



OFFICE OF THE GOVERNOR
GUAM

Refer to
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO

Date: July 1, 1999

Time: 10:20

Rec'd by: [Signature]

Print Name: vck

OS25/99-0198

JUL 01 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 234 (COR), "AN ACT TO COMPLY WITH P.L. NO. 25-03 BY REQUESTING LEGISLATIVE AUTHORIZATION FOR THE CREATION OF ONE (1) LEGAL SECRETARY I POSITION, ONE (1) LEGAL SECRETARY III POSITION AND ONE (1) ATTORNEY IV POSITION FOR THE PUBLIC DEFENDER SERVICE CORPORATION; FOR THE ASSOCIATED FUNDING FOR EACH POSITION; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR", which was enacted into law without the signature of the Governor. It is now designated as **Public Law No. 25-66**.

Very truly yours,

Madeleine Z. Bordallo
Madeleine Z. Bordallo
I Maga'lahaen Guåhan, Akto
Acting Governor of Guam

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<u>[Signature]</u>
Time	<u>3:25 pm</u>
Date	<u>7-1-99</u>

Attachment: copy attached for signed bill or overridden bill
 original attached for vetoed bill

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

00347

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session


CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 234 (COR), "AN ACT TO COMPLY WITH P.L. NO. 25-03 BY REQUESTING LEGISLATIVE AUTHORIZATION FOR THE CREATION OF ONE (1) LEGAL SECRETARY I POSITION, ONE (1) LEGAL SECRETARY III POSITION AND ONE (1) ATTORNEY IV POSITION FOR THE PUBLIC DEFENDER SERVICE CORPORATION; FOR THE ASSOCIATED FUNDING FOR EACH POSITION; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR," was on the 17th day of June, 1999, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 18th day of June, 1999,
at 5:50 o'clock P..M.



Assistant Staff Officer
Maga'laha's Office

APPROVED:

MADELEINE Z. BORDALLO

Akto I Maga'lahaen Guahan
Acting Governor of Guam

Date: July 1, 1999

Public Law No. 25-66

*Became law without the signature of
I Maga'lahaen Guahan, the Governor
of Guam.*

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 234 (COR)

As substituted by the
Committee on Judiciary, Public
Safety, Consumer Protection
and Human Resources
Development and further substituted
on the Floor and amended.

Introduced by:

Chairman, Committee on
Judiciary, Public Safety,
Consumer Protection and
Human Resource Development

J. C. Salas

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

Mark Forbes

L. F. Kasperbauer

A. C. Lamorena, V

C. A. Leon Guerrero

K. S. Moylan

V. C. Pangelinan

S. A. Sanchez, II

A. R. Unpingco

**AN ACT TO COMPLY WITH P.L. NO. 25-03 BY
REQUESTING LEGISLATIVE AUTHORIZATION
FOR THE CREATION OF ONE (1) LEGAL
SECRETARY I POSITION, ONE (1) LEGAL
SECRETARY III POSITION AND ONE (1)
ATTORNEY IV POSITION FOR THE PUBLIC**

DEFENDER SERVICE CORPORATION; FOR THE ASSOCIATED FUNDING FOR EACH POSITION; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guåhan's*

3 current fiscal policy has included a government wide hiring freeze and a
4 deletion of appropriations for vacated positions, as mandated by Public Law
5 Number 25-03. This policy has had an adverse effect on very small
6 organizations, such as the Public Defender Service Corporation ("PDSC") from
7 functioning effectively and properly as new personnel for deleted positions
8 are *not* authorized by law. These small organizations do *not* have the breadth
9 of personnel to rely upon in times of transition. To ensure that operations are
10 *not* adversely affected, *I Liheslaturan Guåhan* finds the need to authorize the
11 creation of one (1) Legal Secretary I position, one (1) Legal Secretary III
12 position and one (1) Attorney IV position for the PDSC.

13 *I Liheslaturan Guåhan* further finds that the PDSC has proven itself
14 fiscally responsible by operating within its budget, as evidenced by their
15 unexpended Fiscal Year 1998 balance. This tends to be an exception in the
16 government of Guam and *not* the norm. *However*, the PDSC is *not* allowed to
17 carry-over unexpended funds and utilize it for the following fiscal year. This
18 money instead reverts back to the General Fund and is sometimes used to
19 help feed the hemorrhaging of resources elsewhere in the government. It is
20 therefore the intent of *I Liheslaturan Guåhan* to authorize the PDSC to carry-

1 over the unexpended balance of each fiscal year budget to the following fiscal
2 year, beginning with the 1999 Fiscal Year.

