

I MINA'TRENTAI KUÅTTRO NA LIHESLATURAN GUÅHAN

Informational Briefing

REPORT	STANDING COMMITTEE / SENATOR	DATE	DATE FILED	NOTES
Informational Briefing	Committee on Housing, Utilities, Public Safety, and Homeland Security	5/19/17 3:30 p.m.	6/14/17 2:09 p.m.	Committee Report on Informational Briefing of the Guam Customs and Quarantine Agency: Status of Personnel, Overtime, Budget Request, and Service Fees Update.



OFFICE OF SENATOR TELENA CRUZ NELSON

CHAIRPERSON OF THE COMMITTEE ON HOUSING, UTILITIES, PUBLIC SAFETY & HOMELAND SECURITY
I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUAHAN | 34th GUAM LEGISLATURE

June 9, 2017

The Honorable Benjamin J.F. Cruz
Speaker
I Mina'trentai Kuáttro na Liheslaturan Guáhan
163 Chalan Santo Papa
Hagátña, Guam 96910

VIA: The Honorable Michael F.Q. San Nicolas
Chairperson, Committee of Rules

RE: Committee Report on Informational Briefing of the Guam Customs and Quarantine Agency: Status of Personnel, Overtime, Budget Request, and Service Fees Update

Dear Speaker Cruz:

Transmitted Herewith is the Committee Report on the Informational Briefing of the Guam Customs and Quarantine Agency: Status of Personnel, Overtime, Budget Request, and Service Fees Update by the Committee on Housing, Utilities, Public Safety, and Homeland Security.

Respectfully,

Senator Telena Cruz Nelson
Committee Chairwoman



2017 JUN 14 PM 2:09



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I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUAHAN | 34th GUAM LEGISLATURE

COMMITTEE REPORT

Informational Briefing

Guam Customs and Quarantine Agency

Personnel, Overtime, Budget Request, Service Fees Updates



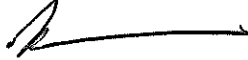
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I MINA'TRENTAI KUÁTTO NA LIHESLATURAN GUAHAN | 34th GUAM LEGISLATURE

May 12, 2017

MEMORANDUM

To: All Senators, Media, and Stakeholders

From: Senator Telena Cruz Nelson, *Chairperson* 

Subject: First Notice of Informational Briefing: Friday, May 19, 2017

Buenas yan Flåfa Adai! Please be advised that the Committee on Housing, Utilities, Public Safety, and Homeland Security will be conducting an informational hearing on Friday, May 19, 2017 in the Legislature's Public Hearing Room on the following:

9:30 a.m. Informational Briefing

P.O.S.T. (Peace Officer Standards and Training) Commission:

- Update on current Physical Fitness Qualification Test (PFQT) results and percentages
- Impact Analysis based on PFQT results
- Any and all recommendations in reference to modifications for the P.O.S.T. Commission

3:30 p.m. Informational Briefing

Guam Customs and Quarantine Agency:

- Personnel
- Overtime
- Budget Request
- Service Fees Updates

In compliance with the Americans with Disabilities Act, individuals requiring special accommodations or services or for more information on this briefing, please contact the Office of Senator Telena Cruz Nelson via email senatortcnelson@gmail.com or call 989-7696 or 969-7679.

GUAM CONGRESS BLDG. 163 CHALAN SANTO PAPA HAGÁTÑA, GUAM 96910
Tel: (671) 989-4678/7689 | Email: senatortcnelson@guamlegislature.org



First Notice of Informational Briefing: Friday, May 19, 2017

Office of Senator Telena C. Nelson <senatortcnelson@gmail.com>

Fri, May 12, 2017 at 10:38 AM

To: phnotice@guamlegislature.org, james.mcdonald@cqa.guam.gov, philip.taijeron@cqa.guam.gov,

dennis.santotomas@guamcc.edu

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The Office of Senator Telena Cruz Nelson

Committee on Housing, Utilities, Public Safety & Homeland Security

I Mina'trentai Kuåttro na Liheslaturan Guåhan

34th Guam Legislature

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I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUAHAN | 34th GUAM LEGISLATURE

May 16, 2017

MEMORANDUM

To: All Senators, Media, and Stakeholders

From: Senator Telena Cruz Nelson, *Chairperson*

Subject: Second Notice of Informational Briefing: Friday, May 19, 2017

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- Personnel
- Overtime
- Budget Request
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Second Notice of Informational Briefing: Friday, May 19, 2017

Office of Senator Telena C. Nelson <senatortcnelson@gmail.com>

Tue, May 16, 2017 at 8:52 AM

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philip.taijeron@cqa.guam.gov

May 16, 2017

MEMORANDUM

To: All Senators, Media, and Stakeholders
From: Senator Telena Cruz Nelson, *Chairperson*
Subject: Second Notice of Informational Briefing: Friday, May 19, 2017

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The Office of Senator Telena Cruz Nelson

Committee on Housing, Utilities, Public Safety & Homeland Security

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34th Guam Legislature

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I MINA'TRENTAI KUÁTRO NA LIHESLATURAN GUAHAN | 34th GUAM LEGISLATURE

Committee on Housing, Utilities, Public Safety and Homeland Security Informational Briefing Friday, May 19, 2017

AGENDA

9:30 a.m. Informational Briefing

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Informational Briefing
May 19, 2017 3:30 p.m.
Guam Customs and Quarantine Agency

NAME	AGENCY OR ORGANIZATION (IF ANY)	CONTACT NUMBER	EMAIL ADDRESS
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1 of 3

