATE BULK RECORDS BECAUSE OF LIMITED STORAGE SPACE. FURTHERMORE, WE ARE FACED WITH A PROBLEM OF INADEQUATE SPACE AT THE PUBLIC LIBRARY AS THE APPOINTED AUTHORITY FOR STORAGE OF RECORDS. THE PUBLIC LIBRARY DOES NOT HAVE THE FACILITY TO STORE SUCH COURT RECORDS. DUE TO THE VOLUME OF DOCUMENTS BEING FILED IN OUR COURT SYSTEM, IT IS VITAL THAT THE MICROFILM RECORDS BE CONSIDERED ORIGINAL RECORDS OF THE COURT. APPROXIMATELY, TWENTY-FIVE STANDARD SIZE ASBESTOS CASE FILES CAN BE RECORDED ON ONE MICROFILM ROLL.

SECOND, THE CASELOAD IN THE PAST FEW YEARS HAS PLACED A TREMENDOUS BURDEN ON THE COURT SYSTEM. I HAVE BEEN APPRECIATIVE OF LEGISLATIVE EFFORTS TO INCREASE THE NUMBER OF COURT STAFF TO ALLEVIATE THIS PREDICAMENT. HOWEVER, AS A RESULT OF THE CASELOAD INCREASE AND THE ANTICIPATED POLICY BY THE ATTORNEY GENERAL'S OFFICE TO COMMENCE PRELIMINARY HEARINGS ON MAJOR FELONY CASES I RECOMMEND THE PASSAGE OF BILL 1381 AS INTRODUCED BY SENATOR FRANK SANTOS TO CREATE AND ADD AN ADDITIONAL POSITION OF JUDGE TO THE COMPOSITION OF THE SUPERIOR COURT OF GUAM, FROM SIX (6) TO SEVEN (7). HOPEFULLY THIS ADDITIONAL JUDGE WILL BE ABLE TO STABILIZE AND ALLEVIATE THE CASELOAD AMONG THE OTHER JUDGES.

I WOULD LIKE NOW TO GIVE OUR PROGRESS REPORT ON THE CONSTRUCTION OF THE GUAM JUDICIAL CENTER. DUE TO MAJOR DELAYS IN THE CONSTRUCTION OF THE BUILDING, I REGRETABLELY INFORM YOU THAT THE BUILDING WILL NOT BE IN FULL OPERATION UNTIL FEBRUARY OR MARCH OF 1991. DESPITE THESE SETBACKS WE ARE WORKING CLOSELY WITH THE CONTRACTOR, HANIL DEVELOPMENT CORPORATION AND OUR CONSTRUCTION MANAGEMENT TEAM TO PREVENT ANY FURTHER DELAYS. IN CONJUNCTION WITH THE CONSTRUCTION OF THE JUDICIAL CENTER, JUDGE JANET WEEKS WAS APPOINTED TO CHAIR OUR JUDICIAL CENTER ARTS COMMITTEE TO SELECT AND ACQUIRE LOCAL ART FOR OUR BUILDING IN COMPLIANCE WITH P.L. 15-50. THE JUDICIARY

RECOGNIZES THE RESPONSIBILITIES OF OUR TERRITORY TO FOSTER CULTURE AND THE ARTS AND THE NECESSITY FOR THE DEVELOPMENT OF ITS LOCAL ARTISTS.

IN RECENT YEARS THE BOARD OF LAW EXAMINERS HAS PROCESSED AN INCREASE IN APPLICATIONS. THE BOARD IS VESTED WITH RESPONSIBILITIES AND DUTIES IN RESPECT TO THE ADMISSION OF ATTORNEYS TO THE GUAM BAR. GUAM IS THE ONLY JURISDICTION THAT ALLOWS OUT OF STATE UNAPPROVED ABA LAW SCHOOLS GRADUATES FRESH OUT OF LAW SCHOOL TO SIT FOR THE BAR EXAMINATION. I STRONGLY SUPPORT BILL 1255.

