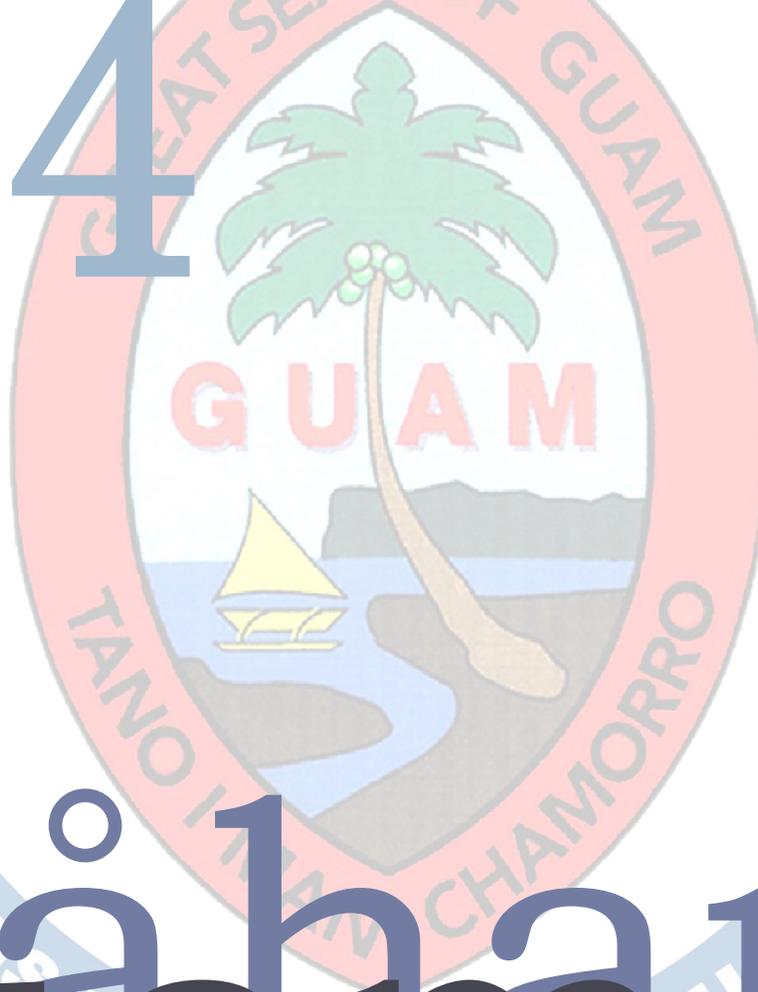


Office of The Attorney General • Ufisinan Hinirát Abugao

Annual Report

2014



Guañan

Hafa Adai Guam,

On behalf of former Attorney General Leonardo Rapadas and myself, I am pleased to present to you the 2014 Annual Report of the Office of the Attorney General. The efforts and hard work of the employees of the Office are reflected in this Report, highlighting some of the accomplishments of General Rapadas during his tenure as Attorney General of Guam from 2011-2014.

I hope you find this Report informative and helpful in understanding the tremendous responsibilities of the Office to protect the public interest, ensure safety and welfare of our island residents, and to fight for the rights of children, victims and consumers.



Elizabeth Barrett-Anderson
Attorney General of Guam 2015



Leonardo M. Rapadas
Attorney General of Guam 2011-2014

Our Mission:

To enforce Guam's laws fairly and impartially, ensuring justice and safety for all residents and provide legal advice and representation of the highest quality to agencies, officers and employees of the Government of Guam.

In 2014, the Office of the Attorney General staffed 183 employees who served the Government and People of Guam through five divisions: Administration, Child Support Enforcement, Civil Litigation/Solicitors, Family/Juvenile, and Prosecution. There are a number of functioning units within the five divisions that work to support the daily operations of the Office. These include, but are not limited to, the Criminal Investigative Unit, the Consumer Complaint Unit, the Notary Unit and the Victim Witness Ayuda Services (VWAS) advocates who aid crime victims and their families through the judicial process.

Collectively, the Divisions work to ensure the mission of this Office is upheld in the highest regard. Independently, each Division functions and works to guarantee its clients and stakeholders are afforded due process and legal representation.

As the law firm that represents the People and Government of Guam, the duties and responsibilities are vast and varied within the divisions. The Office of the Attorney General (OAG) is committed to enforcing local and applicable federal laws for our island community. The OAG prosecutes adult and juvenile criminal offenders; litigates to protect our children and man'amko from abuse; provides legal advice and guidance to the executive and legislative branches of government, boards, and commissions; safeguards children's rights to receive financial support from non-custodial parents; and defends government agencies and officers in court.