Sign-in sheet



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Informational Briefing
May 19, 2017 3:30 p.m.
Guam Customs and Quarantine Agency

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DARLENE MERFALLEN	Customs	488-3639	darlene.merfalten@cqa.guam.gov
FRED Q. AGUIAR	---	878-9550	fred.aguiar@cqa
Vincent SN Perez	COA	475-6202	vincent.perez@cqa.guam.gov
JAMES P. DIAZ	COA	475-6220	james.diaz@cqa.guam.gov

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Informational Briefing
May 19, 2017 3:30 p.m.
Guam Customs and Quarantine Agency

To Testify:

NAME	AGENCY OR ORGANIZATION (IF ANY)	CONTACT NUMBER	EMAIL ADDRESS
<i>Philip Tajeron, Jr</i>	<i>Guam Customs + Quarantine</i>	<i>685-4222</i>	<i>philip.tajeron@us.af.mil</i>

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3 of 3

sign in sheet

Page 2 of 2



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COMMITTEE REPORT DIGEST

I. OVERVIEW

The Committee on Housing, Utilities, Public Safety & Homeland Security held an Informational Briefing with the Guam Customs and Quarantine Agency on Friday, May 19, 2017 at 3:30 p.m. in *I Liheslatura's* Public Hearing Room on the status of Personnel, Overtime, Budget Requests, and Service Fees Updates.

Public Notice Requirements

Public Hearing notices were disseminated via e-mail to all senators and all main media broadcasting outlets on May 12, 2017 (5-Day Notice), and again on May 16, 2017 (48-Hour Notice).

Senators present

Senator Telena Cruz Nelson, Chairperson
Senator William M. Castro

Panel:

Darlene Merfalen, Guam Customs and Quarantine
Vincent S.N. Perez, Guam Customs and Quarantine
James P. Diaz, Guam Customs and Quarantine
Philip Taijeron, Jr., Guam Customs and Quarantine
James T. McDonald, Director, Guam Customs and Quarantine
Fred Q. Aguon, Guam Customs and Quarantine

Signed-in:

Darlene Merfalen, Guam Customs and Quarantine
Vincent S.N. Perez, Guam Customs and Quarantine
James P. Diaz, Guam Customs and Quarantine
Philip Taijeron, Jr., Guam Customs and Quarantine
Fred Q. Aguon, Guam Customs and Quarantine

II. SUMMARY OF TESTIMONY & DISCUSSION

The Informational Briefing was Called-to-Order at 3:40 pm.

Senator Telena Cruz Nelson

I want to state for the record that I've had some people call from Customs and Quarantine and they were stating that they were not allowed to give testimony during Informational Hearings. I'm bringing this up so that you know that they're reaching out and they'd like to have the opportunity to speak and have the floor and the opportunity to speak in front of the Body. I want to make it clear that I'm very open to anybody that would like to give testimony at these Informational Briefings.

Darlene Merfalen

Thank you, Senator. This is the first time I'm hearing that. I know that our agency does not discourage any of its employees, both civilian and uniformed officers, not to attend this Informational Briefing. I know, for a fact, that Major Vincent extended the invitation to other officers. If it was true that we are preventing officers from attending this briefing, why would Major Perez put out the invitation through e-mail. Just a point of clarification, unless it is a 1-to-1 with someone, management is not preventing their employees from airing out whatever personal opinions they may have.

Senator Telena Nelson

Thank you, Major, for clarifying that. It is important that we give everyone an opportunity to speak their concerns within the agency. I understand that we have chain of command, but my office is always open because it is my duty to serve the people. So I know you have a presentation that you'd like to present. Is that correct?

Darlene Merfalen

Yes, it will be provided by Major Vincent Perez.

Senator Telena Nelson

Okay, so whenever you're ready.

Vincent Perez

Please refer to attachment of Power Point presentation.

Senator Telena Nelson

Thank you very much, Sir, and thank you for your patience. Major, please forgive me. I'd like to hear Director McDonald's testimony. Would you read it please, for public record?

Darlene Merfalen

That's fine, Senator.

Please refer to attachment of After Action Report from Director James McDonald to the Honorable Governor Eddie B. Calvo.

Senator Telena Nelson

I would like to welcome Director James McDonald.

James McDonald

I apologize for my tardiness, I was at a Senior Leadership Conference. I apologize to the Chair and everyone else.

Senator Telena Nelson

Yes, Sir, thank you for being here. So Major was reading your testimony about the conference you just had. I'd like you to finish it off please. You made some very good points.

Again, please refer to attachment of After Action Report from Director James McDonald to the Honorable Governor Eddie B. Calvo.

Senator Telena Nelson

Thank you very much, Dorector. Your testimony really sheds a lot of light on the recommendations needed for CQA. It seems curious enough for me that these issues you've been having have been plaguing you for years. What can we do about it now? I'd also like to call Officer Fred Aguon. I know you wanted to speak. Please come up.

Fred Aguon

Good afternoon, Senator. My name is Fred Aguon and I am an officer with CQA. I wanted to contribute to Major Vince Perez's Power Point presentation. You posed a question to him. How do we improve legislation for Customs? Director McDonald touched base on it through his memorandum. I feel it necessary to raise my concern because I don't want it to roll over. Anyways, I am understanding that U.S. Customs and Border Protection Agency, situated on the second floor of the Airport, does not pay a rental fee to the Airport to perform their duties. They are not paying rent. I am bringing this up because you asked how we can improve legislation. We are paying rent to perform our jobs. We are not only inspectors, we are also part of commerce. Every passenger, cargo, vessel, or aircraft that comes to Guam presents a document to a Customs officer and goes through a screening. We are trained for that. We will grant clearance based on the conditions and whether proper documentation is provided. I don't like using the word 'profiling,' but we do. A Passenger Inspection Fee should be implemented and increased.