IN 1989, THE JUDICIAL COUNCIL APPROVED THE PROPOSED REVISION OF THE GUAM RULE OF CIVIL PROCEDURE AND HAS SUBMITTED IT TO THE GUAM LEGISLATURE FOR THEIR RATIFICATION. ALSO THE MOCK TRIAL COMPETITION, INSTITUTED BY THE DEPARTMENT OF EDUCATION AND HELD IN CONJUNCTION WITH THE SUPERIOR COURT OF GUAM WAS COMPLETED IN APRIL OF 1989. I CONGRATULATE ALL THE STUDENTS WHO PARTICIPATED IN THIS COMPETITION AND TO THE WINNER OCEANVIEW HIGH SCHOOL. I WISH THEM GOOD LUCK IN THE NATIONAL MOCK TRIAL COMPETITION TO BE HELD IN PORTLAND, OREGON LATER THIS YEAR.

AS WE START A NEW DECADE OF THE 1990'S WE MUST NOT BE COMPLACENT TO SIT ON OUR LAURELS ABOUT THE SUCCESS OF OUR PAST ACCOMPLISHMENTS BUT WE MUST BE COGNIZANT OF THE FACT THAT WE STILL HAVE A LONG ROAD AHEAD OF US TO RESOLVE THE MANY PROBLEMS IN OUR CRIMINAL JUSTICE SYSTEM. THE NEW DECADE SHOULD BE A WINDOW OF OPPORTUNITY TOWARDS THE 21ST CENTURY TO ESTABLISHED GOALS AND OBJECTIVES TO ADDRESS THESE PROBLEMS AND HOPEFULLY WORKING TOGETHER TO IMPROVE THE ADMINISTRATION OF JUSTICE, THE LEGAL SYSTEM IN PARTICULAR AND THE LAW IN GENERAL IN OUR TERRITORY.

FIRST, THE JUDICIARY RECOGNIZES THAT THE PUBLIC GENERALLY DOES NOT HAVE A COMPLETE UNDERSTANDING OF THE VARIOUS FUNCTIONS OF THE CRIMINAL JUSTICE SYSTEM. THE JUDICIAL SYSTEM CONTINUES TO EXPERIENCE AN UNDESERVING STIGMA WITH RELEVANCE TO ITS MISSION TO PROVIDE "JUSTICE FOR ALL." THERE ARE THOSE WHO VIEW IT AS A PLACE THAT ADMINISTERS PUNISHMENT RATHER THAN A PLACE TO INTERPRET LAWS FOR THE PROTECTION OF BASIC HUMAN RIGHTS. PERHAPS THIS MISUNDERSTANDING IS THE RESULT OF GUAM'S CULTURAL TRADITION WHERE CONFLICTS AND DISPUTES ARE MAINTAINED WITHIN A FAMILIAL CIRCLE AND DECIDED UPON BY THE HEAD OF THE FAMILY. WHILE IT IS TRUE THAT OUR YOUNGER GENERATION HAS EXPOSURE TO THE AMERICAN JUDICIAL PROCESS, WHICH WE HAVE ADOPTED, THERE IS, STILL SOME, RELUCTANCE TO RESORT TO THIS SYSTEM SINCE IT OBVIOUSLY DOES NOT ADDRESS CONFLICTS AND RESOLUTIONS IN THE

"TRADITIONAL" MANNER. IN THE DECADE OF THE 1990 THE COURT SHALL FOCUS ON IMPROVING A BETTER UNDERSTANDING OF INDIVIDUAL RIGHTS, CRIMINAL JUSTICE AND CRIME, AND THE JUDICIAL PROCESS IN GENERAL, THROUGH A CAREFULLY PLANNED PUBLIC EDUCATION AND AWARENESS PROGRAM.

OUR SECOND GOAL IS A CONCERN CONTINUING SINCE MY FIRST ADDRESS TO YOU, IN WHICH I RECOMMENDED THE LEGISLATURE ADOPT AS PART OF ITS LEGISLATIVE POLICY AGENDA THE RIGHTS OF CRIME VICTIMS IN OUR TERRITORY. I COMMEND GOVERNOR ADA FOR THE EXECUTION OF PROCLAMATION No. 90-50 DECLARING APRIL 22-28, 1990 AS CRIME VICTIM'S WEEK. I AM HAPPY THAT BOTH THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THE GOVERNMENT ARE NOW WORKING TOGETHER FOR CRIME VICTIMS. I ALSO COMMEND THE LEGISLATURE FOR PASSAGE OF THE FOLLOWING SUBSTANTIVE LEGISLATION I RECOMMENDED IN MY LAST ADDRESS ALL SPONSORED BY SENATOR LUJAN.

