



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

MAR 05 1998

Refer to
Legislative Secretary

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

Dear Speaker Unpingco:


Enclosed please find a copy of Substitute Bill No. 156 (LS), "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION (POST)", which was vetoed by the Governor and subsequently overridden by the Legislature. This legislation is now designated as **Public Law No. 24-145**.


Very truly yours,


Carl T. C. Gutierrez

Attachment 00688

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

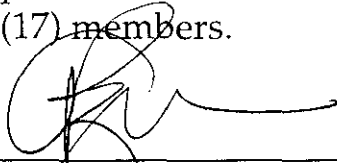
OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	4:44pm
Date	3-5-98

Office of the Speaker
ANTONIO R. UNPINGCO
Date: 3-5-98
Time: 1500
Rec'd by: 
Print Name: Charlene D. Mena

TWENTY-FOURTH GUAM LEGISLATURE
1998 (SECOND) Regular Session

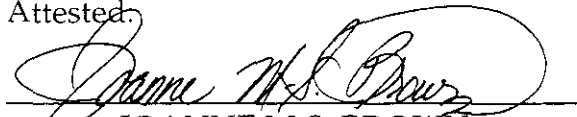
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 156 (LS), "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION ("POST")," returned without approval of the Governor, was reconsidered by the Guam Legislature and after such consideration, did agree, on the 27th day of February, 1998, to pass said bill notwithstanding the veto of the Governor by a vote of seventeen (17) members.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 4th day of March, 1998, at ^{me}
8:49 o'clock 9 .M.



Assistant Staff Officer
Governor's Office

Public Law No. 24-145

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 156 (LS)

As substituted by the Committee on
Education and as further amended
on the Floor.

Introduced by:

M. C. Charfauros
A. L.G. Santos
L. F. Kasperbauer
T. C. Ada
F. B. Aguon, Jr.
E. Barrett-Anderson
A. C. Blaz
J. M.S. Brown
Felix P. Camacho
Francisco P. Camacho
E. J. Cruz
W. B.S.M. Flores
Mark Forbes
A. C. Lamorena, V
C. A. Leon Guerrero
L. Leon Guerrero
V. C. Pangelinan
J. C. Salas
F. E. Santos
A. R. Unpingco
J. Won Pat-Borja

**AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER
32 OF TITLE 17 OF THE GUAM CODE ANNOTATED,
RELATIVE TO THE CREATION OF A PEACE
OFFICER STANDARDS AND TRAINING
COMMISSION ("POST").**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings.** The Guam Legislature finds that
3 Guam's law-enforcement community has not maintained a consistent standard
4 of training by which all its officers can be measured. The Guam Legislature finds
5 that each law enforcement entity has established its own training requirements,
6 which has resulted in the uneven distribution of qualifications amongst Guam's
7 peace officers. The Guam Legislature further finds that the lack of standard
8 training requirements for Guam's peace officers has prevented the cooperation
9 and collaboration of such entities in the performance of basic law enforcement
10 duties. It is the intent of this Legislature to create and establish a Peace Officer
11 Standards and Training Commission ("POST"). The primary purpose of such a
12 Commission shall be the development of regulations and minimum professional
13 standards to serve as the basis for the uniform recruitment operation of Guam's
14 law enforcement entities.

15 **Section 2.** A new Article 3 is hereby added to Title 17 of the Guam Code
16 Annotated to read as follows:

17 **"ARTICLE 3.**

18 **PEACE OFFICER STANDARDS AND TRAINING COMMISSION.**

- 19 §32301. Definitions.
- 20 §32302. Creation - Peace Officer Standards and Training
21 Commission ('POST').
- 22 §32303. Executive Director; Appointment; Powers and Duties.
- 23 §32304. Qualifications for Employment; Loss of Certification;
24 Termination.
- 25 §32305. Certification Without Compliance; Civil Service

1 Applicability.

2 §32306. POST Fund.

3 §32307. Effective Date.

4 **Section 32301. Definitions. For purposes of this Article:**

5 (a) **'Commission'** shall mean the peace officer standards and
6 training commission.

7 (b) **'Peace Officer'** shall mean all officers, including reservists, of
8 the Guam Police Department; all officers of the Guam Airport Police; all
9 officers of the Guam Port Authority Police; those employed by the Director
10 of the Department of Corrections whom he specifically designates; all
11 officers of the Customs and Quarantine Agency; all employees of the
12 Department of Youth Affairs who are engaged in juvenile detention and
13 rehabilitation-work as designated by the Director of the Department of
14 Youth Affairs; all Conservation Officers of the Division of Aquatic and
15 Wildlife Resources of the Department of Agriculture; all Territorial Park
16 Patrol Officers of the Department of Parks and Recreation; those employed
17 by the Attorney General's Office whom he specifically designates; all
18 Marshals of the Superior Court of Guam and all Marshals of the Supreme
19 Court of Guam.

20 **Section 32302. Created; Membership; Compensation; Meetings;**
21 **Publication of Procedures; Standards for Certified Training; Powers and**
22 **Duties.** (a) There is hereby created under the Guam Community
23 College's Professional-Technological Institute ('Pro-Tech Institute') a Peace
24 Officer Standards and Training Commission. The Commission shall be
25 composed of the following members:

1 (1) the Chief of the Guam Police Department or his
2 designated representative;

3 (2) the Chief of the Guam Airport Police or his designated
4 representative;

5 (3) the Chief of the Guam Port Authority Police or his
6 designated representative;

7 (4) the Attorney General or his designated representative;

8 (5) the Director of Customs and Quarantine Agency or his
9 designated representative;

10 (6) the Director of the Department of Corrections or his
11 designated representative;

12 (7) the Director of the Department of Youth Affairs or his
13 designated representative;

14 (8) the Superintendent of the Territorial Park Patrol Officers
15 of the Department of Parks and Recreation or his designated
16 representative;

17 (9) the Chief of the Division of Aquatic and Wildlife
18 Resources of the Department of Agriculture or his designated
19 representative;

20 (10) two (2) persons at large, selected by the Commission;

21 (11) one (1) representative from the University of Guam,
22 appointed by the President of the University of Guam;

23 (12) the Chief Marshal of the Superior Court of Guam or his
24 designated representative; and

25 (13) the Chief Marshal of the Supreme Court of Guam or his

1 designated representative.

2 (b) Members of the Commission shall receive no compensation,
3 but shall be reimbursed under §§23103 and 23104 of Title 5 of the Guam
4 Code Annotated for travel and per diem expenses incurred in the
5 performance of their duties. For purposes of compensation, attendance at
6 meetings of the Commission shall be deemed performance by a member of
7 the duties of his local governmental employment.

8 (c) The Commission shall hold at least four (4) meetings per year.

9 (d) The Commission shall establish and publish its procedures.

10 (e) The Commission shall establish standards for certification of
11 peace officer training.

12 (f) The Commission shall establish reasonable fees for the
13 application and processing for the certification and recertification of peace
14 officers.

15 (g) Recertification by the Commission, including a thorough
16 background investigation, will be required of all POST certified peace
17 officers within three (3) years from the effective date of initial POST
18 certification. The Commission in coordination with affected agencies shall
19 establish:

20 (1) requirements concerning courses of study, attendance,
21 equipment and facilities for peace officer training;

22 (2) qualifications for peace officer training instructors;

23 (3) basic training requirements for peace officers;

24 (4) core curriculum for all designated programs; and

25 (5) categories or classifications of advanced in-service

1 training programs and minimum courses of study and attendance
2 requirements with respect to the categories or classifications.

3 (h) The Commission shall:

4 (1) recommend to the Executive Director, studies, surveys
5 and reports regarding the purposes of this Act;

6 (2) visit and inspect any peace officer training program
7 during any appropriate time;

8 (3) adopt and promulgate such rules and regulations as it
9 deems proper to fully effectuate and carry out the purpose of this
10 Article, subject to the provisions of the Administrative Adjudication
11 Law;

12 (4) prescribe reasonable minimum qualifications relating
13 solely to physical, mental and moral fitness for persons recruited,
14 appointed or retained as peace officers by Guam;

15 (5) deny, suspend or revoke certification of peace officers for
16 substantial failure to comply with this Article or the rules of the
17 Commission, subject to the procedural policies promulgated
18 pursuant to the Administrative Adjudication Law;

19 (6) in exercising its powers and duties, utilize the services of
20 personnel under the Guam Community College's Professional-
21 Technological Institute;

22 (7) recommend to the respective appointing authorities
23 qualifications of candidates for the office of Chief of Police, the Chief
24 Marshal, the Director of Corrections, the Chief of the Guam Airport
25 Police, the Chief of the Port Authority Police, the Director of Customs

1 and Quarantine Agency, the Superintendent of the Territorial Park
2 Patrol Officers; and

3 (8) provide management survey and managerial assistance
4 as requested by corrections and law enforcement agencies.

5 **Section 32303. Executive Director, Appointment, Powers and**
6 **Duties.** (a) The Executive Director of the Commission shall be
7 appointed by the President of the Guam Community College with the
8 concurrence of the Commission. The Executive Director shall be the chief
9 executive officer of the Commission. The Executive Director shall meet the
10 following qualifications:

11 (1) a minimum of five (5) years of progressive senior
12 management experience in law-enforcement;

13 (2) a bachelor's degree in Police Science and Administration,
14 Criminal Justice, Public Administration, or closely related field or
15 discipline at an accredited institution; and

16 (3) graduation from a recognized law enforcement
17 management training institution.