3 Section 2. The appropriated funding and Full Time Equivalencies
4 ("FTE") for positions identified in §1 of this Act are hereby authorized and
5 created.

6 **SALARY AND BENEFITS.**

7 <u>TITLE OF POSITION</u>	<u>FEDERAL FUNDING</u>	<u>GENERAL FUND</u>
8 Legal Secretary I	\$0.00	\$6,435.00
9 Legal Secretary III	\$0.00	\$11,033.50
10 Attorney IV	\$0.00	\$24,548.25

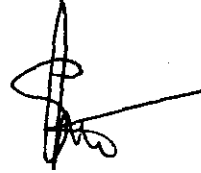
11 Section 3. The PDSC is hereby authorized to carry-over the
12 unexpended balance of each fiscal year budget to the following fiscal year,
13 beginning with the 1999 Fiscal Year.



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

COPY

June 18, 1999

 6/18/99

The Honorable Carl T.C. Gutierrez
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Substitute Bill Nos. 226(COR), 228(COR), 230(COR), 234(COR) and 235(COR) which were passed by *I Mina' Bente Singko Na Liheslaturan Guåhan* on June 17, 1999.

Sincerely,



JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (5)


MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUAHAN

This is to certify that Substitute Bill No. 234 (COR), "AN ACT TO COMPLY WITH P.L. NO. 25-03 BY REQUESTING LEGISLATIVE AUTHORIZATION FOR THE CREATION OF ONE (1) LEGAL SECRETARY I POSITION, ONE (1) LEGAL SECRETARY III POSITION AND ONE (1) ATTORNEY IV POSITION FOR THE PUBLIC DEFENDER SERVICE CORPORATION; FOR THE ASSOCIATED FUNDING FOR EACH POSITION; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR," was on the 17th day of June, 1999, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this 18th day of June, 1999,
at 9:50 o'clock P..M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 6/17/99

VOTING SHEET

Bill No. 234 (COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.	✓				
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

14 0 0 0 1

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

June 14, 1999
(DATE)

FILE

COPY

Memorandum

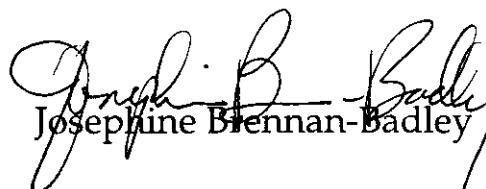
To: Senator JOHN C. SALAS

From: Clerk of the Legislature

Subject: Report on Bill No. 234 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 234 (COR), for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment

ACKNOWLEDGEMENT RECEIPT
Date: 6-14-99
Time: 1:30 PM
By: [Signature]



✓

COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

June 14, 1999

The Honorable Antonio R. Unpingco
Speaker
Mina' Bente Singko na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

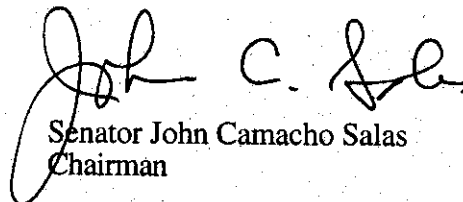
The Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development to which was referred Bill No. 234, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS** as substituted.

The Committee votes are as follows:

To Do Pass	<u>4</u>
Not To Pass	<u>0</u>
Abstain	<u>0</u>
Other (Off-Island)	<u>1</u>

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,



Senator John Camacho Salas
Chairman



SENATOR JOHN CAMACHO SALAS

CHAIRMAN

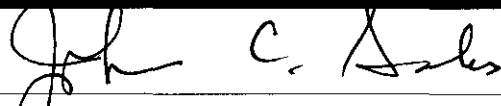


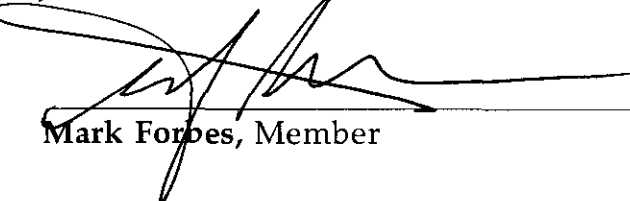
COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