FIRST PUBLIC LAW. 20-155, REESTABLISHING A CRIMINAL INJURIES COMPENSATION COMMISSION. THIS COMMISSION IS IMPORTANT TO CRIME VICTIMS SO THAT THEY MAY BEGIN TO BE ADEQUATELY COMPENSATED IN ADDITION TO THE COURT'S POLICY OF ORDERING RESTITUTION, IF NECESSARY, AS PART OF THE DEFENDANT'S SENTENCING.

SECOND, PUBLIC LAW 20-155 REQUIRES NOTIFICATION OF CRIME VICTIMS WHEN HIS OR HER ASSAILANT HAS COMPLETED HIS OR HER JAIL TERM OR HAS BEEN PUT ON PROBATION OR SENTENCE SUSPENDED OR WHEN HE OR SHE IS RELEASED IN PRETRIAL BAIL HEARINGS. LASTLY, IN PUBLIC LAW 20-111 THE JUDGE IN CONSIDERING PRETRIAL RELEASE MAY NOW TAKE INTO CONSIDERATION THE DANGER THE PERSON WOULD POSE TO THE COMMUNITY OR TO ANY INDIVIDUAL MEMBER THEREOF IF RELEASED.

HOWEVER, THERE ARE INDICATIONS THAT MORE CAN BE DONE FOR CRIME VICTIMS IN THIS TERRITORY. WE HAVE NOT, THROUGH LEGISLATION, RESOLVED ALL THE IMPORTANT ISSUES CONCERNING CRIME VICTIMS WHICH SHOULD BE RESOLVED IN A MANNER THAT ACCOMMODATE THE LEGITIMATE INTERESTS OF THE VICTIM WITHOUT DIMINISHING THE RIGHTS OF THE DEFENDANT. I AM RECOMMENDING TO THE LEGISLATURE THAT THEY PASS A COMPREHENSIVE VICTIM'S BILL OF RIGHTS GUARANTEEING THAT AS A TERRITORIAL POLICY THE CRIMINAL JUSTICE SYSTEM FULLY PROTECT THEIR RIGHTS ENCOMPASSING NOT ONLY THE RIGHTS TO RESTITUTION FROM WRONGDOERS FOR FINANCIAL LOSS AS A RESULT OF CRIMINAL ACTS BUT THAT THE CRIME VICTIM MAY HAVE THE BASIC EXPECTATION THAT ALL OFFENDERS BE APPROPRIATELY DETAINED IN CUSTODY, TRIED BY THE COURTS AND PUNISHED FOR THE BENEFIT OF THE PUBLIC SAFETY AND TO ESTABLISH PROCEDURES THAT ARE NECESSARY TO ACCOMPLISH THESE GOALS.

IN THE NEW DECADE THE COURTS MUST ALSO RECOGNIZE THE FACT THAT THE CRIMINAL JUSTICE SYSTEM CONSISTS OF MANY PERSONS INVOLVED IN THE RESOLUTION OF CASES AND THAT THEY ALSO HAVE A WEALTH OF KNOWLEDGE ABOUT THE COURSE OF CRIME IN OUR TERRITORY AND THE NEEDS OF CLIENTS, WITNESSES AND VICTIMS. THIS KNOWLEDGE IS ESPECIALLY MOST VALUABLE AND MOST EFFECTIVE IN CHILD AND FAMILY SERVICES. THE EARLIEST POSSIBLE INTERVENTION CLEARLY HAS GREAT POTENTIAL TO STOP CRIMINAL CAREERS BEFORE THEY BEGIN BUT MANY SERVICES ARE EITHER DEFICIENT OR NOT UTILIZED IN THE MOST EFFECTIVE WAY IN OUR COMMUNITY. I BELIEVE THAT WE SHOULD PROVIDE MORE NEEDED AND COORDINATED SERVICES FOR THE NEGLECTED, ABUSED AND DELINQUENT YOUTH THAT COULD HAVE A SIGNIFICANT IMPACT IN OUR COMMUNITY ON THE INCIDENCE OF CRIME.