18 (b) With the approval of the Commission, the Executive Director
19 may:

20 (1) certify instructors at approved peace officer training
21 academies and issue appropriate certificates to instructors;

22 (2) certify peace officers who have satisfactorily completed
23 the basic training programs as outlined in this Act and issue
24 appropriate certificates to peace officers;

25 (3) consult and cooperate with peace officer training

1 academies for the development of the basic and advanced training
2 programs for peace officers;

3 (4) consult and cooperate with the University of Guam,
4 Guam Community College and other institutions for the
5 development of specialized courses of study on Guam for peace
6 officers in the areas of police science, police administration and the
7 social sciences and other related areas;

8 (5) consult and cooperate with other departments and
9 agencies concerned with peace officer training; or

10 (6) report to the Commission at regular meetings of the
11 Commission and at other times as required and recommend denial,
12 suspension or revocation of certification of a peace officer to the
13 Commission as deemed necessary.

14 **Section 32304. Qualifications for Employment as a Peace Officer;**
15 **Loss of Certification for Felony Conviction; Termination from**
16 **Employment.** (a) Within fifteen (15) days after the appointment,
17 termination, resignation or death of any peace officer, written notice
18 thereof shall be given to the Commission by the employing agency.

19 (b) No public official, Guam agency or any other person
20 authorized by law to appoint peace officers on Guam shall appoint any
21 person as a peace officer who does not meet the following qualifications.

22 The person shall:

23 (1) be a United States citizen;

24 (2) be at least eighteen (18) years old, or in the case of the
25 Guam Police Department over the age of nineteen (19) years of age;

1 (3) be fingerprinted; territorial and national fingerprint files
2 shall be searched to determine if the applicant has a criminal record;

3 (4) not have been convicted of a felony;

4 (5) hold a high school diploma or evidence of an equivalent
5 achievement;

6 (6) have good moral character as determined by a
7 background investigation; the hiring agency shall complete a
8 background investigation defined by the Commission of any
9 applicant for employment as a peace officer before the applicant may
10 be employed or begin training as a peace officer;

11 (7) be free of any physical, emotional or mental conditions
12 which might adversely affect his performance of duty as a peace
13 officer; physical condition shall be evaluated by a person licensed to
14 practice medicine; emotional and mental conditions shall be
15 evaluated by a licensed psychologist or psychiatrist; and

16 (8) pass an oral interview examination by the hiring agency.

17 (c) Notwithstanding any general, specific or local law or charter to
18 the contrary, no person shall receive an original appointment on a
19 permanent basis or hold an appointment on a permanent basis as a peace
20 officer, unless the person has been awarded a certificate by the Executive
21 Director attesting to his satisfactory completion of an approved peace
22 officer basic training program.

23 (d) Notwithstanding Subsection (c) of this Section, the Commission
24 may waive the basic peace officer training program and certify those
25 applicants who can pass a written examination provided by the

1 Commission and an oral interview attesting to the applicant's ability in law
2 enforcement. The applicant shall prove that he satisfactorily completed a
3 basic peace officer training program which in the Commission's opinion is
4 comparable to that required by this Section before waiver is granted.

5 (e) A person who is convicted of a felony after his appointment as
6 a peace officer is ineligible for continued employment as a peace officer.
7 If the person has been certified under this Section, his certification shall be
8 automatically revoked on the date of his conviction. The Executive
9 Director shall notify the person and the person's employing agency upon
10 revocation of certification under this Subsection.

11 (f) In the case of termination of a peace officer, the employing
12 agency shall notify the Commission and the officer, in writing, of the
13 termination setting forth in detail the facts and reasons for the termination.
14 If the officer is terminated for failure to comply with this Act, or rules
15 promulgated under it, the notice shall so specify. Any officer who has been
16 terminated may present a written statement to the Commission responding
17 to the claims made against him or setting forth the facts and reasons for the
18 termination as he believes them to be, and that statement shall become a
19 permanent part of the file. A potential employer may contact the
20 Commission to inquire as to the facts and reasons an officer was terminated
21 from any previous employing agency. Unless otherwise prohibited by law,
22 the Commission shall, upon request provide to the potential employer all
23 pertinent information which is in its possession.

24 **Section 32305. Certification Without Compliance with**
25 **Requirements of §32304; Applicability of Civil Service Provisions.**

1 (a) Any person who has been employed on a permanent basis as
2 a peace officer for five (5) consecutive years prior to January 1, 1997 and
3 who is currently employed as a peace officer, shall be certified as a peace
4 officer by the Executive Director without having complied with §§32304(b)
5 and (c).

6 (b) Nothing in this Act shall be construed to except any peace
7 officer from the provisions or requirements of civil service.

8 (c) An employing agency may establish qualifications and
9 standards for hiring and training that exceed the minimum qualifications
10 and standards set by the Commission.

11 **Section 32306. POST Fund.** (a) The Commission may accept
12 grants of money or materials or property of any kind from the Federal
13 government, the territory, any agency or political subdivision of the
14 territory or any person upon the terms and conditions imposed by the
15 grantor. Notwithstanding any other provision of law, all funds received by
16 the Commission in accordance with this Chapter shall be deposited within
17 five (5) days of receipt with the Treasurer of Guam for credit to the '*POST*
18 *Fund*' ('Fund') established pursuant to Subsection (b) of this Section. Funds
19 shall be used by the Commission to carry out its functions for
20 administration, operations, training costs of Peace Officers, management
21 surveys, research, management assistance, and other operating expenses
22 and encumbrances of the Commission in performing its duties and
23 obligations as prescribed in this Chapter. The Executive Director is the
24 Certifying Officer of the Fund.

25 (b) There is hereby created, separate and apart from other funds of

1 the government of Guam, a fund to be known as the '*POST Fund*' ('Fund').

2 The Fund shall not be commingled with the General Fund and shall be
3 kept in a separate account. The Fund shall be under the control of the
4 Commission and the Director of Administration ('Director'). The Director
5 shall administer the Fund and release the necessary monies upon request
6 for expenditures by the Executive Director authorized by this Section. The
7 Fund shall not be used for any purposes other than those enumerated or
8 reasonably inferred herein or for purposes other than those relating to the
9 Commission. In exercising its functions, the Commission shall endeavor
10 to minimize costs of administration so that a maximum of funds will be
11 expended for the purpose of providing training and other services to law
12 enforcement agencies. The Director of Administration shall make a
13 quarterly report to the Governor and the Guam Legislature of the condition
14 of, and activity within, the Fund.

15 **Section 32307. Effective Date.** The Commission shall be
16 established and become operational immediately. Incumbent peace officers
17 shall have thirty-six (36) months from the date of the promulgation of rules
18 and regulations as required by §32302(h)(3), to be POST certified, except
19 that the Commission may grant extensions as it deems necessary to protect
20 the integrity of agency operations."



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 2-21-98

Time: 2:00 pm

Rec'd by: [Signature]

Print Name: Fred Hoffman

FEB 21 1998

Refer to
Legislative Secretary

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By <u>[Signature]</u>
Time <u>10:02am</u>
Date <u>2.23.98</u>

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 156 (LS), "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION (POST).", which I have vetoed.

Currently, a Peace Officer Standards and Training Commission (POST) already exists by virtue of Executive Order No. 96-16. Although there is no objection to establishing a POST by law, the concept needs to be revisited to ensure that the proper mission of POST is adequately carried out.

The various agencies involved in law enforcement have recommended that this legislation be vetoed, especially since recommendations made at the public hearing on this bill were not included in the final version of the bill as passed. The POST should not be controlled by one specific educational institution, as is provided in this legislation. POST is a body that is supposed to recommend professional standards across law enforcement entities and enforce them through a certification process in the hiring of individuals to be peace officers. This is akin to a professional registration or licensing board, such as we have for physicians, contractors, engineers, physical therapists, and other professions where certain standards are regulated.

The POST as envisioned in this legislation is not only a standards-setting and certifying body, but apparently is going to also receive funding for

00658


training. On page 11, lines 11-14, it is stated that the POST Commission "may accept grants of money or materials or property of any kind from the Federal government, the territory, any agency or political subdivision of the territory or any person." On page 11, line 20, it is stated that these funds may be used for "training costs of Peace Officers." Academic institutions set standards for their programs, as programs, however, professional standards for a profession are set by professions and their regulatory bodies, and not by individual training institutions.

The University of Guam (UOG), also a local learning institution, testified against placing the POST within the Guam Community College (GCC), during the public hearing on this legislation. The UOG points out that they, also, can offer training courses for various peace officers of Guam, yet the placement of POST within the GCC would probably mean that the UOG would miss out on this opportunity. In fact, it may be desirable to offer some training off island, or bring in instructors from elsewhere, in certain instances.

This legislation did not undergo the scrutiny of the Legislature's Committee on Judiciary, Criminal Justice, and Environmental Affairs, which has oversight over matters concerning the daily concerns of peace officers. It is unknown why this important step was not taken prior to the passage of this legislation.

It is recommended that the POST be revisited, if it is to be enacted as a statute, and that this commission be separated from any individual educational institution, due to possible conflict of interest.