OAG Produces Drunk Driving Public Service Announcements for the Chuukese Community

The OAG, in collaboration with the Office of Highway Safety, the Guam Police Department (GPD), and the Department of Corrections launched a series of public service announcements geared towards the Chuukese community of Guam, seeking to educate and caution them of the dangers of drinking and driving.

The heartbreaking story of a 4 year-old girl who passed away in October 2012 begins with her father, Marco Nelson, consuming large quantities of alcohol and driving drunk without properly restraining his daughter in a car seat.

Mr. Nelson was traveling along the tri-intersection in Barrigada at about 62 miles per hour, well above the posted speed limit, when an officer attempted to make a traffic stop. Nelson sped away and collided with another vehicle. Medical assistance was immediately dispatched by the police officer on the scene. When a GPD officer opened the right rear passenger side door, he saw locks of hair and the upper body of a female child. She appeared lifeless, and was not in a child restraint booster seat. She was immediately extracted from the car and taken to Naval Hospital for treatment. She was pronounced dead the next morning.

Mr. Nelson was charged with murder as a first degree felony, vehicular homicide while intoxicated as a first degree felony, vehicular homicide as a first degree felony, driving while under the influence of alcohol with injuries as a third degree felony and eluding a police officer as a misdemeanor. He entered a guilty plea to the second charge, vehicular homicide while intoxicated as a first degree felony, and the People accepted. In his Plea Agreement, Mr. Nelson agreed to cooperate fully in the production of public service announcements in English and Chuukese.

This devastating event presented a unique opportunity for the OAG and other law enforcement entities to educate the community- specifically island residents who are Chuukese- of the harsh and irreversible realities of drunk driving. To view the public service announcements, please go to: www.guamag.org.



Administration Division

The **Administration Division**, led by Chief Deputy Attorney General Phillip J. Tydingco, provides services to all the Divisions within the agency, including preparation and monitoring of the annual budget, payroll and procurement, federal grant administration, and coordination of training and travel requirements for personnel and witnesses. Integrated within the Division are employees who coordinate community outreach and communications with the public.

The OAG, like other government of Guam agencies, faced financial constraints and unanticipated costs for its operations, but has instituted and improved the financial oversight of all operations. This has included providing timely financial information available to the public for review at www.guamag.org.

OAG Staffing Pattern (as of December 31, 2014)	
Attorneys	54
Investigators	17
Support Staff	114
Total	185

Revenue Sources			
Year	General Funds	Federal Matching	Total Funding
2014	\$11.8 million	\$5 million	\$16.8 million
2013	\$10.9 million	\$11.5 million	\$22 million
2012	\$11.2 million	\$6.4million	\$18 million
2011	\$10.5 million	\$4.6 million	\$15 million
2010	\$8.2 million	\$5.7 million	\$14 million

Victim Witness *Ayuda* Services

Ayuda means “to help” in the Chamorro language. The nine advocates of the **Victim Witness *Ayuda* Services (VWAS) Unit** are organizationally situated under the Administration Division and are responsible for providing services to victims at the onset of a criminal case.

After initial contact with the victim, assistance and notification is provided for attendance at magistrate and court hearings, arraignment of the defendant, court hearing continuances, and trial.

The Unit is charged with coordinating appointments between the prosecuting attorney and the victim, refer victims to counseling or other services if requested, advocate for the victim if restitution is requested, and assist victims in their requests for parole notification.

VWAS is also responsible for court accompaniment and transportation, if needed, to appointments related to the case. They can also provide childcare while victims are in court or meeting with a prosecutor and assist victims in filing claims with the Criminal Injuries Compensation Commission.

By assisting victims through the criminal justice process, advocates seek to provide emotional and physical support to crime victims while the Prosecution Division pursues criminal charges against perpetrators. This year, they served approximately **1,211** victims.

The advocates participate in increasing awareness of the services they provide through a variety of outreach activities. They can be found participating in waves for Human Trafficking, Child Abuse Prevention Month, Crime Victims Month, and Domestic Violence Awareness Month at intersections across the island, or at mayor’s offices passing out informational brochures and answering general questions about the criminal justice process. They often partner with the Guam Coalition Against Sexual Assault and Family Violence, Man Up Guam, Erica’s House, and Victim Advocates Reaching Out to conduct outreach at Agana Shopping Center, Guam Premier Outlets, and the Micronesia Mall.

VWAS is partially funded by the Victims of Crimes Act (VOCA) funds that are awarded to Guam by the United States Department of Justice, the Office for Victims of Crime, S.T.O.P. Violence Against Women, and through local appropriations from the Guam Legislature.