Senator Telena Nelson

Yes. When was the last time the Passenger Inspection Fee was increased? This is for people coming into our borders, right? Is this the right fee?

James McDonald

It was increased in 2012, Madame Chair.

Senator Telena Nelson

What is stopping you from increasing it today? Annually? We have been receiving more visitors according to GVB. \$10?

James McDonald

For the record, Ma'am, it is \$8.29. I have assigned Major Phil Taijeron to have it notated in the Airport meeting to raise this fee to a level that will be sufficient to our operations.

Senator Telena Nelson

Could you explain the process to raise this fee.

James McDonald

Major Taijeron, please explain.

Philip Taijeron, Jr.

Yes, the CQA is funded through the Customs Agriculture Quarantine Inspection Service Fund. The Fund consists of several areas where fees are charged to recover the cost of the work that customs officers perform. At the airport, it's a Passenger Inspection Fee, which is regulated very closely by the Federal Aviation Administration so that there's not a violation of the Airline Deregulation Act. The process is very similar when you look at the regulation that relates to our fee. There is a mechanism in place that, come every September, we are required to perform a reconciliation. So the Director relies heavily on our admin services officer to be tracking expenditures cost so that at that point, we are able to discuss fees with our airport team, who are very supportive. If our intent is to raise the fee, it cannot happen unless the Airport Authority includes that in their fee structure. That's one of the things that ties us together.

Senator Telena Nelson
How did the airport get this authority?

Philip Taijeron, Jr.
It is in our regulation. I believe it's 4GAR Chapter 5, or Article 5.

Senator Telena Nelson
So you have to request, through the airport, to get an increase in your service fee? Then it's up to them whether you get it?

Philip Taijeron, Jr.
Not necessarily, we're not requesting their permission, but they also track the number of passengers coming through. They also have a vested interest in the operation and need to produce revenue.

Senator Telena Nelson
What is the timeline that you have to submit this document?

Philip Taijeron, Jr.
I was getting to the point that each airline operator is responsible for submitting the number of revenue passengers each month and they are supposed to send that to the airport authority.

Senator Telena Nelson
Why don't they just send it directly to you?

Philip Taijeron, Jr.
I don't understand the true intricacies of it, but it has to deal with the taxation and our ability to, it's a cost recovery thing. We are responsible for telling the, what it costs for us to operate. Then the airport authority collects that from the airport. If we collect it directly, we are taxed.

Senator Telena Nelson
I understand that the airlines report to the airport and the airport report that to you? Again, why not directly?

Philip Taijeron, Jr.
The regulation doesn't require them to report it directly.

Senator Telena Nelson
How about the fees? Are the monies directed to you?

Philip Taijeron, Jr.

The airport collects funds on our behalf.

Senator Telena Nelson

The airport collects the fees that you work hard for from the airlines. Do they give it to you automatically? How long does it take to get to you?

Philip Taijeron, Jr.

I will let our ASO answer that. He is better versed.

James Diaz

Yes, hey send it to us after the fact, but sometimes 2, 3 months.

Senator Telena Nelson

So you get the funds after 2 or 3 months? How long has this been going on?

James Diaz

Probably since 1994.

Senator Telena Nelson

No one has thought there was anything wrong with that? This takes away your autonomy. You are being delayed. The hard work put in by your personnel is being delayed. It has been 5 years since we requested a fee increase. We are behind nationally with our passenger fee. Is there something that I am not seeing? An underlying issue that is preventing CQA from receiving this passenger fee directly? Other than the data? Is the solution as simple as I think it is, or is it more complicated? There is a disservice being done to CQA.

Darlene Merfalen

To answer your question, historically since its implementation, the airport has always been the collector of these fees. The reason is because the airport has the agency that has the accountability on the number of passengers getting off these airplanes. What they do is they take this money and break it down with their administrative fees. That is when an electronic report is given to Mr. Diaz.

Senator Telena Nelson

So it is done quarterly?

Darlene Merfalen

The problem is that CQA does not have a check and balance system. Is that the accurate amount? So we are basically running off a trust.

Senator Telena Nelson

So there is nothing in place to see that this information is accurate?

Darlene Merfalen

No, but we will. We need to take the lead to make sure we are getting the actual money we deserve and not just basing off of what information was given. Director McDonald and the ASO were aware of this. I know this was

brought up in our last meeting. There will be a mechanism set up so that we have this check and balance and accountability. You mentioned you spoke with the airport personnel and that they are willing to assist us in increasing our fee so that we can do what we need to. We will take them up on that offer so that in the future, we do have an accountability for the airport and CQA.

Senator Telena Nelson

The airport was very welcoming and open to assisting CQA. We need to work on giving you that autonomy, that power. Essentially, it's like I'm doing my job, but Senator Castro saying he will pay me months later. That's just not right. If I have my own office, I should have my own budget. You need access to the data and the budget. But you don't is what I am hearing.

Darlene Merfalen

That is correct.

Senator Telena Nelson

Okay. Senator Castro, do you have any questions? For the record, I would like to have another information hearing and really dig into the weeds of everything to see progress, especially with this passenger inspection fee. I think you deserve more as an agency. You need access to this fee and create access to it and the data, directly from the airlines.