Very truly yours,



Carl T. C. Gutierrez

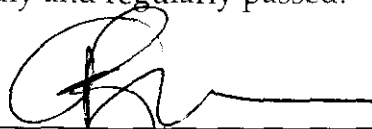
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cc: The Honorable Joanne M. S. Brown
 Legislative Secretary

TWENTY-FOURTH GUAM LEGISLATURE
1998 (SECOND) Regular Session

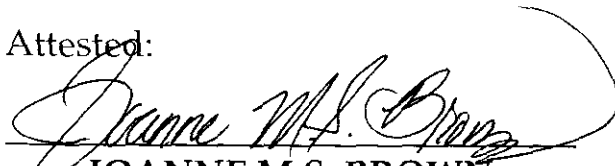
CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 156 (LS), "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17 OF THE GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION ("POST")," was on the 4th day of February, 1998, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



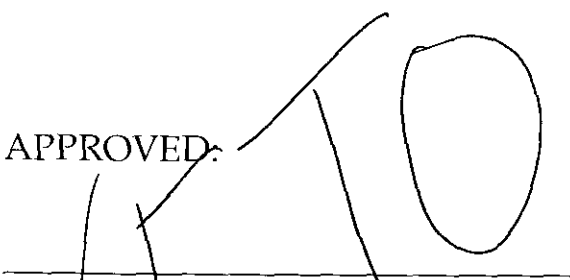
JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 10th day of February, 1998, at
3:27 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:



CARL T. C. GUTIERREZ
Governor of Guam

Date: _____

Public Law No. _____

PL24-145



TWENTY-FOURTH GUAM LEGISLATURE
COMMITTEE ON EDUCATION

215-A Chalan Santo Papa, Suite 106-F
Ada's Professional & Commercial Center
Agaña, Guam 96910



Telephone (671) 475-KIDS
Fax (671) 475-2000
e-mail lk4kids@ite.net

Senator
Lawrence F. Kasperbauer
Chairman

November 10, 1997

Senator
John C. Salas
Vice Chairman

The Honorable Antonio R. Unpingco
Speaker, 24th Guam Legislature
Agaña, Guam

Speaker
Antonio R. Unpingco
Ex-Officio

via: Committee on Rules

Senator
Thomas C. Ada
Member

Dear Mr. Speaker:

Senator
Frank B. Aguon
Member

The Committee on Education, to which was referred **Bill No. 156**: "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICERS STANDARDS AND TRAINING COMMISSION (POST)," herein reports back the recommendation **TO DO PASS Bill No. 156 as substituted by the Committee on Education.**

Senator
Elizabeth Barrett-Anderson
Member

Votes of the committee members are as follows:

Vice Speaker
Anthony C. Blaz
Member

Senator
Joanne M.S. Brown
Member

10 To Pass

___ Not To Pass

Senator
Felix P. Camacho
Member

___ To The Inactive File

Senator
Edwardo J. Cruz
Member

___ Abstained

Senator
Mark Forbes
Member

Sincerely,

Senator
Angel L.G. Santos
Member

LAWRENCE F. KASPERBAUER

Senator
Judith Won Pat-Borja
Member

Attachments



**TWENTY-FOURTH GUAM LEGISLATURE
COMMITTEE ON EDUCATION**

215-A Chalan Santo Papa, Suite 106 F
Ada's Professional & Commercial Center
Agaña, Guam 96910

Telephone (671) 475-KIDS
Fax (671) 475-2000
e-mail lk4kids@ite.net

Senator
**Lawrence F.
Kasperbauer**
Chairman

Senator
**John C.
Salas**
Vice Chairman

Speaker
**Antonio R.
Unpingco**
Ex-Officio

November 10, 1997

Senator
**Thomas C.
Ada**
Member

**TO: All Members
Committee on Education**

Senator
**Frank B.
Aguon**
Member

FROM: Chairman

Senator
**Elizabeth
Barrett-
Anderson**
Member

SUBJ: Voting Sheet

Vice Speaker
**Anthony C.
Blaz**
Member

Transmitted herewith is the voting sheet and committee report for **Bill No. 156**: "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICERS STANDARDS AND TRAINING COMMISSION (POST)," as substituted by the **Committee on Education**.

Senator
**Joanne M.S.
Brown**
Member

Your attention to this matter is greatly appreciated.

Senator
**Felix P.
Camacho**
Member

Sincerely,

Senator
**Edward J.
Cruz**
Member



LAWRENCE F. KASPERBAUER

Senator
**Mark
Forbes**
Member

Attachments

Senator
**Angel L.G.
Santos**
Member






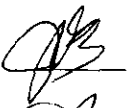


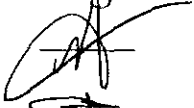
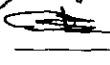
Senator
**Judith
Won Pat-
Borja**
Member

COMMITTEE ON EDUCATION
TWENTY-FOURTH GUAM LEGISLATURE
 155 Hesler Street, Agana, Guam 96910

Chairman: Senator Lawrence F. Kasperbauer Vice Chairman: Senator John C. Salas
Ex-Officio Member: Speaker Antonio R. Unpingco

VOTING SHEET ON:

Bill No. 156: "AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICERS STANDARDS AND TRAINING COMMISSION (POST)," as substituted by the Committee on Education.

<u>COMMITTEE MEMBERS</u>	<u>INITIAL</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>
Sen. Lawrence F. Kasperbauer <i>Chairman</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. John C. Salas <i>Vice-Chairman</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Spkr. Antonio R. Unpingco <i>Ex-Officio Member</i>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Thomas C. Ada <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Frank B. Aguon, Jr. <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Elizabeth Barrett-Anderson <i>Member</i>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Anthony C. Blaz <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Joanne M.S. Brown <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Felix P. Camacho <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Eduardo J. Cruz <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Mark Forbes <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Angel L.G. Santos <i>Member</i>		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sen. Judith Won Pat-Borja <i>Member</i>	_____	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Twenty-Fourth Guam Legislature

COMMITTEE ON EDUCATION

Lawrence F. Kasperbauer, Ph.D., Chairman

Committee Report on

Bill No. 156 An act to add a new Article 3 to Chapter 32 of Title 17, Guam Code Annotated, Relative to the Creation of a Peace Officer Standards and Training Commission (POST).

I. OVERVIEW

The Committee on Education held a Public Hearing on Tuesday, April 15, 1997 at 2:00 p.m. at the legislative Hearing Room. Public notice was announced in April 08, 1997 issue of the Pacific Daily News.

COMMITTEE MEMBERS PRESENT:

Senator Lawrence F. Kasperbauer, Chair
Senator John C. Salas, Vice Chair
Senator Thomas C. Ada
Senator Frank B. Aguon, Jr.
Senator Joanne M.S. Brown
Senator Edwardo J. Cruz, M.D.
Senator Judith Won Pat-Borja
Speaker Antonio R. Unpingco (Ex-Officio Member)

OTHER SENATORS PRESENT:

Senator Vicente C. Pangelinan
Senator Frank P. Camacho
Senator Mark C. Charfauros

WITNESSES PROVIDING PUBLIC TESTIMONY

Mr. Michael W. Kuhlman	Oral/Written
Ms. John M. Quinata	Oral/Written
Mr. Ralph Sgambelluri	Oral
Dr. Clyde Sauget	Oral
Capt. Ed Kabina	Oral/Written
Mr. J.P. Mafnas (Acting Chief of Police)	Written
Atty. Calvin E. Holloway, Jr. (A.G.)	Written
Atty. Dianne H. Corbert	Written
Mr. Thomas Tomarez	Oral
Mr. Martin Santos	Oral
Mr. Atanacio Diaz	Oral/Written
Mr. Gilbert E. Robles	Written
Col. Adolf Sgambelluri	Oral/Written

SUMMARY OF TESTIMONIES:

1. Mr. Michael W. Kuhlman, Director of Agriculture, supports the intent of Bill 156 but is against the bill as written. He stated that this bill is futally flawed and gives too much power to the President of Guam Community College, the Executive Director, and the Commission. He further stated that Bill 156 is disguised as a training improvement and establishes a centralized peace officer power center that is not even answerable to the legislature and the Governor. He recommended to delete Sections 32302 (h) (5) and (7) and section 32304. The requirements on sections 32302 (g) and 32307 provide too short a time frame for peace officers to complete their training and be recertified under these provisions.

2. Mr. John M. Quinata, Director of Customs, presented written and oral testimonies and is in favor of Bill 156 but with amendments. He strongly support the establishment of a uniform standard for all peace officers. He opposes the provisions on:

- a. Section 32303 that gives the President of Guam Community College as the appointing authority in the selection of an Executive Director. He feels that this is not proper nor appropriate.
- b. Section 32305 (a) that required peace officers to have 10 years of consecutive law enforcement service prior to Jan. 1, 1997 in order to remain a peace officer is too restrictive and recommends to delete the word consecutive.

3. Mr. Ralph Sgambelluri, a Custom Officer, represented himself and presented oral testimony. He favors Bill 156 and his only objection is the provision in Section 32305 (a) with respect to the requirement for 10 years of consecutive law enforcement services. He would like to have the word consecutive deleted also from the provision.

4. Dr. Clyde Sauget, Dean for the College of Business and Public Administration at the University of Guam, presented oral testimony in favor of the intent, but with amendments to Bill 156. His only concern is that the University of Guam is also an institution that can provide the same requirements and courses such as on Criminal Justice as does the Guam Community College. He question the provisions as stated on Section 32302 (g) (4) that gives the core of curriculum to the Guam Community College and on Section 32302 (h) (7) whereby the commission determine eligibility of candidates for the senior level positions. These provisions give too much power to the commission. He recommend that other educational institution be allowed to take part in the POST training programs.

5. Capt. Ed Kabina, from the Guam Police Department, presented written testimony for his Acting Chief of Police, J.P. Mafnas. He himself presented oral testimony in behalf of his Department. The Department endorses the concept of the Peace officer Standard and Training Commission (POST). It prescribes to the principle of Standardization in law enforcement profession and that the Department recommend that the commission should be free of control by any one educational institution as it may pose a conflict.

They have recommended numerous changes in the bill as contained in their written testimonies. These changes are on:

- a) Section 32303 (a) and (1-3) and
- b) Section 32307
- c) Plus additional provisions to be added to the bill.

6. Calvin E. Holloway, Sr., Attorney General of Guam, together with Attorney Dianne H. Corbert, both presented written testimony in favor of the intent of Bill 156 but recommended some amendments. The Attorney General recommended that the commission members nominate and elect the Executive Director, instead of the President of the Guam Community College. He also pointed out that the primary responsibility for law enforcement education should be a collaborative effort between the Guam Community College and the University of Guam. It should not be restrictive to the Guam Community College. He is concern about the requirements of Section 32304(b) (6) with respect to cost and who will pay for it.