Child Support Enforcement Division

The **Child Support Enforcement Division** (CSED), led by Deputy Attorney General Nicholas Toft, bears great responsibility of improving the lives of over 11,568 children as they work with both parents to help children receive the financial and emotional support they deserve and need. Over \$12 million was collected to benefit Guam's children by enforcing a parent's responsibility to pay financial support.

The CSED's primary goals are to collect and distribute child support payments, locate non-custodial parents, establish paternity, establish and enforce child and medical support orders, review and modify child support orders, distribute payments, and recover welfare benefits paid on behalf of children.

CSED services are available to all Guam parents who need assistance. The custodial or non-custodial parent or guardian may apply at the CSED office. The service is also available to parents receiving Temporary Assistance to Needy Families (TANF). The applicant parent is asked to furnish information about the other parent and provide legal documents, if available.

There are seven sections within CSED: Administration, Programs, Investigations, Accounting, State Disbursement Unit (SDU), Records, and Systems.

The **Administration** section is responsible for the preparation of legal pleadings. This section is also in charge of supplies, maintenance of all office equipment, servicing the intake desk, new hire reporting, messenger duties, office payroll, personnel files, and mail distributions.

The **Programs** section is responsible for preparing federal reports. The program coordinator oversees the annual self-assessment review, updates state plans, drafts the Advance Planning Document Updates, applies for federal grants, and prepares Requests for Proposals. This section also oversees the **Access and Visitation (A&V) Program**. The goal of the A&V Program is to improve non-custodial parents' access to and visitation with their children. This year, the A&V Program referred 66 individuals to Inafa' Maolek and 64 individuals to Erica's House.

The main function of the **State Disbursement Unit** (SDU) is the posting and timely distribution of child support payments. All payments received must be disbursed within 48 hours. It is imperative that all payments are accurately identified and posted. This section is also responsible for tracking undistributed collections and bank reconciliation.

The bulk of case management is done by investigators and paralegals found within the **Investigations** section. They interact the most with the public. Their duties include the establishment and enforcement of support obligations using administrative and judicial enforcement.

The **Accounting** section is responsible for financial accuracy of case files and are tasked with ensuring that all child support orders are entered correctly in APASI, the child support information system. This section is also responsible for the transfer of tax offsets to custodial parents or reimbursement on Temporary Assistance for Needy Families (TANF) cases and for preparing manual declarations of arrears.

The **Records** section maintains all child support case files. They process all legal documents, file documents in their respective case files, retrieve case files for court, mail documents, and send them out for service of process. They are also responsible for initial interview of all non-TANF child support applicants and the creation of new files.

The **Systems** section ensures that APASI is operational 24 hours a day, 7 days a week. The computer systems analyst also acts as a liaison between child support staff and the systems vendor.

Total Child Support Collected	
Year	\$ Collected
2014	\$12,201,440.13
2013	\$12,873,022.30
2012	\$14,683,203.27
2011	\$10,733,509.65
2010	\$10,844,043.00



Civil Litigation/Solicitors Division

The **Civil Litigation Division**, led by Deputy Attorney General J. Patrick Mason, handles all civil actions in which the government of Guam is an interested party. The Litigation Division is tasked with bringing actions in trial and appellate courts of Guam and the United States, when necessary, to ensure compliance by government agencies, officials and private parties with the regulatory laws of Guam, and on behalf of the People of Guam to protect public interest.

Examples of the types of cases handled by the Litigation Division include environmental protection, government employee discipline and grievances, wage and hour disputes, property damage, personnel injury and wrongful death cases, maritime law enforcement, contract and procurement disputes, civil rights cases, land condemnation, cases determining the extent of government authority and the legality of government actions, cases resolving the interpretation, organicity and constitutionality of laws, and representing the government of Guam in regulatory actions brought by the federal government. Pursuant to the Administrative Adjudication Law and other legal mandates requiring administrative hearings, the Litigation Division is also tasked with providing hearing officers to government agencies and over 30 boards and commissions. This includes providing a hearing officer for appeals involving federal programs such as the food stamp program.



Litigation Performance 2010-2014	
Year	Total Requests
2014	914
2013	874
2012	713
2011	559
2010	437

The **Solicitors Division** provides legal services to the agencies, boards, commissions and other instrumentalities of the executive branch. The Division also writes legal opinions and legal memoranda for executive agencies, the legislature and mayors. The legal tasks performed by the Solicitors Division include: researching and writing attorney general opinions and legal memoranda, giving either verbal or written legal information and guidance to executive agencies, reviewing documents and preparing opinions regarding bond issues, drafting, reviewing and approving proposed agency rules and regulations, acting as agency legal counsel at administrative hearings, drafting and/or reviewing procurement contracts, assisting agencies with procurements, assisting agencies with responses to Sunshine Act requests, assisting in administrative matters relative to the Commission on Post-Mortem Examiner and providing a full-time tax attorney to the Department of Revenue and Taxation.