BILL NUMBER 234

TITLE

AN ACT TO COMPLY WITH PUBLIC LAW 25-03 BY REQUESTING LEGISLATIVE AUTHORIZATION FOR THE RESTORATION OF ONE (1) LEGAL SECRETARY I POSITION AND ONE (1) LEGAL SECRETARY III POSITION, BOTH FOR THE PUBLIC DEFENDER SERVICE CORPORATION, AND THE ASSOCIATED FUNDING FOR EACH OF THOSE POSITIONS; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR, BEGINNING WITH THE UNEXPENDED BUDGET OF FY1999.

	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 John Camacho Salas, Chairman	<input checked="" type="checkbox"/>			
 Kaleo S. Moylan, Vice-Chairman	<input checked="" type="checkbox"/>			
Frank B. Aguon, Jr., Member				
 Joanne M.S. Brown, Member	<input checked="" type="checkbox"/>			
 Mark Forbes, Member	<input checked="" type="checkbox"/>			
Alberto C. Lamorena V, Member				
Carlotta A. Leon Guerrero, Member				
Antonio R. Unpingco, Ex-Officio				

Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Committee Report on Bill 234
Publicly Heard Saturday, June 12, 1999

Bill 234 An act to comply with Public Law 25-03 by requesting legislative authorization for the creation of one (1) Legal Secretary I position and one (1) Legal Secretary III position, both for the Public Defender Service Corporation, and the associated funding for each of those positions; and to authorize the Public Defender Service Corporation to carry over the unexpended balance of each fiscal year budget to the following fiscal year, beginning with the unexpended budget of FY1999.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Kaleo S. Moylan, Co-Chairman
- Senator Joanne M.S. Brown, Member
- Senator Vicente C. Pangelinan
- Senator Simon A. Sanchez, II

II. MAIN SPONSORS

Senator John C. Salas

III. SYNOPSIS

Bill 234 proposes to create positions vital to the Public Defenders Service Corporation (PDSC) that were deleted as a result of Public Law 25-03. Further, Bill 234 will allow the PDSC to carry over unexpended funds from FY1999 to FY2000 and every fiscal year thereafter. Currently, the PDSC is the only judicial entity that cannot carry over unexpended funds.

IV. TESTIMONY

Chairman Salas provided an overview of the bill, noting that the PDSC anticipated without the impact of P.L. 25-03 that it would lose 2 Legal Secretaries that were intending to retire as of this year, as well as other positions that will be vacant sometime in the year 2000. The PDSC Board passed a resolution authorizing the request for staff prior to the enactment of P.L. 25-03. When the Budget Act went into affect, the PDSC became dependent upon me and this Committee to create, not restore, these positions for the PDSC.

Chairman Salas noted that this is not a request for funding, but a request to be able to carry over about \$100,000 of excess funds from the previous fiscal year. Also, this bill will not require additional money from the General Fund, but rather allow them to apply the excess money for positions that were already budgeted.

Senator Brown noted that the Legislature will have to ask why they had \$100,000 in excess funds and if that money should be used for the PDSC. She and Chairman Salas noted that during the June Legislative Session, the body will go into the *Committee of the Whole* and at that time the PDSC will have to defend their request and justify the positions.

Chairman Salas noted that of the 12 attorneys in the PDSC, they are averaging 1,100 cases per attorney. This represents 70% of the caseload that is going through both the Superior and Supreme courts.

Chairman Salas noted that the bill will be amended as discussed and prepared for discussion by the *Committee of the Whole*.

V. COMMITTEE FINDINGS & RECOMMENDATION

The Committee recommends **TO DO PASS** Bill 234, as substituted.

**MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session**

Bill No. 234 (COR)

As substituted by the Committee on Judiciary,
Public Safety, Consumer Protection & Human Resources
Development

Introduced by:

J. C. Salas

**AN ACT TO COMPLY WITH PUBLIC LAW 25-03 BY
REQUESTING LEGISLATIVE AUTHORIZATION FOR
THE CREATION OF ONE (1) LEGAL SECRETARY I
POSITION AND ONE (1) LEGAL SECRETARY III
POSITION, BOTH FOR THE PUBLIC DEFENDER
SERVICE CORPORATION, AND THE ASSOCIATED
FUNDING FOR EACH OF THOSE POSITIONS; AND
TO AUTHORIZE THE PUBLIC DEFENDER SERVICE
CORPORATION TO CARRY OVER THE
UNEXPENDED BALANCE OF EACH FISCAL YEAR
BUDGET TO THE FOLLOWING FISCAL YEAR,
BEGINNING WITH THE UNEXPENDED BUDGET OF
FY1999.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guahan's*
3 *current fiscal policy has included a government wide hiring freeze and a*
4 *deletion of appropriations for vacated positions, as mandated by Public Law*
5 *25-03. This policy has had an adverse effect on very small organizations such*
6 *as the Public Defender Service Corporation (PDSC) from functioning*
7 *effectively and properly, as new personnel for deleted positions are not*
8 *authorized by law. These small organizations do not have the breadth of*

1 personnel to rely upon in times of transition. To ensure that operations are
2 not adversely affected, *I Liheslaturan Guahan* finds the need to authorize the
3 creation of one (1) Legal Secretary I position and one (1) Legal Secretary III
4 position for the PDSC.

5 *I Liheslaturan Guahan* further finds that the PDSC has proven itself
6 fiscally responsible by operating within its budget, as evidenced by their
7 unexpended FY1998 balance. This tends to be an exception in the government
8 of Guam and not the norm. However, the PDSC is not allowed to carry-over
9 unexpended funds and utilize it for the following fiscal year. This money
10 instead reverts back to the General Fund and is sometimes used to help feed
11 the hemorrhaging of resources elsewhere in the government. It is therefore
12 the intent of *I Liheslaturan Guahan* to authorize the PDSC to carry-over the
13 unexpended balance of each fiscal year budget to the following fiscal year,
14 beginning with the 1999 fiscal year.

15 **Section 2.** The appropriated funding and Full-Time Equivalencies
16 ('FTE') for positions identified in Section 1 of this Act are hereby authorized
17 and created.

18 **Section 3.** The PDSC is hereby authorized to carry-over the
19 unexpended balance of each fiscal year budget to the following fiscal year,
20 beginning with the 1999 fiscal year.




MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat

*Senadot Mark Forbes, Gehilu
Kabisiyon Mayuråt*

JUN 09 1999

MEMORANDUM

TO: Chairman
Committee on Judiciary, Public Safety, Consumer Protection
and Human Resources Development

FROM: Chairman 
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

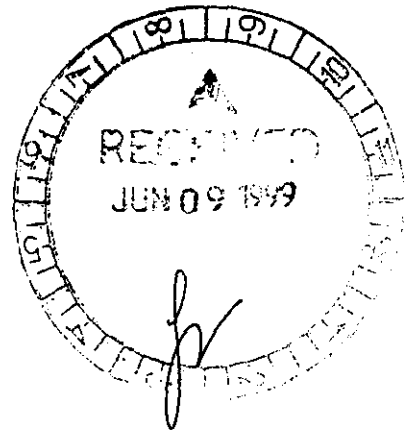
SUBJECT: Principal Referral – Bill No. 234

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment



Amended

JUN 09 1999

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

Bill No. 234 (COR)

Introduced by:

J. C. Salas *[Signature]*

AN ACT TO COMPLY WITH PUBLIC LAW 25-03 BY REQUESTING LEGISLATIVE AUTHORIZATION FOR THE RESTORATION OF ONE (1) LEGAL SECRETARY I POSITION AND ONE (1) LEGAL SECRETARY III POSITION, BOTH FOR THE PUBLIC DEFENDER SERVICE CORPORATION, AND THE ASSOCIATED FUNDING FOR EACH OF THOSE POSITIONS; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR, BEGINNING WITH THE UNEXPENDED BUDGET OF FY1999.

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan's* current fiscal policy has included a government wide hiring freeze and a repeal of appropriations for vacated positions, as mandated by Public Law 25-03. This policy has had an adverse effect on very small organizations such as the Public Defender Service Corporation (PDSC) from functioning effectively and properly, as replacement personnel for vacated positions are not authorized by law. These small organizations do not have the breadth and width of personnel to rely upon in times of transition. To ensure that operations are not adversely affected, *I Liheslaturan Guahan* finds the need

1 to authorize the restoration of one (1) Legal Secretary I position and one (1)
2 Legal Secretary III position for the PDSC.