Darlene Merfalen

That is very understandable. The thing we need to address is an increase in the passenger inspection fee. We need to address the Administrative Education Act. GVB will say that it will affect tourism. Whenever we say we are raising something, agencies will say something. Another avenue we can look at is another method other than going to the Triple A process. Can you help us with an increase that we can justify?

Senator Telena Nelson

Thank you, but I am not buying it. I'm not buying that GVB is saying it will impact tourism. It is selling our island short. We are a tourist destination. If I want to fly to Guam, I am going to pay more than \$8 to want to see Guam. I am sure we have more pride than that, as well as our visitors. I think this increase needs to be done. I know there is a timeline that needs to be met for the fee increase. We need to know, but do not know at this point. Senator Castro?

Senator William Castro

Thank you. I want to extend my kudos to the Director and this all star team. This is an excellent list of recommendations provided by the Director. It is clear that this is in the authority of the Legislature and others, but not outside of our political will and advocacy. We need to look at what the CNMI is doing with their airport structures and follow that. Our Chair is very passionate about getting to the bottom of these recommendations and issues. Your agency generates a significant amount of revenue. As a friend, I want to encourage you, Director and Majors, that it would really benefit you to give us examples on how increases in fees could impact the community. Let me give you an example. If you increase the amount of officers at the Port Authority by 10, what would that translate to based on historical data in terms of citations? Would that be extra in import taxes or import fines and fees? In addition to that, I have heard from the Majors that they are doing a great job in articulating the needs of the agency. Do you have a rough dollar amount of how much that would cost?

Phil Taijeron, Jr.

Senator, it's quite difficult to give a figure. In our meeting with various representatives, because our proposal was quite expansive and our metrics were not clearly specified, he provided us with a rubric. There was more specificity in what we are asking for.

Senator William Castro

I would like to work with Madame Chair in supporting the CQA in increasing these fees. I appreciate the fact that you folks are doing your due diligence in collecting from the various carriers. How can we fix things so that we can satisfy both your mission and preventing illegal trafficking and import of illegal contraband?

James McDonald

Senator, I am glad you brought that topic up about. I have assigned Major Taijeron to take a look at Saipan's postal system. I want it to be on record that Saipan collects 4million from the post office. We have had conversations with our counterparts. They have agreed to have the same framework for us here. I am glad you mentioned that.

Senator William Castro

Thank you, Director.

Fred Aguon

I want to express support of my management team in creating legislation for our agency. In regards to used tax assessments, we do get a percentage. I may be wrong, but I just wanted to point it out. We also need to revisit the Cargo Inspection Fee. I meant to express that earlier. The Cargo Inspection Fees are \$5 at the facility for anything under 100 pounds and anything thereafter is at a .0012 proration. I also want to point out that our petroleum companies that bring fuel into our island are bringing in fuel in the amounts of 8 Million. I have assessed a few of these. We have a cap of \$500. Cargo Inspection Fee. These are just some of the ways I think we can improve identifying funds for our agency.

Senator Telena Nelson

Thank you, Mr. Aguon.

Senator William Castro

That is exactly the kind of recommendations we need. The Chair has already tasked me to work on the bill. In all seriousness, I know your team has also worked with an interagency on the need to standardize the forms. I would like to pick up that conversation with you folks on how we can do that.

Senator Telena Nelson

Thank you all very much. As I have said, I want to have another Informational Briefing. Thank you, Director for coming here. It's always nice seeing you and hearing you on how we can better the agency. If there is nothing else, I would like to adjourn. I would like to let the public know that we will have another Informational Hearing soon. Yes, Major Perez?

Vincent Perez

If we had greater autonomy, we would be able to move forward more firmly. More autonomy is needed. If we wanted to hire someone today, it would take over a year before we see someone hit the field. You can see how that impacts our capability to put anyone out in the field. Even our own promotion system would be able to have a greater impact for the community.

Senator Telena Nelson
Thank you, Major. Thank you, everyone.

The Informational Briefing was adjourned at 5:18 p.m.


III. FINDINGS & RECOMMENDATIONS

- Guam Customs and Quarantine Agency needs more authority and autonomy to conduct its duties within the airport.
- Guam Customs and Quarantine Agency needs an increase in their Passenger Inspection Fee, and access to all data from airlines, directly.
- A second Informational Hearing on this matter will be scheduled by Senator Telena Nelson.




Customs & Quarantine Agency

Protecting Our Island, Our People, Our Resources



You can't really know where you are going until you know where you have been.

Maya Angelou





TRADITIONAL HOUSE
 The traditional house is built on stilts and has a thatched roof. It is a common type of house in the region.

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MISSION

- Facilitate trade and commerce
- Provide overall border protection



HISTORY

- 1521- Spanish "Discoverer" Galleon
- 1521-1898- Spanish Colonial Rule
- 1898-1941- U.S. Navy Government Rule
- 1941-1944- Japanese Military
- 1944-1953- U.S. Navy Govt
- 1950- U.S. Customs Border
- 1953- Customs National Guard
- 1969- Fed. Border Service

Guam Customs Profile

Guam is the first U.S. island territory established through war (Fort Mifflin, 1776).

September 24, 1898 - Annexed under the Customs and Quarantine (Philippine) Act, Department of Commerce.

October 1, 1904 - Separated to become the Customs & Quarantine Agency.

October 1, 2003 - With the U.S. Department of Homeland Security, established the U.S. Customs and Border Protection (CBP) and the U.S. Customs and Border Protection (CBP) as the main U.S. border protection agency.