7. Atty. Dianne H. Corbert's written testimony as presented does state the following concerns or changes:

- a. That the bill gives a huge amount of power to a single body to control the education and training for all peace officers in the territory.
- b. That it creates a largely autonomous agency that would control the peace officers in line agencies, the autonomous agencies and the court

system. No other Government of Guam body has such far reaching authority.

- c. That there exist a conflict of interest in the selection of the Executive Director by the President of the Guam Community College which is also the same educational institution which is being regulated by POST. The Executive Director should be selected from the broadest possible pool of candidates or by the commission itself.
- d. That the term adult in Section 32304 (b) (2) should be defined.
- e. That in Section 32304 (b) (4) may preclude peace officers for reckless driving. This would result if anyone who has ever been convicted of an offense for which he could be sentenced to imprisonment.
- f. That Section 32306 (a) require that funds to be deposited in a separate Bank account is inappropriate.
- g. That Section 32305 would require enormous expenditures from the government. There may be a large number of persons employed as peace officers by the various affected agencies that do not meet the requirements.

She recommended that more thoughts and consideration be given for this bill to become workable.

8. Mr. Thomas Tomarez, Acting Chief of Police, Port Authority of Guam, presented a short oral testimony in favor of Bill 156.

9. Mr. Martin Santos, Chief Probation Officer, Superior Court of Guam, presented oral testimony in favor of the intent in Bill 156 but with reservation and changes. His concern is with the minimum qualification for peace officers especially with respect to Probation Officers because most of his peace officers have no training in basic law enforcement and survival programs and the provision in Section 32307 whereby incumbent peace officers shall have only 24 months to be recertified is too short a period for all his peace officers to comply without adversely impacting their operation at the Superior Court of Guam.

10. Mr. Atanacio Diaz, Secretary for the Guam Community College Board of Trustees, presented a written testimony in favor and in support of Bill 156 but with amendments. He recommended to include the Guam Environmental Protection Agency in the list as enumerated in Section 32301 (b) and recommended their own list for membership under Section 32302 (a) as contained in their written testimony.

11. Mr. Gilbert E. Robles, Acting Executive Manager for the Guam Airport Authority, presented written testimony in support of Bill 156. He made four recommendations and they are:

- a) The classification and Pay Equity should be across the board government-wide because of the proposed standardization for all peace officers.
- b) Whether or not PL17-73 that requires a 120 hours course need be amended should this bill be enacted into law.
- c) Section 32304 (g) with reference to Termination as it relates to the Sunshine Law to require authorization from applicants to release information pertaining to their current or previous employment.
- d) Section 32304 (b) and (c) His concern is that the GIAA has 48 to 53 peace officers who would need recertification and have not had training. This is going to be very difficult and costly for GIAA to comply and should be given more time.

12. Col. Adolf P. Sgambelluri, represented himself and have presented written testimony in favor of Bill 156 but with some changes. His recommendations are:

- a) Section 32301 (b) - to add to the list the Guam Environmental Protection Agency.
- b) Section 32302 (a) - to restructure the composition of membership in the commission as contained in his written testimony. It will basically reduced the number from 15 to 9 numbers.
- c) Section 32303 on lines 21 & 22, page 4 to change the word "approval" to "concurrence" and the words "at the pleasure of the President of the Guam Community College" to "with the concurrence of the commission".
- d) Section 32303 (a) (2) to correct the courses stated to a Bachelor's Degree in Police Science, Criminal Justice Administration..... This will conform with other Law Enforcement mandates.

13. Senator Edwardo J. Cruz suggested that the Mayors, if they so chooses, can participate in POST programs. He also wants to change Section 32304 (f) with respect to peace officers who have been convicted for offenses such as rape, child and drug abuse, domestic misconduct, etc. shall be removed from employment and not just to be terminated.

Capt. Kabina stated that such action may conflict with other laws, rules and regulations with respect to the employment of government employees. It would be difficult to implement.

14. Senator Eduardo Cruz suggested that the commission should include Private Security Guards to participate in the POST program.

Capt. Kabina responded that it would be best to draft another legislation to establish Code of Standards for Private Enforcement Industries.

15. Senator Judith Won Pat-Borja stated that Section 32304 (6) line 7, page 6 should not preclude handicap persons to become peace officers. The requirements must not discriminate on Handicap persons.

16. Senator Mark C. Charfauros and Capt. Kabina both reiterated that peace officers must meet the agility and physical requirements for the protection of life and property as is expected by the community. They must be mentally capable to perform their duties as peace officers as may be required.

17. Senator John C. Salas was very adamant that ADA requirements are met and recommended to revisit the minimum requirement so that it does not discriminate with handicap applicants. He stated that the Department of Justice have issued citations against law enforcement agencies, municipal government, etc. They do have their constitutional rights guaranteed by the U.S. Constitution.

18. The Chairman, Senator Lawrence F. Kasperbauer, stated that we should not underestimate the strength and capability of persons with disability. He also wants the main sponsor of Bill 156, Senator Mark C. Charfauros, to know that there is an error on page 6 under Section 32304 (b) lines 3 and 7. There are two number 6 in the same subsection.

19. Senator Vicente C. Pangelinan wants to know whether or not POST should be administered by Guam Community College or should it become an independent entity similar to PUC as structured. Col. Sgambelluri responded by stating that he can start looking at that direction and it might be a better alternative.

20. The Chairman, Senator Lawrence F. Kasperbauer, commented that perhaps it is time to bring up the issue of Equal Pay across the board for peace officers because training for peace officers will be standardized as proposed by this bill.

21. Senator Vicente C. Pangelinan commented that peace officers may undergo a standardized training but their roles and duties may not be compatible government-wide. It is therefore appropriate to state special pay for certain positions rather than equal pay and Col. Sgambelluri agreed.

22. Senator Frank B. Aguon raised the issue as to the effectiveness of the structure as created by the Executive Order 96-16 and since the members of that commission are also here testifying that he would like for them to respond to his concerns. Capt. Kabina responded that the process is still on going and information are being compiled and sorted at this time. The structure is quite effective but needs funding resources and this is why they are here in support of Bill No. 156 so that the Legislature can support the commission with financial resources.

Findings and Recommendations:

The Committee on Education, to which was referred **Bill No. 156**: “AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICERS STANDARDS AND TRAINING COMMISSION (POST),” herein reports back with its recommendation **TO DO PASS Bill No. 156 as substituted by the Committee.**

COMMITTEE ON EDUCATION

TWENTY FOURTH GUAM LEGISLATURE

PUBLIC HEARING

Tuesday, April 15, 1997

2:00 P.M.

Handwritten notes:
~~for~~
~~and~~

WITNESS ATTENDANCE SHEET

BILL NO. 156

	NAME (PRINT)	SIGNATURE	TESTIMONY		AGENCY OR INTEREST GROUP	COMMENT	
			ORAL	WRITTEN		FOR	AGAINST
1.	Mike Kuhlmann	<i>[Signature]</i>	✓	✓	<i>Dept of Agr</i>	✓	✓
P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER			
2.	RALPH SAMBEL	<i>[Signature]</i>	✓	x	<i>Customs (Consentive serv not 10)</i>		✓
P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER			
3.	John N. Duff	<i>[Signature]</i>	✓	x	<i>Customs & Inspection</i>		
P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER			
4.	Clyde Sangat	<i>[Signature]</i>	✓		<i>MPC</i>		
P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER			

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for press

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 the 86 order - free or*

S.	NAME (PRINT)	SIGNATURE	TESTIMONY		AGENCY OR INTEREST GROUP	COMMENT	
			ORAL	WRITTEN		FOR	AGAINST
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		
5.	ED KABINA	<i>[Signature]</i>	-	-	GPD		W/MOD
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		
6.	Thomas Tamariz Tamariz	<i>[Signature]</i>	✓		PORT POLICE	(For) 777-5931	ext. 25X
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		
7.	MARTIN SANTOS	<i>[Signature]</i>		✓	Chief Probate Court		
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		
8.	P.T. DIAZ	<i>[Signature]</i>	✓	✓	EPC		472-6204
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		
9.	Ad STANLEY	2009 Azusa 96910		✓	Pth		472-7673
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		
10.							
	P.O. BOX or STREET ADDRESS		VILLAGE		TELEPHONE NUMBER		



**CARL T.C.
GUTIERREZ**
Governor of Guam

**MADELEINE Z.
BORDALLO**
Lieutenant Governor

Guam Police Department

Government of Guam

Bldg. No. 233, Central Avenue, Tiyan, Guam 96913
Tel: (671) 475-8473 (Switchboard) • (671) 475-8509/8512/8514
Fax: (671) 472-4036



**JACK S.
SHIMIZU**
Chief of Police

April 15, 1997

Honorable Lawrence F. Kasperbauer
Chairperson, Committee on Education
Twenty-Fourth Guam Legislature
155 Hesler Place
Agana, Guam 96910

Subject: **Bill No. 156 - AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION (POST)**

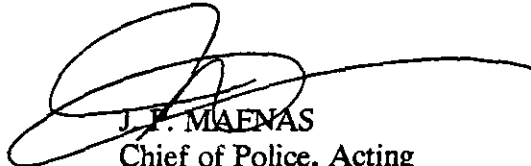
Dear Chairperson:

The men and women police officers of the Guam Police Department fully support professional standards for law enforcement. With the advent of multiple police agencies on Guam, we have already seen some disparity taking place relative to training and minimum qualifications for positions and promotions. We feel the need to ensure that the community receives quality police service, regardless of which police agency is providing the service. Additionally, Guam has grown significantly, not only in population, but in the diversity of that population. Law enforcement must be sensitive to the changing needs and expectations of the community and strive to be on the cutting edge of police technology.