3 *I Liheslaturan Guahan* further finds that the PDSC has proven itself
4 fiscally responsible by operating within its budget, as evidenced by their
5 unexpended FY1998 balance. This tends to be an exception in the government
6 of Guam and not the norm. However, the PDSC is not allowed to carry-over
7 unexpended funds and utilize it for the following fiscal year. This money
8 instead reverts back to the General Fund and is sometimes used to help feed
9 the hemorrhaging of resources elsewhere in the government. It is therefore
10 the intent of *I Liheslaturan Guahan* to authorize the PDSC to carry-over
11 unexpended balance of each fiscal year budget to the following fiscal year,
12 beginning with the 1999 fiscal year.

13 **Section 2.** The appropriated funding and Full-Time Equivalencies
14 ('FTE') for positions identified in Section 1 of this Act are hereby authorized
15 and created.

16 **Section 3.** The PDSC is hereby authorized to carry-over the
17 unexpended balance of each fiscal year budget to the following fiscal year,
18 beginning with the 1999 fiscal year.

TERRITORY OF GUAM

PUBLIC DEFENDER SERVICE CORPORATION)

Petitioner,

vs.

GOVERNOR RICARDO J. BORDALLO,
BUREAU OF BUDGET AND MANAGEMENT
RESEARCH, DORIS CAMINA, DEPARTMENT
OF ADMINISTRATION, FRANK BLAZ,

Respondents.

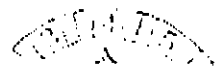
CIVIL CASE NO.
642-76

O P I N I O N

On July 20, 1976, Petitioner Public Defender Service Corporation filed a Complaint for Writ of Mandate, Mandatory Injunction and Alternative Writ.

Petitioner's complaint arose from the following facts. Petitioner's office was created by act of the Legislature, Public Law 13-51, approved by the Acting Governor on July 10, 1975. Funding for Petitioner's office was appropriated in P.L. 13-149 PART ONE Section 1(o)E in the amount of \$344,563.00. Pursuant to Executive Order, twenty per cent (20%) of Petitioner's funds were held in reserve and were not released to Petitioner. See Bureau of Budget and Management Research Circular No. 17-1.

The issue raised by Petitioner's Complaint is whether Respondent Governor Bordallo's order that funds be held in reserve is an authorized act as applied to Petitioner Public Defender Service Corporation. The principal question that must be answered in determining the Governor's authority in this case is whether Petitioner's office is a part of the Executive Branch or a part of the



IN THE SUPERIOR COURT OF GUAM
TERRITORY OF GUAM

FILED
SUPERIOR COURT
MAR 30 3 58 PM '77

PUBLIC DEFENDER SERVICE CORPORATION)

),
Petitioner,)

vs.)

CIVIL CASE NO.
642-76

GOVERNOR RICARDO J. BORDALLO,)
BUREAU OF BUDGET AND MANAGEMENT)
RESEARCH, DORIS CAMINA, DEPARTMENT)
OF ADMINISTRATION, FRANK BLAZ,)

),
Respondents.)

J U D G M E N T

Having this day issued an opinion in this matter, the Court hereby orders that Respondent Director of Administration immediately release to Petitioner Public Defender Service Corporation the total amount which was held in reserve by Respondents in allocating funds to Petitioner over the course of Fiscal Year 1977, said amount being 20% (twenty per cent) of Petitioner's Budget Appropriation and equalling \$68,913.00 (sixty-eight thousand, nine hundred and thirteen dollars).

There being no showing that injunctive relief is necessary to enforce Petitioner's rights, and there having been no prayer for preliminary injunction when parties appeared before the Court on August 12, 1976, no injunctive relief is ordered. As the issue was raised by the pleadings, Petitioner has leave to renew its claim.

Dated this 30 day of March, 1977.

RECEIVED
PUBLIC DEFENDER'S OFFICE
MAR 30 1977
4:15 P.M.

RICHARD H. BENSON, JUDGE
SUPERIOR COURT OF GUAM

Judicial Branch of the Government of Guam.