Significance of Guam

Guam is strategically located as the closest U.S. island to Asian areas of interest (North Korea, India, China, Myanmar, and DR Congo).

Location allows for the fastest deployment of U.S. military forces & timely humanitarian response following natural disasters in the Asia-Pacific region.

Guam's resources is paramount to the nation and security of the island, its people and resources.





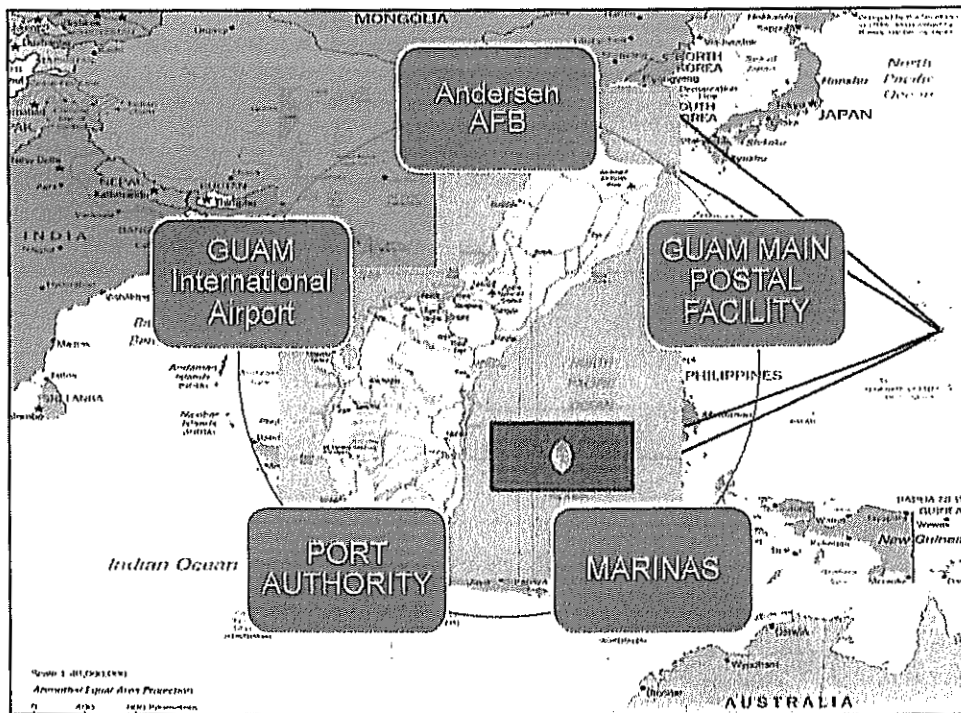
Capacity Building
 Australia, France, New Zealand, and through the Oceania Customs Organization and the World Customs Organization have been instrumental in providing Pacific Customs administrations an ongoing annual Substantive Training program. Guam Customs is left behind because the assumption is that Guam is tied in and funded directly from the U.S. federal government.

• **ASYCUDA WORLD IPACER PLUS, ITC TRADE**, et al, are some of the IT Platforms used in the Pacific. Strategically speaking Guam Customs could only benefit from IT similar capacity building efforts.

COLLABORATION & ENFORCEMENT of

Federal/State	Local Government
<ul style="list-style-type: none"> • Department of Homeland Security • United States Department of Agriculture • Alcohol, Tobacco & Firearms • United States Fish & Wildlife Service • Drug Enforcement Administration • Department of Transportation • United States Environmental Protection Agency • National Oceanic & Atmospheric Administration • United States Postal Inspection Service • Department of Homeland Security • United States Secretariat of Defense 	<ul style="list-style-type: none"> • Guam Department of Public Health & Social Services • Guam Department of Science & Technology • Guam Department of Agriculture (DAG) • Guam Police Department • Guam National Guard • Bureau of Economic Affairs • Guam Office of the Attorney General • Guam Environmental Protection Agency • Guam Fire Department • Guam Office of Civil Defense • Department of Health & Social Services (DHSS) • Guam Economic Development & Commerce Authority







What does this Mean?

- It means that the responsibility for the protection of Guam and its people, including ensuring local and federal assets, are protected through vigilance at the borders of Guam through the Government of Guam by Customs & Quarantine Agency Officers.
- This effort is often times hampered with limited and sometimes scarce resources.

Other Internal Challenges

- **Federal Inspection Service (FIS) Space Requirements**
- As part of the Federal government, FIS, Federal courts, administrative entities, courts, etc. are parts of Guam, with space allocated to the Space Requirements and the agencies to use that space. There are several areas which need additional federal government. The main challenge is providing space for the various courts, including state, county, judicial, inspection, administrative, other state, local, regional, state, private and voluntary, regional, state, and city office space, including courthouses.
- Guam Customs & Quarantine Agency (GCQ) is the FIS space requirements for providing Customs, Quarantine and is charged with the task which seems to be constantly increasing.
- Although the government is providing space for the various courts, the courts are still facing challenges which are affecting the courts' operations.