The quest for standardized law enforcement can be achieved through the Peace Officer Standards and Training Commission (POST). Although the Guam Police Department whole-heartedly supports POST, we have submitted recommendations we feel are necessary to ensure the integrity of the very body that is charged with ensuring the integrity of Guam's total Police Force.

We join with the community in expressing our appreciation to you and the Committee for your interest and efforts relative to POST. We also appreciate the opportunity to provide testimony and recommendations on this very worthy undertaking.

Sincerely,


J.P. MAENAS
Chief of Police, Acting

ATTACHMENTS

Drug Free Guam Para Todos

Bill No. 156 - AN ACT TO ADD A NEW ARTICLE 3 TO CHAPTER 32 OF TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION (POST)

TESTIMONY RELATIVE TO AMENDMENTS/RECOMMENDATIONS PROPOSED BY THE GUAM POLICE DEPARTMENT

The Guam Police Department enthusiastically endorses the concept of a Peace Officer Standards and Training Commission (POST). Not only does the department endorse it, but it subscribes to the principles of standardization in the law enforcement profession. In keeping with a commitment to excellence, the Guam Police Department has been actively reviewing its own internal criteria for recruitment and advancement -- in the quest for professional and proficient police officers, as well as confident and competent police managers.

In reviewing Bill 156, we found the similarities to Bill 391, originally introduced in March 1996 by Senator Mark Charfauros, then Chairman of the Committee on Judiciary, Criminal Justice and Environmental Affairs during the Twenty-Third Legislature. It went under extensive review by various heads of island law enforcement agencies and/or their designee. Then, as now, there are areas that concern the Guam Police Department and the other law enforcement agencies. The concerns relative to verbiage, assigned authority and the proposed assignment of the commission under the auspices of an educational institution. We propose that the commission should be free of control by any one educational institution (as it may later pose a conflict). Additionally, the qualifications for the proposed "Executive Director" were too constricting and would preclude many commission members from selection/election to the post.

The law enforcement agencies subsequently met and brought their concerns to the table for discussion. This resulted in Executive Order 96-16 issued by Governor Carl T.C. Gutierrez and countersigned by Lieutenant Governor Madeleine Z. Bordallo. The Executive Order established the POST Commission. The issuance of Executive Order 96-16 was followed by the appointment of a Chairperson and members to the commission.

Since then, various members of the commission and the represented agencies have been coordinating with each other to address specific needs of each respective agency. Additionally, these agencies have been working with the Guam Community College relative to standardized training of law enforcement professionals.

We, the Guam Police Department and member agencies of the Commission, propose mirroring existing Executive Order 96-16 and allowing the Commission to continue its work and quest for standardization in law enforcement.

In reviewing proposed Bill No. 156, we find that it mirrors Executive Order 96-16 for the most part. However, relative to specific sections of the Bill, the Guam Police Department recommends the following.

1. Recommend replacing §32302(a) concerning the creation of the POST Commission under the Guam Community College's Professional-Technological Institute (Pro-Tech institute) to read as:

"(a) There is hereby created a Peace Officer Standards and Training Commission. The Commission shall be composed of the following members:"

2. Recommend adding to §32302(a), in addition to those members listed, add:

"(14) One representative from Guam Community College, appointed by the President of the Guam Community College;

(15) One (1) member from the clergy, designated by the Archbishop;

(16) One (1) member from the Mayor's Council, designated by the President of the Mayor's Council;

(17) One (1) member from the Legislature, appointed by the Speaker;

(18) One member of the Judiciary, designated by the Chief Justice of the Supreme Court."

4. Recommend replacing §32303(a)(1-3) concerning the Executive Director; appointment; powers and duties.- to read as:

"§32303 Chairperson of Commission. The Chairperson of the Commission shall be appointed by the Governor. The Chairperson shall hold office for a Two (2) year term and may serve Two (2) consecutive terms. The Chairperson's term shall expire sooner if and when the Chairperson is no longer occupying one of the positions designated as a requirement for membership in the Commission. The Chairperson shall perform the functions and duties as assigned by the Commission. The Chairperson shall be the executive officer and administrator of the Commission. The Chairperson shall report to the commission at regular meetings of the Commission and at other times required."

Discussion: Should the Commission choose, it may add to the qualification of the Chairperson. Consideration may also be given to appointment of the Chairperson by the Governor with confirmation by the Legislature, either as a whole or by the Committee on Judiciary, Criminal Justice and Environmental Affairs.

5. Recommend replacing references to the Executive Director under §32304 (relative to qualifications for employment as a peace officer) - to read as:

"the Commission"

6. Recommend replacing references to the Executive Director under §32306 (relative to the POST Fund) - to read as:

"the Chairperson"

7. Recommend amending §32307. **Effective Date.** - to read as:

"§32307. Effective Date. The Commission shall become operational immediately. Incumbent peace officers shall have Five (5) years from the date of the promulgation of rules and regulations as required by §32302(h)(3), to be POST certified."

8. As part of this proposed legislation, we recommend creation and inclusion of the following section to be inserted appropriately within the legislation either as part of an existing section or as an independent section. - to read as:

"Commission to make recommendations for salaries of peace officers.
The Commission shall review the salaries of all Peace Officer positions and forward their recommendations and supporting documentation to the Civil Service Commission and to the Governor every Two (2) years."

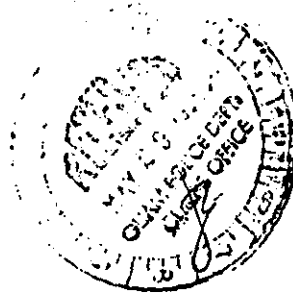
The Guam Police Department welcomes the opportunity to be an integral part of the development and implementation of this proposed legislation. Additionally, those member agencies of the Commission, as it exists today, should be actively involved and solicited. We also feel that the Chairperson and members of the Committee on Judiciary, Criminal Justice and Environmental Affairs be a part of this process. It is important to remember that the Commission is not restricted to activity dealing singularly with training, but deals with minimum qualifications (MQ's), selective factors and other criteria that deals with the livelihood of career law enforcement professionals.

We, as a community demand and deserve the very best in law enforcement service and should settle for nothing less. We, as law enforcement professionals should seek excellence, embrace opportunities for improvement and be intolerant of mediocrity in the law enforcement career field.

That being said, this legislation should not be so detailed and constrictive, that the Commission is left without the ability to set the cornerstone, establish the foundation and raise the POST edifice. The cornerstone was the concept, the Executive Order was the foundation and the proposed legislation is the continuation of the edifice construction.

Your attention is greatly appreciated and we look forward to working with you on this worthwhile endeavor.

Thank You.



TERRITORY OF GUAM
OFFICE OF THE GOVERNOR
AGAÑA, GUAM 96910
U.S.A.

EXECUTIVE ORDER NO. 96-16

**RELATIVE TO CREATION OF A PEACE OFFICER
STANDARDS AND TRAINING COMMISSION (POST), AND
ESTABLISHING A POST REVOLVING FUND.**

WHEREAS, Guam's law-enforcement community has not maintained a consistent standard of training by which all its officers, regardless of where employed, can be measured; and

WHEREAS, each law enforcement entity has established its own training requirements resulting in the uneven distribution of qualifications among Guam's peace officers; and

WHEREAS, the lack of standard training requirements for Guam's different peace officers makes it difficult for various law enforcement entities to cooperate and collaborate in the performance of basic law enforcement duties; and

WHEREAS, it is desirable to create and establish a Peace Officer Standards and Training (POST) Commission to develop minimum professional standards to serve as the basis for the uniform recruitment operation of Guam's law enforcement entities;

NOW, THEREFORE, I, CARL T. C. GUTIERREZ, Governor of Guam, by virtue of the authority vested in me by the Organic Act of Guam, as amended, and the laws of Guam, do order:

1. Terminology. For purposes of this Executive Order:

(a) "Commission" means the Peace Officer Standards and Training (POST) Commission;

(b) "Peace Officer" includes:

- (i) officers of the Guam Police Department;
- (ii) officers of the Guam Airport Police;
- (iii) officers of the Guam Port Authority Police;
- (iv) those employed by the Director of the Department of Corrections whom the Director specifically designates;
- (v) officers of the Customs and Quarantine Agency;
- (vi) Conservation Officers of the Division of Aquatic and Wildlife Resources;
- (vii) Territorial Park Patrol Officers of the Department of Parks and Recreation;



- (viii) Marshals of the Supreme Court of Guam and the Superior Court of Guam;
- (ix) persons employed by the Attorney General's office whom the Attorney General specifically designates; and
- (x) designated Parole and Probation officers of the territory;

2. Peace Officer Standards and Training (POST) Commission.

(a) **Creation.** There is created under the administrative cognizance of the Guam Police Department a Peace Officer Standards and Training Commission. The Commission shall be composed of the following members:

- (1) Chief of the Guam Police Department or designated representative;
- (2) Chief of the Guam Airport Police or designated representative;
- (3) Chief of the Guam Port Authority Police or designated representative;
- (4) Chief Marshal of the Supreme Court of Guam or designated representative;
- (5) Chief Marshal of the Superior Court of Guam or designated representative;
- (6) Attorney General or designated representative;
- (7) Director of Customs and Quarantine Agency or designated representative;
- (8) Director of the Department of Corrections or designated representative;
- (9) Superintendent of the Territorial Park Patrol Officers of the Department of Parks and Recreation or designated representative;
- (10) Chief of the Division of Aquatic and Wildlife Resources of the Department of Agriculture or designated representative;
- (11) Chief Probation Officer of the Superior Court of Guam or designated representative;
- (12) Two (2) persons at large, selected by the Commission;
- (13) One (1) member from the clergy, designated by the Archbishop;
- (14) One (1) member from the Mayor's Council, designated by the President of the Mayor's Council;
- (15) One (1) member from the Legislature, appointed by the Speaker;
- (16) One (1) member from the Judiciary, designated by the Chief Justice of the Supreme Court;
- (17) One (1) representative from Guam Community College, appointed by the President of the Guam Community College;
- (18) One (1) representative from University of Guam, appointed by the President of the University of Guam;

(b) **No Compensation.** Members of the Commission shall receive no compensation, but shall be reimbursed under §§23103 and 23104 of Title 5, Guam Code Annotated, for authorized travel and per diem expenses incurred in the performance of their duties. For purposes of compensation,



attendance at meetings of the Commission shall be deemed performance by a member of the duties of the local governmental employment.