THERE IS FRUSTRATION BY THE PUBLIC THAT THE JUVENILE JUSTICE SYSTEM CAN DO LITTLE TO REHABILITATE THE TEENAGER WHO GROWS UP WITHOUT A FAMILY STRUCTURE AND IN MANY CASES IN POVERTY. AN INCREASING NUMBER OF CHILDREN ARE GROWING UP THIS WAY. AS I MENTIONED IN MY LAST JUDICIARY ADDRESS A CHILD WHO IS ABUSED AT A VERY YOUNG AGE IS LIKELY TO BE A PROBLEM CHILD AS A TEENAGER BECAUSE WE AS A SOCIETY ARE NOT ABLE TO PROVIDE ADEQUATE SERVICES TO SIGNIFICANTLY TURNED THE CHILD'S CIRCUMSTANCES AROUND.

I APPLAUD THE LEGISLATURE FOR PASSING TWO BILLS I RECOMMENDED IN MY LAST JUDICIARY ADDRESS, PUBLIC LAW 20-62 SPONSORED BY SENATOR ELIZABETH ARRIOLA TO PROVIDE ADEQUATE FACILITIES FOR THE DEPARTMENT OF YOUTH AFFAIRS AND PUBLIC LAW. 20-93 SPONSORED BY SENATOR MADELEINE BORDALLO ESTABLISHING A RESIDENTIAL TREATMENT PROGRAM FOR THE MENTALLY ILL AND MENTALLY RETARDED. HOWEVER, ALTHOUGH WE ARE RESOLVING THIS ISSUE BY PROVIDING PHYSICAL FACILITIES FOR THESE INDIVIDUALS WE HAVE ONLY WON HALF THE BATTLE.

LAST YEAR I RECOMMENDED THAT THE LEGISLATURE ENACT BILL NO. 309 INTRODUCED BY SPEAKER SAN AGUSTIN WHICH WILL CREATE AN INTER-DEPARTMENTAL CLUSTER FOR SERVICES FOR OUR YOUTH AND TO BEGIN TO ENCOURAGE MORE INTERACTION, COMMUNICATION AND COORDINATION BETWEEN THE VARIOUS AGENCIES AND TO RECOMMEND PROGRAMS TO HELP OUR YOUTH IN COPING WITHIN OUR COMMUNITY. ALTHOUGH SOLVING THESE PROBLEMS SEEM INSURMOUNTABLE IT IS NOT IMPOSSIBLE. IF WE ARE TO SERIOUSLY CONFRONT THIS ISSUE WE MUST START SOMEWHERE. I RECOMMEND AGAIN THE PASSAGE OF THIS BILL NOT AS A "PANACEA" OR AS "THE ULTIMATE SOLUTION" BUT AS A FIRST STEP IN THIS NEW DECADE IN HOPEFULLY RESOLVING THE PROBLEMS OF FAMILY AND YOUTH. WE CAN NO LONGER TOLERATE THE HIGH INCIDENCES OF SUICIDES AND SUICIDE ATTEMPTS BY JUVENILES IN OUR COMMUNITY. WE CAN NO LONGER TOLERATE THE INCREASING NUMBERS OF

JUVENILES BROUGHT BEFORE OUR JUVENILE JUSTICE SYSTEM. WE CAN NO LONGER TOLERATE THE BREAKDOWN OF THE FAMILY AS INDICATED BY THE HIGH RATE OF DIVORCES AND FATHERS REFUSING TO PAY CHILD SUPPORT.

LASTLY AND MOST IMPORTANT THE TERRITORY DEMANDS AND REQUIRES A JUDICIARY THAT IS AN INTEGRAL PART OF THE COMMUNITY AND A PART OF THE GOVERNMENT OF GUAM WHICH IS CREATED BY, FOR AND WITH THE CONSENT OF THE PEOPLE OF GUAM.