CHALLENGES

Lack of Personnel

1998: 230 Customs Officers

2012: 100 Customs Officers

Lack of wireless equipment, supplies, facilities, resources
or adequate legal framework

Unregulated customs flow through of Computer Based System
National Security Concerns

Inconsistent application of Customs Authority based on Federal laws
which apparently do not cover the territory left to Customs Officers

Authoritative Control of the Ports of Entry

Start from work areas to conduct border operations

to Federal Inspector, Service Officer, Transportation, Planning and
Customs Operations, to Airport Terminal, Facilities, (22 April 2009)



1998

ENR

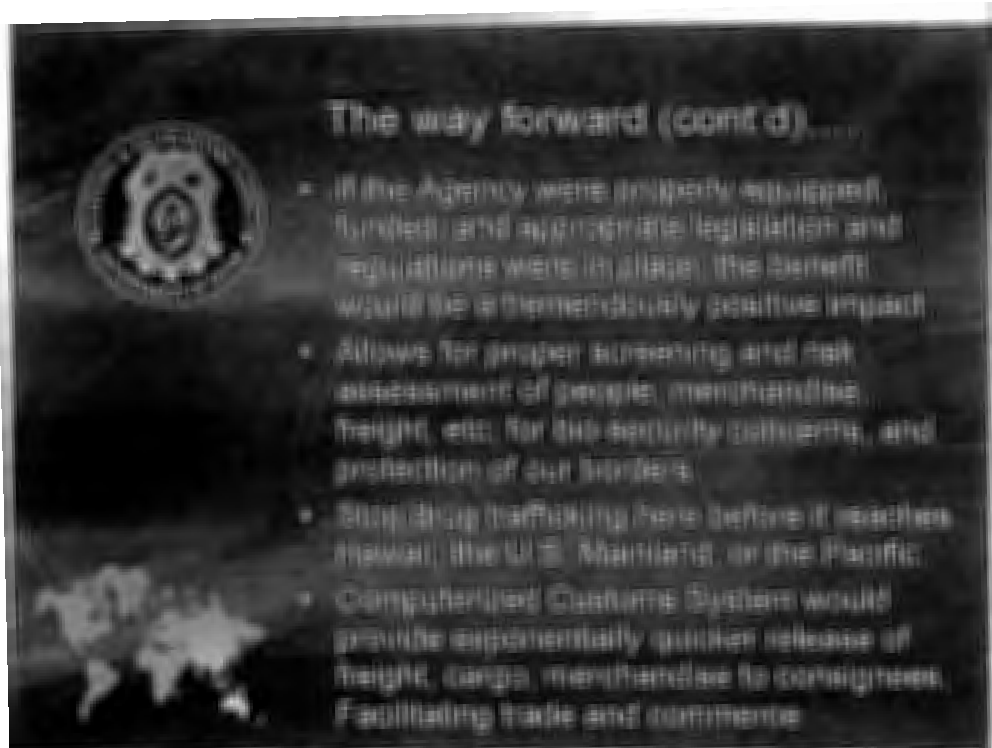
Customs

National Security

Border Patrol

1998
1. Lack of Personnel
2. Lack of wireless equipment, supplies, facilities, resources
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3. Unregulated customs flow through of Computer Based System
4. National Security Concerns
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The way forward (cont'd)....

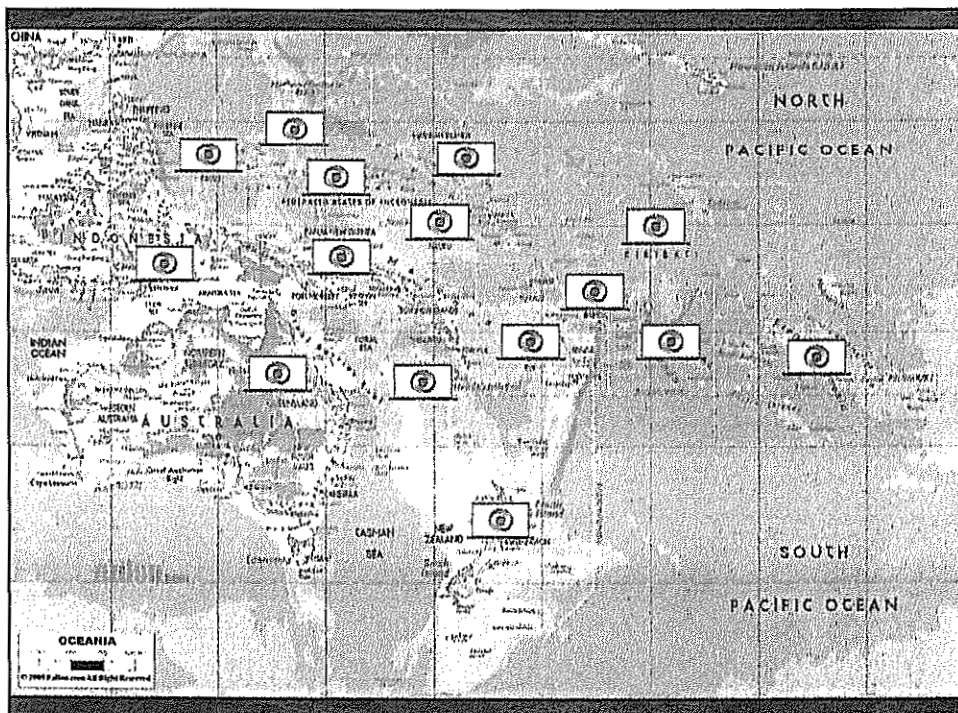
- If the Agency were properly equipped, funded, and appropriate legislation and regulations were in place, the benefit would be a tremendously positive impact
- Allows for proper screening and risk assessment of people, merchandise, freight, etc. for the security concerns, and protection of our borders
- Stop drug trafficking here before it reaches Hawaii, the U.S. Mainland, or the Pacific
- Computerized Customs System would provide exponentially quicker release of freight, cargo, merchandise to consignees, Facilitating trade and commerce

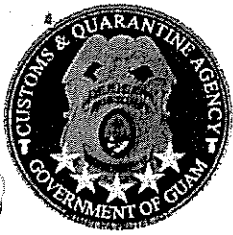


The way forward (cont'd)....