(c) **Meetings.** The Commission shall hold at least Four (4) meetings per year.

(d) **Publication of procedures.** The Commission shall establish and publish its procedures.

(e) **Standards for certification and recertification of peace officers.** The Commission shall establish standards for certification of peace officers. Recertification, including a thorough background investigation, will be required of all POST certified peace officers within Three (3) years from the effective date of initial POST certification.

(f) **Establishing fees.** The Commission shall establish reasonable fees for the application and processing for the certification and recertification of peace officers.

(g) **Adoption of standards in cooperation with respective agencies.** The Commission, in coordination with respective agencies, shall establish:

- (1) Requirements concerning courses of study, attendance, equipment and facilities for peace officer training;
- (2) Qualifications for peace officer training instructors;
- (3) Basic training requirements for peace officers;
- (4) Core Curriculum for all designated programs;
- (5) Categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to the categories or classifications.

(i) **Duties of Commission.** The Commission shall:

- (1) Research and obtain studies, surveys, and reports regarding the purposes of this Executive Order;
- (2) Visit and inspect any local peace officer training program during any appropriate time;
- (3) Draft and adopt procedures to fully effectuate and carry out the purpose of this Executive Order, and forward to the Governor;
- (4) Prescribe reasonable minimum qualifications relating solely to physical, mental and moral fitness for persons recruited, appointed, or retained as peace officers by the territory;
- (5) Consult and cooperate with peace officer training academies for the development of the basic and advanced training programs for peace officers;
- (6) Consult and cooperate with the University of Guam, Guam Community College, and other institutions for the development of specialized courses of study in the territory for peace officers in the areas of police science, police administration, the social sciences, and other related areas;




- (7) Consult and cooperate with other departments and agencies concerned with peace officer training;
 - (8) Certify peace officers who have satisfactorily completed the basic training programs as outlined in this Executive Order and issue appropriate certificates to peace officers;
 - (9) Deny, suspend, or revoke certification of peace officers for substantial failure to comply with this Executive Order or the procedures of the Commission, subject to the procedures contained in the Administrative Adjudication Act.
 - (10) Certify instructors at approved peace officer training academies and issue appropriate certificates to instructors;
 - (11) Ensure the certification of all polygraph examiners and determine eligibility requirements for candidates for the positions of:
 - A) Chief of Police,
 - B) Chief Marshal, Supreme Court of Guam,
 - C) Chief Marshal, Superior Court of Guam,
 - D) Director of Corrections,
 - E) Chief of the Guam Airport Police,
 - F) Chief of the Port Authority Police,
 - G) Director of Customs and Quarantine Agency,
 - H) Superintendent of the Territorial Park Patrol Officers, and
 - I) Chief Probation Officer, Superior Court of Guam.
 - (12) Provide management survey and managerial assistance as requested by corrections and law enforcement agencies.
 - (13) Recommend legislation to the Governor, if any, which may be needed relative to any of the items in this Executive Order. Particularly, should any of the standards or basic training requirements established by the Commission be in conflict with existing laws, only those portions of the standards or training requirements which are consistent with existing laws shall be implemented until necessary changes in law are made.
- (j) Establishment of POST Account revolving fund. A revolving account, to be known as the "POST Account" is hereby established under the control of the Commission within the General Fund of the Guam Police Department. All contributions or other funds received by the Commission shall be paid into the POST Account and shall be used by the Commission to carry out its functions for administration, operations, training costs of Peace Officers, management surveys, research, and management assistance.
- (k) Commission to make recommendations for salaries of peace officers. The commission shall review the salaries of all Peace Officer positions and forward their recommendations and supporting documentation to the Civil Service Commission and to the Governor every Two (2) years;



3. **Chairperson of Commission.** The Chairperson of the Commission shall be appointed by the Governor. The Chairperson shall hold office for a Two (2) year term and may serve Two (2) consecutive terms. The Chairperson's term shall expire sooner if and when the Chairperson is no longer occupying one of the positions designated as a requirement for membership in the Commission. The Chairperson shall perform the functions and duties as assigned by the Commission. The Chairperson shall be the executive officer and administrator of the Commission. The Chairperson shall report to the commission at regular meetings of the commission and at other times as required.

4. **Time limit for officers to be POST certified.** Incumbent peace officers shall have Five (5) years from the date of the promulgation of the POST procedures as provided for herein to be POST certified.

SIGNED AND PROMULGATED at Agaña, Guam this 28th day of May, 1996.



CARL T. C. GUTIERREZ
Governor of Guam

COUNTERSIGNED:


MADELEINE Z. BORDALLO
Lieutenant Governor of Guam

**PEACE OFFICER STANDARDS AND TRAINING COMMISSION
EXECUTIVE ORDER NO. 96-16**

DEPARTMENT/AGENCY	NAME OR REPRESENTATIVE	ADDRESS	TELEPHONE NO.
Guam Police Department	Captain Edward Kabina Chairperson	P.O. Box 23909 GME, Guam 96921	475-8509/8512
Guam Airport Police	Lt. Adolfo P. Sgambelluri	P.O. Box 8770 Tamuning, Guam 96931	646-0300 thru 2
Guam Port Authority Police	Thomas Tamares	1026 Cabras Highway, Suite 201 Piti, Guam 96925	477-5931/2683
Supreme Court of Guam	Anthony P. Padua Chief of Security	Guam Judicial Center 120 West O'Brien Drive Agana, Guam 96910	475-3510/3220
Superior Court of Guam	Joseph M. Cruz Chief Marshal	Guam Judicial Center 120 West O'Brien Drive Agana, Guam 96910	475-3544
Attorney General's Office	David Camacho	Suite 2-200E Judicial Ctr. Bldg. Agana, Guam 96910	475-3324/3192

DEPARTMENT/AGENCY	NAME OR REPRESENTATIVE	ADDRESS	TELEPHONE NO.
Mayor's Council			
Guam Legislature	Sen. Elizabeth Barrett-Anderson	2nd Flr. Capitol Plaza Bldg. Suite 110 120 Father Duenas Ave. Agana, Guam 96910	472-3431/3
Judiciary (Chief Justice, Supreme Court)			
Guam Community College	Adolf P. Sgambelluri (Vice Pres., Special Projects & Program, GCC)	P.O. Box 23069 GMF, Guam 96921	735-5640 734-2424 (fax)
University of Guam			

DEPARTMENT/AGENCY	NAME OR REPRESENTATIVE	ADDRESS	TELEPHONE NO.
Customs & Quarantine	John Quinata	1501 Central Ave., Tiyan Barrigada, Guam 96913	475-6201/2
Department of Corrections	Captain Lawrence M. San Nicolas		
Territorial Park Patrol Office (Dept. of Parks & Recreation)	Dave Lotz	P.O. Box 2950 Agana, Guam 96910	475-6296
Aquatic & Wildlife Resources (Dept. of Agriculture)	Bob Anderson Chief of the Division of Aquatic & Wildlife Resources	Dept. of Agriculture 192 Dairy Road Mangilao, Guam 96923	
Chief Probation Officer Superior Court of Guam	Martin P. Santos Acting Chief Probation Officer	Guam Judicial Center 120 West O'Brien Drive Agana, Guam 96910	475-3544
Clergy (Archbishop)	Pale' (Father) Ray Cepeda	Santa Barbara Church 315 Santa Barbara Ave. Dededo, Guam 96912	632-5659/9534 477-3519 (fax)

TESTIMONY REGARDING BILL NO. 156LS, AN ACT TO ADD A NEW ARTICLE TO CHAPTER 32 OF TITLE 17, GCA, RELATIVE TO THE CREATION OF A PEACE OFFICER STANDARDS AND TRAINING COMMISSION (POST).

APR 10 1997

My name is Adolf P. Sgambelluri and I am here to testify in my personal capacity as a private citizen.

I am a retired United States Marine Corps Officer. I have also served in the Government of Guam in various capacities as the former Deputy Provost of Guam Community College, Director of the Department of Corrections and the Chief of Police, Guam Police Department. I am currently the Vice-President of Guam Community College, Special Programs/Projects and the Executive Director of GCC's Professional-Technological Institute having oversight of Law-enforcement training programs including that of the police.

For the record, I would like to state that I have long been a staunch proponent of the concept of a Peace Officer Standards and Training Commission or POST for our Island. As such I cannot thank enough the members of this Legislature who have put together and introduce this Bill and those who are participating in processing this proposal.

Over the years there have been discussions on how best to establish a system that would allow the various law-enforcement agencies to regulate themselves without necessarily subjecting themselves to the quicksands of politics. It is not only refreshing but also heartening to see that this august body, the 24th Guam Legislature, is taking the lead in this matter. As such, to all of you I extend my personal congratulations and thanks for this initiative. An entity such as POST is needed and it is needed now. I hope that this Bill is enacted into law expeditiously because I am sure all those who have at heart the welfare of this community will support it.

I would like to, however, recommend some changes which will enhance the effectiveness of this measure. My recommendations are as follows:

Section 32301 (b)

Legislature should consider including Guam Environmental Protection Agency's enforcement personnel in the definition of Peace Officer.

Additionally, Police Reserves should also be included in this sub-section.

Section 32302 (a)

I believe in the basic precept that a managing body, such as this POST Commission, must also be manageable. Then only can it be truly focused and productive. One major drawback of a large group is the preponderance of multiple personal agendas which tend to dilute the body's effectiveness.