This Court finds that Petitioner Public Defender Service Corporation is a part of the Judiciary Branch. The finding is based on the following considerations:

1. The affidavits of eleven (11) senators of the Thirteenth Guam Legislature that they intended that the Public Defender Service Corporation be a part of the Judiciary Branch are persuasive authority that this was indeed the legislative intent of P.L. 13-51.

2. In P.L. 13-149, Petitioner's budget appropriation was included in the sub-section which allocated funds to the Supreme Court and the other portions of the Judiciary Branch. P.L. 13-149 PART ONE, Section 1(c).

3. Under P.L. 13-51 Section 60012(a), Petitioner's funds are administered through the General Administrative Services of the Judiciary Branch.

4. Petitioner's function is to represent persons who are deemed by the Courts to be financially unable to hire private counsel. Appointment of counsel for indigents is an inherent power of the Judiciary. Petitioner's office is a very necessary part of the sound administration of the Courts, and as such its function is essential to the Judiciary branch. See People v. Mullins 532 P 2d 736, 739 (Colo. S. Ct., 1975).

5. Although P.L. 13-51 provides that Title V of the Government Code of Guam will serve as the guideline for Petitioner's Director in personnel matters, Petitioner's employees have never been classified or processed as civil service employees and are treated by the personnel office as being under the jurisdiction of the Judicial Council.

Having found that Petitioner is a part of the Judiciary Branch of the Government of Guam, the Court holds that it is a violation of the doctrine of separation of



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

PUBLIC HEARING AGENDA
LEGISLATURE'S PUBLIC HEARING ROOM

Saturday, June 12, 1999, 9:00 a.m.

Confirmation of Eustaquio A. Punzalan, Member, Guam Parole Board for a 4 year term ending April 18, 2003.

Bill 150 An act to amend §§7116, 7118 and 7125, and to add new §§7118.1 and 7118.2, all to Title 22, GCA, relative to empowering Department of Labor to detain illegal alien contract workers, and to provide penalties and fines for employment of illegal aliens. *Senator Vicente C. Pangelinan.*

Bill 174 An act to add new §3112 to Chapter 2 of Title 7, Guam Code Annotated, relative to creating an Office of the Public Guardian. *Senator Vicente C. Pangelinan, Senator Simon A. Sanchez II.*

Bill 210 An act to appropriate \$500,000 from money returned by the Supreme Court of Guam to the Guam Police Department to interdict smuggling. *Senator Mark Forbes.*

Bill 234 An act to comply with Public Paw 25-03 by requesting legislative authorization for the restoration of one (1) Legal Secretary I position and one (1) Legal Secretary III position, both for the Public Defender Service Corporation, and the associated funding for each of those positions; and to authorize the Public Defender Service Corporation to carry over the unexpended balance of each fiscal year budget to the following fiscal year, beginning with the unexpended budget of FY1999.

Introduced

JUN 09 1999

MINA BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

Bill No. 234 (COR)

Introduced by:

J. C. Salas *Salas*

AN ACT TO COMPLY WITH PUBLIC LAW 25-03 BY REQUESTING LEGISLATIVE AUTHORIZATION FOR THE RESTORATION OF ONE (1) LEGAL SECRETARY I POSITION AND ONE (1) LEGAL SECRETARY III POSITION, BOTH FOR THE PUBLIC DEFENDER SERVICE CORPORATION, AND THE ASSOCIATED FUNDING FOR EACH OF THOSE POSITIONS; AND TO AUTHORIZE THE PUBLIC DEFENDER SERVICE CORPORATION TO CARRY OVER THE UNEXPENDED BALANCE OF EACH FISCAL YEAR BUDGET TO THE FOLLOWING FISCAL YEAR, BEGINNING WITH THE UNEXPENDED BUDGET OF FY1999.

1 BE IT ENACTED BY THE PEOPLE OF GUAM:

2 Section 1. Legislative Findings and Intent. *I Liheslaturan Guahan's*
3 current fiscal policy has included a government wide hiring freeze and a
4 repeal of appropriations for vacated positions, as mandated by Public Law
5 25-03. This policy has had an adverse effect on very small organizations such
6 as the Public Defender Service Corporation (PDSC) from functioning
7 effectively and properly, as replacement personnel for vacated positions are
8 not authorized by law. These small organizations do not have the breadth
9 and width of personnel to rely upon in times of transition. To ensure that
10 operations are not adversely affected, *I Liheslaturan Guahan* finds the need