FOR ABOUT NINETY (90) YEARS GUAM HAS HAD LOCAL JUDGES IN ITS LOCAL COURTS OF FIRST INSTANCE EVER SINCE THE NAVAL GOVERNMENT WAS ESTABLISHED. BEFORE 1950 FINAL APPEAL LAID IN THE NAVAL GOVERNOR OF GUAM ONLY. SINCE THE PASSAGE OF THE ORGANIC ACT IN 1950, GUAM HAS HAD A LOCAL TRIAL COURT WITH APPEALS GOING TO THE APPELLATE DIVISION OF THE DISTRICT COURT AND FROM THERE TO THE NINTH CIRCUIT. NOW AFTER 30 YEARS THE PEOPLE OF GUAM WISHES TO SEEK A FUNDAMENTAL RESTRUCTURING OF GUAM'S RELATIONSHIP WITH THE UNITED STATES THROUGH THE DRAFT COMMONWEALTH ACT. THIS FUNDAMENTAL RESTRUCTURING INCLUDES THE JUDICIAL RELATIONSHIP BETWEEN GUAM'S LOCAL COURT AND THE FEDERAL COURTS. THIS NEW RELATIONSHIP IS NECESSARY FOR TWO REASONS. PRIOR TO THE CASE OF PEOPLE V. YANG THE 9TH CIRCUIT GAVE DEFERENCE TO THE DISTRICT COURT OF GUAM, APPELLATE

DIVISION'S INTERPRETATION OF THE LOCAL GUAM LAW. YANG, HOWEVER, CHANGED THAT. THE 9TH CIRCUIT NOW REVIEWS INTERPRETATION OF LOCAL GUAM LAW DE NOVO ACKNOWLEDGING NO SPECIAL KNOWLEDGE OF GUAM CONDITIONS IN EITHER THE SUPERIOR COURT OR IN THE APPELLATE DIVISION OF THE DISTRICT COURT. SECOND, GUAM SUFFERS FROM LACK OF BOTH CERTAINTY AND OF SELF GOVERNMENT DUE TO THE VERY NARROW INTERPRETATION OF GUAM'S JUDICIAL AUTHORITY UNDER THE ORGANIC ACT IN THE U.S. SUPREME COURT CASE OF PEOPLE V. OLSEN. IN OLSEN THE SUPREME COURT DETERMINED THAT GUAM HAD NO POWER UNDER THE FORMER §22 OF THE ORGANIC ACT TO CREATE ITS OWN SUPREME COURT. THE COURT RELIED UPON THE FACT THAT CONGRESS HAD PLENARY POWER OVER GUAM AND THAT ABSENT SPECIFIC STATUTORY INTENTION TO PERMIT THE CREATION OF SUCH A COURT, GUAM WAS NOT PERMITTED TO ENACT THE GUAM SUPREME COURT. THE U.S. SUPREME COURT HELD THAT THE ORGANIC ACT DID NOT HAVE SUFFICIENT CONGRESSIONAL INTENT TO PERMIT GUAM TO DETERMINE THAT A COURT OTHER THAN THE APPELLATE DIVISION OF THE DISTRICT COURT COULD HEAR APPEALS DESPITE THE FACT THE ORGANIC ACT ALLOWED GUAM TO ESTABLISH COURTS OTHER THAN THE DISTRICT COURT, PERMITTING THE DISTRICT COURT'S TRIAL JURISDICTION TO BE TRANSFERRED TO ONE OR MORE OF THESE COURTS. IN OTHER WORDS, THE IMPACT OF THE OLSEN CASE IS THAT ALL PRESUMPTIONS ARE IN FAVOR OF THE UNITED STATES NONE IN FAVOR OF GUAM. JUSTICE MARSHALL IN THAT CASE JOINED BY JUSTICES

REHNQUIST, STEWART AND STEVENS, STATED THAT IT WAS UNPRECEDENTED FOR THAT COURT TO INVALIDATE A SYSTEM OF GOVERNMENT ESTABLISHED BY THE DULY ELECTED REPRESENTATIVES OF THE PEOPLE OF GUAM. UNFORTUNATELY FOR US IT WAS THE MINORITY POSITION. THE FUNDAMENTAL RESTRUCTURING IN OUR RELATIONSHIP IS NECESSARY TO NULLIFY THE IMPACT OF OLSEN.