Section 32302 (Continued)

On this basis I feel that the composition of the Commission as stated in this Bill is cumbersome and therefore I recommend that for it to be truly representative of and interactive with the Island community and the various law-enforcement entities the Commission will be better served with the following:

1. The Attorney General of Guam or his designated representative.
2. The Chief of Police, Guam Police Department or his designated representative.
3. The Chief Marshal of the Superior Court of Guam or his designated representative.
4. The Chief of Guam Airport Police or his designated representative.
5. The Director of the Department of Corrections or his designated representative.
6. Professor of Criminal Justice, Guam Community College or his designated representative.
7. Professor of Criminal Justice, University of Guam or his designated representative.
8. Representative Mayor from the Mayors Council or his designated representative.
9. Representative of the Private Sector/Guam Chamber of Commerce or his designated representative.

Section 32303

Next I would like to direct your attention to the provisions of this section dealing with the appointment, powers and duties of the Executive Director. I suggest a modification in so far the Executive Director shall be appointed by the President of the Guam Community College with the concurrence, not approval but concurrence, of the Commission. The Executive Director shall, also, hold this office with the concurrence of the Commission, not at the pleasure of the President of the Guam Community College.

The qualifications of the Executive Director should include stipulations of his having "an unblemished personal record". Additionally, any person with a record of administrative pardon of a conviction either in the military or civilian life should not be eligible. These qualifications including no record of domestic violence or any other convictions should apply equally to all commission members.

The Executive Director's qualifications should also include a bachelor's degree in Police Science, Criminal Justice Administration or closely related field or discipline at an accredited institution and graduation from a recognized enforcement management training institution. This will be in line with other law-enforcement mandates currently under consideration by this legislature. Of course a Background Investigation of all members would be most appropriate.

In conclusion, please allow me to once again thank you for giving me this opportunity to testify. I would like to state that this measure is a most welcome legislation and an opportunity for this community to set standards that the rest of this region can look up to and emulate. You can be sure that the succeeding generations will thank you for the step you are taking today. You have my whole-hearted support of this Bill.


A.P. SGAMBELLURI



A.B. Won Pat

(ATURIDAT PUETTON BATKON AIREN GUAHAN INTENACIONAT)
GUAM INTERNATIONAL AIRPORT AUTHORITY

April 15, 1997

Senator Larry Kasperbauer, PhD
Chairman, Committee on Education
Twenty Fourth Guam Legislature
215-A Chalan Santo Papa, Suite 106-F
Agana, Guam 96910

RE: Bill 156 Testimony

Dear Senator Kasperbauer:

It is a privilege to submit this testimony in favor of Bill 156, with certain issues raised as a result of its proposal.

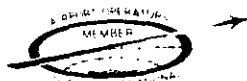
We regret being unable to present this testimony at today's Public Hearing as a result of prior commitments, however, remain available should further issues be raised.

Thank you for your kind attention.


GILBERT E. ROBLES

Attachment

P.O. Box 8770, Tamuning, GU 96931, Tel: (671)646-0300 thru 0302, Fax: (671)646-8823



TESTIMONY SUBMITTED BY

***A.B. Won Pat Guam International Airport Authority
Bill 156LS - Relative to the Creation of a Peace Officer Standards and Training
Commission (POST)***


Hafa Adai Senators and Members of the Committee on Judiciary, Public Safety and Consumer Protection.

I am Gilbert E. Robles, Acting Executive Manager of the A.B. Won Pat Guam International Airport Authority (GIAA), and I am pleased to submit this testimony in support of Bill 156LS.

The Authority supports the underlying intent of the Bill to establish standards for peace officers, however several issues are raised as a result of this proposal:

1. **Classification and Pay Equity:** If the intent of the Bill is to equalize all peace officer standards and qualifications, is it also the intent of the Bill to acknowledge this across-the-board equality with pay equity? At the present, Airport Police Officers are one grade below that of Guam Police Department.
2. **Waiver of Basic Peace Officer Training Program:** This recognizes that comparable training programs exist, and is a positive step towards the broadening of the peace officer candidate pool. Does this also, however, mean that Public Law 17-73 covering the 120-hour course needs to be rescinded or amended?
3. **Section 32304 (g) re Termination.** If the Sunshine Law applies to information on peace officer records, authorization should be required from applicants to release all information pertaining to their current/previous employer.
4. **Section 32305 re 10 Year Grandfathering of Existing Officers:** Must all peace officers without 10 years tenure comply with the POST training standards? What costs may be associated with agencies having to have their employees tested and perhaps trained once again? Could consideration be given to grandfathering all existing peace officers? For your information, 48 of 53 officers with the GIAA would have to undergo training to comply.

We strongly support the establishment of these standards and are prepared to participate fully in their definition, promulgation and implementation.



GILBERT E. ROBLES
Executive Manager, Acting



GUAM COMMUNITY COLLEGE

Kolehon Kumunidat Guahan
Accredited by the
Western Association of
Schools and Colleges

TESTIMONY
BILL #156
April 15, 1997

**An Act To Add A New Article 3 To Chapter 32 of Title 17, Guam Code Annotated,
Relative To The Creation Of A Peace Officer Standards And
Training Commission (POST).**

Good afternoon Chairman Kasperbauer and members of the Committee on Education. I am Jose T. Munoz, Acting Chairman of the Guam Community College Board of Trustees.

The Guam Community College Board of Trustees wholeheartedly supports the concept of Bill 156. We believe, however, that the following changes are needed to strengthen the Bill.

SECTION 32301

The Legislature should consider including Guam Environmental Protection Agency enforcement personnel in the definition of Peace Officer.

SECTION 32302 (a)

The composition of the Commission as stated in this Bill appears to be cumbersome and the Commission membership is too large. For it to be productive, as well as truly representative of and interactive with the community and law-enforcement entities, the Commission will be better served by the following:

1. The Attorney General of Guam or designated representative.
2. The Chief of Police, Guam Police Department or designated representative.
3. The Chief Marshal of the Superior Court of Guam or designated representative.
4. The Chief of Guam Airport Police or designated representative.
5. The Director of the Department of Corrections or designated representative.
6. Professor Criminal Justice, Guam Community College or designated representative.
7. Professor of Criminal Justice, University of Guam or designated representative.
8. Mayor from the Mayors Council or designated representative.
9. Representative from the Guam Chamber of Commerce.

I hope you find these suggestions useful and I thank you for giving Guam Community College an opportunity to comment on Bill 156. Thank you.



COMMONWEALTH NOW!



GOVERNMENT OF GUAM
AGANA, GUAM 96910

April 14, 1997

Memorandum (Intra-Office)

To: Attorney General *[Signature]* 4/15/97

Via: Solicitor *[Signature]*
Chief Deputy Attorney General

From: Assistant Attorney General

Subject: Bill 156 LS

Hafa Adai!

I have been asked to review and comment on Bill 156 LS which will create a Police Officer Standards and Training Commission, often referred to as POST. This is a reintroduction of a bill prepared last session by Senator Charfauros. When it was proposed last year this bill had a large number of problems which I addressed in a memorandum prepared at that time.

This bill, although similar to the previous bill, has removed many of the more objectionable provisions such as the removal of the agencies and the Civil Service Commission from the disciplinary process where a peace officer is involved. With that removal the current bill creates a POST which much more closely resembles the POST commissions found in many of the other states. However, it still contains a number of provisions which are objectionable at best and, most often, unworkable.

Probably the most objectionable goal of the POST is that it gives a huge amount of power to a single body to control the education and training for all peace officers in the territory. It creates a largely autonomous agency that would control the peace officers in line agencies, the autonomous agencies and the court system. No other government of Guam body has such far reaching authority. There is also the issue of whether an agency which, no matter how you look at it, is a part of the executive branch, could or should have any authority over a part of the court system. As it is proposed the POST would have the authority to determine what qualifications Superior Court Marshals should possess and whether they have indeed achieved them.



Commonwealth Now!

The next issue is whether it is desirable to have an educational institution in charge of the quality of law enforcement for the territory. The POST is not an independent commission and the agencies who are affected by it have little opportunity for input into the system that will control the certification of their peace officer employees. The appointment of the Executive Director is exclusively in the hands of the President of Guam Community College and serves at his or her pleasure. Also, in reviewing the proposed qualifications for the Executive Director, there are very few persons on the island who can meet them.

(It appears that there may be only one person who qualifies for the position) There also appears to be a conflict of interest in this area of the bill. According to the bill, the Executive Director is appointed by the President of Guam Community College which also happens to be the same educational institution which provides the majority of law enforcement training for the various law enforcement agencies being regulated by the POST. If there is to be a POST, the Executive Director should be selected from the broadest possible pool of candidates by either the Governor or, at least by the commission itself but certainly not by the head of the body who is to be regulated by the Commission.

There are also many other areas that would need to be addressed to have an effective bill. Some of these are as follows;

1. There needs to be a definition of the term "adult" in §32304(b)(2).
2. Are we sure that we want to preclude someone from becoming a peace officer for having been convicted of Reckless Driving. That would be the result if we preclude any one who has ever been convicted of an offense for which he could be sentenced to imprisonment.
3. The bill effectively eliminates the participation of DOA from the selection process for peace officers within the Executive branch, instead placing it predominately with the POST with some minor input from the hiring agencies.
4. The bill intends to establish a separate POST account for funds which may come into its possession. This alone is not a problem. The problem arises in that it requires that the account be kept in a separate BANK account. This is inappropriate.