Solicit local, Federal, and Regional assistance in CCA capacity building

- Revamp legislation, include applicability of Federal Inspection Service requirements
- Improve local, federal, regional and international communication and collaboration
- Implementation of standard freight coding and tracking system similar to AEO. This will lead to quicker facilitation of trade/commerce
- Implement laws to ensure & solidify Customs authority at all Ports





CUSTOMS & QUARANTINE AGENCY, GUAM

Guam's First Line of Defense • Protecting Our Island, Our People, Our Resources

Director's Office

Director – James T. McDonald
Acting Chief of Customs – Major Darlene R. Merfalen

Doc.Ref.No.: CQA-DIR-125-17

May 17, 2017

SENATOR TELENA CRUZ NELSON

Date / Time: 5/18/17, 11:03am

Initials: JM

To: The Honorable Eddie B. Calvo
Governor of Guam

From: James T. McDonald
Director, Guam Customs & Quarantine Agency

Subject: After Action Report
REF: Guam Customs hosting of the 19th Oceania Customs
Organisation Annual Conference

Highlights/Accomplishments

Through the coordinated efforts of the Governor of Guam, Guam Customs was able to host a regional conference for all Oceania Customs Heads of Administrations from throughout Melanesia, Polynesia, and Micronesia. The Guam Customs & Quarantine Agency (CQA) entered into an agreement with the Guam Visitors Bureau (GVB) in order to produce the 19th OCO Annual Conference. It is doubtful that Guam Customs would have been able to produce this conference without the assistance of the Governor. Amplifying this success was through collaborating with GVB with its latitude and flexibility concerning procurement. Guam Customs had a working budget of \$50,000.00 in which to work with. GVB provided invaluable assistance and in-kind donations for delegates.

The 19th Oceania Customs Organisation (OCO) Annual Conference was held from 2-5 May 2017. The conference brought together about 50 delegates representing 23 Customs Administrations of the Pacific island countries and territories including Australia and New Zealand, as well as global stakeholders and representatives of international and regional organizations and development partners such as the World Bank, the United Nations Office on Drugs and Crime, the United Nations Conference of Trade and Development, and the World Customs Organization. Conference participants discussed customs modernization and reforms related to the conference theme: "Data Analysis for Effective Border Management".

Assessment:

The conference brings to light challenges faced by small customs administrations in the protection of their borders as well as challenges to facilitating trade.

Discussion on ASYCUDA- Automated System for Customs Data

The ASYCUDA is a fully integrated Customs Management Information System developed by the United Nations Conference on Trade & Development (UNCTAD), that incorporates the customs processes into a single manageable computerized process. This is one of a few MIS platforms in use by customs administrations. The implementation of such a program for use by CQA would exponentially increase screening, inspecting and processing of merchandise, freight, and containerized cargo by identifying only those items of interest to Customs, and allowing quicker release for the rest. UNCTAD has indicated interest in possibly assisting Guam. Typically this assistance is afforded to developing countries.

Discussion on Use of Harmonized System

The OCO membership discussed the status of HS 2017- the Harmonized Commodity Description and Coding System, generally referred to as "Harmonized System" (HS). The HS is a multipurpose international product nomenclature identification system developed by the World Customs Organization (WCO). Each commodity is identified by a six digit code, arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. The system is used by more than 200 countries and economies as a basis for their Customs tariffs and for the collection of international trade statistics. The use of the HS and a system like ASYCUDA would help to expedite and reduce costs to legitimate trade.

The Government of Guam and the industry in Guam could only benefit from its use- It is extensively used by governments, international organizations and the private sector for many other purposes such as internal taxes, trade policies, monitoring of controlled goods, rules of origin, freight tariffs, transport statistics, price monitoring, quota controls, compilation of national accounts, and economic research and analysis. The HS is a universal economic language and code for goods, and an indispensable tool for international trade.

CQA centric issues presented:

Need for automation of Customs Processes

Capacity building is a proactive initiative by Australia, New Zealand, and France, on behalf of their territories- small member administrations in the Pacific are more technologically advanced with instituted Computerized Customs Data and Risk Analysis software and operating systems. The United States does not provide any such support for Guam. Many OCO members were surprised to hear that Guam has no such system.

The method of customs processing and collection of data involves the use of hard copy running logs, and intense collection of paper data. The method of data collection, analysis, and dissemination is problematically outdated for the technology that has been made readily available for developing countries by Australia, New Zealand, France, the United Nations, European Union, World Bank, and the World Customs Organization. Guam Customs gave a presentation discussing its own challenges towards building its capacity.

CQA Capacity Building

The wide perception among OCO members is that the United States Federal Government shares its technology with Guam Customs and directly contributes to funding Guam Customs program areas in order to remain consistent with technology currently in use by USCBP. The OCO membership has been made aware that this is NOT the case and that Guam Customs is deficient in this regard to collect, analyze, and properly assess risk in this capacity.

If Guam were an international airport located at the border of the mainland of the United States, the USCBP would provide the immigrations service as well as the customs service. Since Guam is outside the United States Customs Territory, the service of customs inspections is provided by the Government of Guam but with very limited resources.

Guam Customs would like to open dialogue with the United States Customs & Border Protection to discuss capacity building strategies to strengthen, re-enforce, and protect our island border.