I SUPPORT THE CREATION OF OUR LOCAL SYSTEM THROUGH THE DRAFT COMMONWEALTH ACT WHICH REQUIRES THAT THE PEOPLE OF GUAM HAVE THE RESPONSIBILITY AND POWER TO CREATE OUR OWN COURT SYSTEM JUST AS WE WOULD CREATE THE EXECUTIVE AND LEGISLATIVE BRANCHES -- IN THE CONSTITUTION OF GUAM. THE TWO FUNDAMENTAL DIFFERENCES BETWEEN THE COMMONWEALTH AND THE ORGANIC BOTH RELATE TO SELF GOVERNMENT FOR GUAM. FIRST, ALTHOUGH THE DISTRICT COURT OF GUAM WILL CONTINUE TO EXIST UNDER THE COMMONWEALTH IT WILL NO LONGER HANDLE APPEALS FROM LOCAL GUAM COURTS AFTER THE EFFECTIVE DATE OF THE CONSTITUTION. SECOND, THERE IS NO SPECIAL PERIOD OF 15 YEARS WHEN THE NINTH CIRCUIT WILL HEAR GUAM CASES. RATHER ALL LOCAL CASES WHICH WILL BE HEARD IN FEDERAL COURTS ON DIRECT APPEAL WILL BE THE U.S. SUPREME COURT AS WITH THE SEVERAL STATES.

THE DRAFT COMMONWEALTH ACT WILL PLACE THE JUDICIARY FOR THE FIRST TIME ON THE SAME LEVEL AS THE OTHER TWO BRANCHES OF THE GOVERNMENT OF GUAM TO BE CREATED AND ESTABLISHED BY THE PEOPLE OF GUAM. UNDER THIS ACT AND WITHIN THE FRAMEWORK OF THE UNITED STATES SYSTEM OF JUSTICE THE PEOPLE OF GUAM WILL NOT ONLY BE ABLE TO MAKE AND EXECUTE THE LAWS THROUGH CONSENT OF THE GOVERNED, BUT WILL BE ABLE TO INTERPRET AND ENFORCE THESE LAWS BY THE SAME CONSENT.

HOWEVER, IN THE INTERIM I SUPPORT THE CREATION OF A GUAM SUPREME COURT ONLY IF THE 15 YEAR REVIEW PERIOD BY THE NINTH CIRCUIT IS REPEALED BY CONGRESS. I REQUEST THAT CONGRESSMAN BEN BLAZ IMMEDIATELY INTRODUCE LEGISLATION TO THAT EFFECT AND TO SEEK ITS PASSAGE IN CONGRESS.

AS WE BEGIN THIS NEW BUT LAST DECADE OF THE 20TH CENTURY AND AS WE EMBARK TOWARDS THE DAWN OF A NEW CENTURY, OUR ULTIMATE OBJECTIVE MUST BE TO ENSURE JUSTICE AND FAIRNESS FOR OUR PEOPLE AND TO HAVE OUR PEOPLE ALONE TO DETERMINE THEIR OWN DESTINY. THE LEGISLATION, WHICH I HAVE SUGGESTED WOULD BE A STEP TOWARD THE RIGHT DIRECTION, SUCH AS LEGISLATION TO BALANCE THE SCALES OF JUSTICE EVENLY FOR THE VICTIMS AS WELL AS THE DEFENDANTS, AND LEGISLATION TO HOPEFULLY UTILIZE OUR MYRIAD OF SERVICES IN A WAY TO HELP JUVENILE OFFENDERS REHABILITATE AND TO MAKE THEM ASSETS TO OUR COMMUNITY.

THE JUDICIARY WILL ALSO BEGIN PUBLIC AWARENESS AND EDUCATION PROGRAMS TO INFORM THE PUBLIC ABOUT OUR JUDICIAL PROCESS AND THE CRIMINAL JUSTICE SYSTEM.

FINALLY, THE DRAFT COMMONWEALTH ACT WILL GIVE THE PEOPLE OF GUAM A STRONG, INDEPENDENT, SEPARATE BUT EQUAL BRANCH OF THE JUDICIARY ESSENTIAL FOR SELF GOVERNMENT.

AGAIN, DANKULO NA SI YUUS MAASE FOR YOUR CONTINUED SUPPORT IN INSURING THAT THE OPERATIONS OF THE JUDICIARY IS ALWAYS ABLE TO ADMINISTER JUSTICE FOR ALL OUR PEOPLE.