Finally, the bill would require enormous expenditures from the government coffers if passed. According to §32305, any person who has been employed as a peace officer on a permanent basis for ten consecutive years prior to January 1, 1997, shall be certified as a peace officer without having to comply with the requirements. However, §32307 requires all other incumbent peace officers to be certified by POST within twenty-four months of the promulgation of the rules and regulations. Although §32304(e) states that the Commission may waive the basic program and certify persons who can show that he or she has completed a program which, in the commission's opinion, is comparable to

Intra-Office Memo to Atty. Gen.
April 14, 1997
Page 3

that required by POST, there are likely to be a large number of persons employed as peace officers by the various affected agencies that do not meet the requirement of having attended a comparable program and would require retraining within twenty-four months. This could place an enormous financial and personnel burden on agencies that are already operating on shoestring budgets and with severely reduced personnel strength.

All in all, although the concept of having a POST remains a good one, this bill does not appear to present a workable solution as it is drafted. More thought and consideration of the needs of Guam's law enforcement community need to go into the formation of a POST for Guam.



DIANNE H. CORBETT

bill156
DHC/lzl

DEPARTMENT OF LAW



Carl T.C. Gutierrez
Maga'låhi
Governor

Madeleine Z. Bordallo
Tinfiante Gubetradora
Lieutenant Governor

Ufisinan Hiniråt Abugao
Tiritorian Guåhan

Calvin E. Holloway, Sr.
Hiniråt Abugao
Attorney General

Gus F. Diaz
Atkådi, Sigundo Hiniråt Abugao
Chief Deputy Attorney General

OFFICE OF THE ATTORNEY GENERAL
Territory of Guam

April 15, 1997

The Honorable Lawrence F. Kasperbauer, Ph.D.
Chairman, Committee on Education
Twenty-Fourth Guam Legislature
215-A Chalan Santo Papa, Suite 106-F
Ada's Commercial & Professional Center
Agana, Guam 96910

Re: Proposed Bill No. 156

Dear Senator Kasperbauer:

Buenas yan Hafa Adai!

This is in response to your letter dated April 8, 1997, concerning the proposed Bill No. 156.

I have requested the Deputies of our Prosecution, Civil, Family, Solicitors, and Compilers Division to review subject bill and provide me their comments.

I have attached the comments of our leading law enforcement legal advisor and strongly recommend that her comments guide you in the consideration of Bill 156. We believe the intent of the bill is good and has the effect of standardizing peace officer requirements. However, there are some serious concerns which must be addressed as outlined in the attached memorandum. In addition, we recommend that the commission members nominate and elect the Executive Director, instead of the President of the Guam Community College. Also, the primary responsibility for law enforcement education should be a collaborative effort between the Guam Community College and the University of Guam. It should not be restricted to the Guam Community College.

Further, there is concern regarding Section 32304(b)(6). There is concern that each prospective peace officer applicant would have to provide certification from a physician and psychiatrist before they can be designated as a peace officer. Who bears the cost?



Commonwealth Now!

Judicial Center Building • 120 West O'Brien Drive • Suite 2-200E • Agana • Guam • 96910
Tel: (671) 473-3524 • Fax: (671) 472-2493 • E-Mail: lawo@ms.gov.gu

Letter to Senator Kasperbauer

April 15, 1997

Page 2

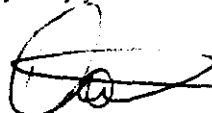
Finally, we understand that the Governor of Guam established by Executive Order nearly two years ago a P.O.S.T. working committee of the Chiefs, Heads, and supervisors of various law enforcement agencies, divisions and sections to develop and implement police officer training standards. It would be prudent to consult with that particular body or committee to ascertain whether their efforts need to be supplanted or supplemented by the commission as proposed in Bill No. 156.

Thank you for providing us an opportunity to provide written testimony on this important issue.

If you have any questions, please let us know.

Dãngkolo Na Agradesimiento - Thank You Very Much!

Very truly yours,



CALVIN E. HOLLOWAY, SR.

Attorney General

Attachment

cc: Solicitor's Division
Prosecution Division
Civil Division
Family Division

**TESTIMONY OF JOHN M. QUINATA
DIRECTOR OF CUSTOMS**

Good ^{Afternoon} ~~morning~~ Mr. Chairman and distinguished members of this committee,... my name's John M. Quinata,... Director of Customs,... and I'd like to thank you for giving me this opportunity to comment on bill 156,... an act to create a Peace Officer Standards and Training Commission, .. otherwise known as POST.

As a member of this community,... and now Director of a law enforcement entity,... I have come to appreciate the need to improve our public safety programs,... and to establish uniformed standards by which all our peace officers can be guided. Unlike before,... our community has become more diversified,... and has attained a level of social maturity comparable to other metropolitan cities in our nation. Because of this,... the challenges we face in the law enforcement field have also become more complex,... and made it that much more important for us to incorporate law enforcement standards comparable to our federal counterparts.

Bill 156 is definitely a step in the right direction,... and will help establish the foundation by which we can achieve more uniformity... and professionalism... in our local law enforcement programs. Although this bill does provide many standards we envision,... there are some areas which could be reviewed further,... and perhaps be improved upon.

For instance, under section 32302, the commission will fall under the auspices of the Guam Community College's Professional Technological Institute,... whereby the Executive Director of the commission is appointed by the President of the GCC. It is my understanding that this body will be comprised of professional leaders in our community... with extensive backgrounds in the field of law enforcement,... program administration, and personnel management. Rather than this commission being overseen by GCC,... I firmly believe that any member from this body is fully capable of having oversight over the commission,... and by virtue of their background,... are fully capable of leading this body in a direction that will best serve the People of Guam.

Similarly,... under section 32305,... peace officers are required to have ten (10) years of consecutive law enforcement service prior to January 1, 1997 in order to remain a peace officer under this section. I believe that this requirement is too restrictive,... and may actually work contrary to its objective. For example,... officers who have served in the field of law enforcement for the past 18 years,... but left the service for a few months due to unforeseen emergency circumstances,... will no longer qualify as a peace officer under this section. Likewise,... officers who served for the past 9 years - eleven months,... will not qualify either. These are only a few examples where personnel with numerous years of dedicated service will no longer meet the qualifications as a peace officer,... and will be a reality that the commission will face if this provision is not reviewed further.

Other areas include inconsistencies with EEO standards,... ethics standards,... and other laws which guide government employment and law enforcement personnel. These areas need,... and can, ... be improved. I suggest that the proposed commission members be given an opportunity to work with you to identify and correct problematic areas,... and perhaps obtain additional insight from a professional and career law enforcement standpoint. I strongly believe that with this combination,... we can develop a program which will best serve the interests of both the law enforcement community,... and the People of Guam.

Thank you for your kind attention, and I will be please to answer any questions you might have.



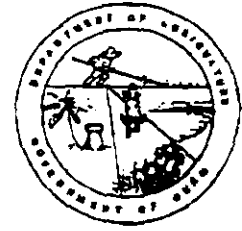
Carl T. C. Gutierrez
Governor

Madeleine Z. Bordallo
Lt. Governor

Department of Agriculture Dipattamenton Agrikottura

192 Dairy Road, Mangilao, Guam 96923

Director's Office	734-3942/43; Fax 734-6569
Agricultural Dev. Svs.	734-3946/47; Fax 734-8096
Animal Health	734-3940
Aquatic & Wildlife Resources	735-3955/56; Fax 734-6570
Forestry & Soil Resources	735-3949/50; Fax 734-0111
Plant Nursery	734-3949
Plant Protection & Quarantine	472-1651; 477-7822



Michael W. Kuhlmann
Director

Joseph G. Sablan
Deputy Director

TESTIMONY OF
MICHAEL W. KUHLMANN, DIRECTOR OF AGRICULTURE
BEFORE THE
COMMITTEE ON EDUCATION
APRIL 15, 1997

ON BILL NO. 156

MR. CHAIRMAN, thank you for this opportunity to offer testimony on Bill No. 156, legislation to enhance peace officer training. I am pleased to note that since this proposal was last considered publicly, during the 23rd Legislature, it has been amended to incorporate changes recommended by the Department of Agriculture.

The overall bill, however, remains fatally flawed if it is not substantially amended. It goes far beyond the laudable goals of the Legislative Findings of improving peace officer training. It infringes on the authority and responsibilities of the Governor or Legislature by determining the eligibility of candidates for the heads of peace officer agencies, and of the Civil Service Commission by empowering a commission and its executive director to discipline, even decertify, already-certified officers, effectively firing them. Sec. 32302(h)(5) allows denial, suspension or revocation of certification simply for not complying with commission rules.

Bill 156 would establish a peace officer czar, an executive director appointed by the Guam Community College president, with concurrence of commission members, many of whose eligibility to hold their jobs would be determined by the executive director. The executive director serves at the pleasure of the GCC president for an indefinite term. There is not even allowance for the commission to dismiss the executive director. In effect, the GCC president would be the ultimate influence on island law enforcement personnel.

An academic appointment is appropriate for a training program, but not for a position with the broad non-educational powers and authority of this executive director. If this is to be a training



program. keep it as such. Limit this legislation to education and training.

Sections 32304(h)(5) and (7) and Sec. 32304 should be deleted. An academic appointee at GOC should not have career life or death authority over hundreds of on-the-job peace officers, such as Agriculture's conservation officers. That's not education.

There also is a very expensive price tucked into 32302(g) and Sec. 32307. Hundreds of officers would be removed from duty for months at a time over 24 months for recertification training. Agencies would have to hire more personnel to maintain duty levels or leave the public unprotected. Additionally, the agencies with peace officers would have to transfer large amounts of funds to GOC for recertification training.

In sum, this bill's stated goals are laudable, but it goes far beyond the purported intent. Disguised as training improvement, it establishes a centralized peace officer power center, not even directly answerable to the Legislature or Governor. Officers would be more accountable to this executive director than their own agency heads. If a peace officer oversight commission is desired, it should be proposed and considered separately and openly, not piggy-backed on a training program.

Bill 156 should not be enacted as proposed. It should be amended to limit the scope strictly to the stated purpose.

Thank you.

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