Inconsistent application and support of federal laws

There are inconsistent levels of federal authority that do not translate equally from the federal laws of the United States Customs and Border Protection to Guam Customs. 19 USC which identifies that Guam is outside the United States Customs territory and therefore the protection of Guam's border is done through the local government. 19 USC did not speak to other federal regulations which re-enforce and provide greater authority for federal entities like USCBP but not Guam Customs. For example- there are Federal Inspection Service space requirements which allow federal services at official Ports of Entry allocated space to perform its inspections as well as administrative support functions without direct cost to USCBP vs. Guam Customs paying for rent to carry out its mandate (U.S. Department of Transportation Federal Aviation Administration Advisory Circular: 150/5360-13 Planning and Design Guidelines for Airport Terminal Facilities). Specific mention of no cost for federal inspection services can be found at: <https://www.cbp.gov/trade/trade-community/programs-outreach/ports>.

There is no local legal authority to provide advanced customs manifests unlike with our federal counterparts, USCBP, but because only the Immigrations function is covered by the federal government in Guam, the requirement to provide these documents in advanced to Guam Customs doesn't apply because the nexus between the federal law does not translate to equal application of authority and direct financial, administrative, or logistical support.

Inadequate legal framework for CQA Customs Authority

Since the September 11 2001 terror attacks, there have been massive changes towards the increase of security and integrity of homeland security and the protection of our nation's borders through federal law and policy. These responsibilities are also placed on Guam Customs, yet there have been no changes in law to provide the resources to CQA to keep par with these federal changes. Because no additional funding is provided to Guam, CQA is expected to meet the same standards but to do so within its own limited means. Additionally, CQA does not have the flexibility to hire as needed and are subject to

administrative hurdles which negatively impact our capability to hire additional officers or promote current staff into critical areas of responsibility.

Guam Customs enabling law is in dire need of overhauling to meet these standards as well as to articulate its legal authority at the borders. There are many changes that are necessary to Guam law, including perhaps addressing the inadequacies via the Organic Act to ensure equal protection of Guam, its people and resources is in order.

Recommendation:

1. Develop and implement a Customs Risk Based Data/Management Information System which incorporates the use of harmonized coding.
2. Reach out to USCBP, and Congress to address deficiencies in application of federal regulations, laws, etc; which do not translate equally from federal to local authority.
3. Through federal or local statute ensure provisions such as the federal inspection service allowances for providing space to perform mandated inspections apply equally to Guam to ensure proper and fair application of law as it relates to customs authority at the borders. In this regard, CQA could apply what is currently charged for rent towards the improvements and sustainability of the Customs Enforcement Program.
4. Establish a process with federal entities which provides capacity building for Guam Customs to strengthen Guam's border.
5. Revamp Guam Customs mandates to ensure that CQA has the necessary and appropriate authority in the protection of its border.

If you have any questions, comments, or concerns, please contact me directly at 475-6202. Thank you.


JAMES T. MCDONALD
DIRECTOR

Attachments:

Guam Customs Power point Presentation
UNCTAD Concept Note
USCBP webpage on No cost FIS Space

CC: Senator Telena Nelson, Oversight Chair



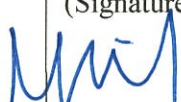
COMMITTEE ON RULES

Senator Michael F.Q. San Nicolas, *Chairman*
I Mina'Trentai Kuattro na Liheslaturan Guahan • 34th Guam Legislature



COMMITTEE REPORT CHECKLIST

Part 1 / 1

INFORMATIONAL BRIEFING on Guam Customs and Quarantine Agency <i>Status of Personnel, Overtime, Budget Request, and Service Fees Update</i>		
(A) PUBLIC HEARING	(1) HEARING NOTICES SR §§ 6.04(a)(1) and 6.04(a)(2), Open Government Law (5 GCA, Ch. 8)	
	<input checked="" type="checkbox"/> (a) Five (5) working days prior (ALL Senators & ALL Media)	Date and Time of Notice: 5/12/17 10:38am
	<input checked="" type="checkbox"/> (b) Forty-eight (48) hours prior (ALL Senators & ALL Media)	Date and Time of Notice: 5/16/17 8:52 am
	(2) Date and Time of Hearing: 5/19/17 9:30am	3) Location: Public Hearing Room, Guam Congress Building
(B) COMMITTEE REPORT	(1) Committee Report filed with COR? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	Date & Time: 6/12/17 4:51pm
	(2) COMMITTEE REPORT COMPONENTS	
	(a) Front Page Transmittal to Speaker	<input checked="" type="checkbox"/>
	(a)(1) COR Chair Signature Line	<input checked="" type="checkbox"/>
	(b) Title Page	<input checked="" type="checkbox"/>
	(c) Notice of Public Hearing & Other Correspondence	<input checked="" type="checkbox"/>
	(d) Public Hearing Agenda	<input checked="" type="checkbox"/>
	(e) Public Hearing Sign-in Sheet	<input checked="" type="checkbox"/>
	(f) Written Testimonies & Additional Documents	<input checked="" type="checkbox"/>
	(g) Committee Report Digest(s)	<input checked="" type="checkbox"/>
(h) Related News Reports (optional)	N/A <input type="checkbox"/>	
(i) Miscellaneous (optional)	N/A <input type="checkbox"/>	
(j) Committee Report Checklist(s)	<input checked="" type="checkbox"/>	
(C) COR Action	<input checked="" type="checkbox"/> CMTE Report duly filed <input type="checkbox"/> CMTE Report non-conforming for acceptance; Return to Committee	COR CHAIR (Signature, Date & Time)  6/14/17 12:45

