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Hon. Judith T. Won Pat
Speaker
I Mina' Trenta Na Liheslaturan Guahan
155 Hesler Place
Hagatna, Guam 96910

Ref: LEG 09-0892

RE: Pay Increase for Public Safety and Law Enforcement Officers

Dear Speaker Won Pat:

Pursuant to Public Law 30-55:XIII:21, the Fiscal Year 2010 Budget Act, we submit our findings regarding the pay increases for public safety and law enforcement officers of the Government of Guam, mandated by Public Law 29-105.

First enacted in 2006, 10 G.C.A. §55102 required the Department of Administration to perform a study regarding the compensation of certain public safety and law enforcement officers of the Government of Guam. In 2008, *I Liheslatura* enacted Public Law 29-105, the relevant portion of which added a new subsection (e) to Section 55102 to read:

(e) Compensation...*shall* be increased by forty percent (40%) over a four (4) year period. Effective October 1, 2008, compensation...*shall* be increased by forty percent (40%) to be implemented so that the increase *shall* be *no less than* ten percent (10%) on October 1, 2008, *no less than* the aggregate of twenty percent (20%) on October 1, 2009, *no less than* the aggregate of thirty percent (30%) on October 1, 2010, with the aggregate final increase to *not exceed* forty percent (40%),...by October 1, 2011...Each percentage increase *shall* be based on rates of compensation on September 30, 2008....

The Department of Administration implemented the first ten percent pay increase. Section 21 of Chapter XIII of the Fiscal Year 2010 Budget Act, [see p. 167], directed the Office of the Attorney General to submit its findings as to whether the Department of Administration was properly implementing the required annual ten percent pay increases. Based on this Office's legal review and analysis, and on information provided by the Department of Administration, the Department of Administration has complied with Public Law 29-105.

It is the position of the Department of Administration that Public Law 29-105 created a new and separate pay scale for public safety and law enforcement officers of the Government of Guam. Thus, it treated the ten percent pay increases mandated by Section 55102(e) as increases to the public safety and law enforcement officers' base salaries, as affixed by grade and step. This new pay scale applies to public safety and law enforcement officers named in Section 55102(a), and to no other employees.

Thus, a public safety and law enforcement officer covered by Section 55102 received an automatic ten percent pay increase on October 1, 2008. If he then became eligible for an annual increment during Fiscal Year 2009, he received that as well. Then, on October 1, 2009, he will receive another ten percent pay increase.

For example, a public safety and law enforcement officer at grade and step J-01 before September 30, 2008, was receiving \$22,942.00 per annum. On October 1, 2008, his salary automatically increased to \$25,236.20. [$\$22,942 \times 1.1 = \$25,236.20$]. If he received an annual increment to grade and step J-02 during Fiscal Year 2009 on February 1, 2009, his pay would increase to \$26,813.60 on that day. On October 1, 2009, however, his pay would again increase by ten percent.

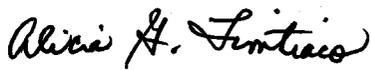
Public Law 29-105 mandates increases in pay grades and steps, and not just increases in salary based on a public safety and law enforcement officer's salary as of September 30, 2008.

A different method would create onerously difficult and time consuming calculations for the Department of Administration. It would also put every public safety and law enforcement officer on his own pay scale because every ten percent pay increase, with annual increments taken into consideration, would be different for every officer. There would be no consistency in public safety and law enforcement officer salaries. If the ten percent pay increases are made to each pay grade and step, however, consistency among the officers will be maintained. As Section 55102 mandates, the new salaries are to be applied "across the board" to all public safety and law enforcement officers of the Government of Guam.

An alternate interpretation of Section 55102 would create another problem. Section 55102 raises salaries only for public safety and law enforcement officers working as of September 30, 2008. If a new officer joined government service on or after October 1, 2008, he would not receive the pay increase at all under any interpretation other than that used by the Department of Administration. However, if we accept that Section 55102(e) increased the pay for grade and step levels for all public safety and law enforcement officer positions, the new recruits would also receive the increases in pay. Section 55102 states explicitly that the intent of the law was to assist public safety and law enforcement agencies to "recruit and retain" personnel. Placing new officers on a significantly lower pay scale than officers already on the force will not serve that purpose.

The Department of Administration has advised this Office that the same methodology was utilized by the Department of Administration in previous years when the law increased salaries of nurses and teachers with the Government of Guam. It is in keeping with the merit system to reward employees on an annual basis for good performance and to maintain equal salaries for comparable work. The Department of Administration has treated all public safety and law enforcement officers within its purview in a consistent manner, thus ensuring fairness throughout the Government of Guam.

Sincerely,


ALICIA G. LIMTIACO
Attorney General

cc: Department of Administration