2014 Solicitors Performance			
Action	Open	Closed	Total Action Per Category
Administrative Proceedings	13	99	112
Administrative Rules & Regulations	11	10	21
Attorney Assistance	152	150	302
Contract Review	125	458	583
Opinion & Legal Guidance Requests	14	21	35
Procurement	30	49	79
Total	345	787	1,132

Civil Litigation/Solicitors Division

The **Notary Unit** enforces the Notary Law and administers notary examinations, responds to inquiries from notaries and members of the public, audits notary journals and issues certificates of notary certification when requested. This year's total income was \$14,350. Since the passage of P.L. 30-59, the total notary income to date is \$79,550.

2014 Notary Report & Income Received			
Category	Private	* Total Collected	Government
New Notaries	53	\$ 5,100.00	2
Renewal Notaries	76	\$7,100.00	4
Certificate of Authority Requests	43	\$2,150.00	0
Total	172	\$14,350.00	6

* Pursuant to Public Law 30-59, enacted in November of 2009, notary application fees were raised from \$50 to \$100 and raised the Certificate of Authority fee from \$25 to \$50. All government notary fees are waived and all amounts are paid to the Treasurer of Guam, are non-refundable and non-transferable.

Family Division

The **Family Division**, led by Deputy Attorney General Carol Hinkle-Sanchez, handles all matters relating to juveniles in our community. This includes delinquency matters where juveniles commit criminal acts that may be drug and alcohol related and require juvenile drug court proceedings. The Family Division is comprised of nine personnel, or five attorneys, two legal secretaries, one legal clerk, and one process server. The Division continues to rely heavily upon the administrative and professional resources of the Prosecution Division, such as criminal investigators, messenger clerks, advocates, and legal secretaries.

The Family Division represents Child Protective Services in cases brought before the court involving children subjected to abuse and neglect by their parents or caretakers, and cases involving juveniles deemed “beyond control” of their parents or caretakers.

In addition to handling juvenile court proceedings, the Family Division has a prevention program called the Pre-Adjudicatory Diversionary Program (PADP) who allows Family Division attorneys to divert particular cases. For example, a juvenile who is a first-time offender that committed a crime deemed a petty misdemeanor offense may be eligible for this program.

The goals of the Family Division are to vigorously represent the government in special juvenile proceedings, juvenile delinquency cases, and other matters before the Family Court of the Superior Court of Guam, to represent Child Protective Services in child abuse and neglect cases, to adequately staff and fund personnel and provide training to update their skills and knowledge, to establish and consistently conduct community outreach activities and participate in educational and social meetings dealing with juvenile issues, and to promote legislation that will significantly impact activities and relevant matters.

The Family Division has actively participated in community outreach to educate the community on juvenile laws, consequences, emerging crimes and social problems like cyberbullying and bullying, sexting, and internet crimes.

The Division has prioritized education and outreach as prevention measures. The Division has been actively involved in working with the Legislative Branch in the development and passage of key and critical legislation meant to further protect the community and more importantly, Guam’s children. Legislation that the division worked on or will be working on is providing input to necessary amendments on the Sex Offender Registration and Notification Act (SORNA) legislation addressing juvenile registration, amendments to the automatic certification statute to address the “Romeo and Juliet” issues raised by Senators and the community, and the Restorative Justice Program.

The Division is a participatory member of the Juvenile Justice Commission, the LaniKate Task Force, and has played a key role in development of the Guam Family Violence Registry. The Family Division is currently working with the Judiciary of Guam (under the Bullying Prevention Advisory Committee) to develop and implement a comprehensive school policy on handling bullying and cyber-bullying matters.

The Division is dedicated to providing our children with a safe and nurturing environment free from danger and harm and continues to take an active approach in educating the community about making healthy choices for future generations.



Juvenile Caseload Statistics	
Category	Total
Juvenile Drug Court	146
Juvenile Delinquency	217
Juvenile Special Proceedings	71
Pre-Adjudicatory-Diversionsary Program	8
Total Cases for All Categories	442

Prosecution Division



The **Prosecution Division**, led by Chief Prosecutor J. Basil O'Mallan, is charged with prosecuting all adult felony, misdemeanor, petty misdemeanor and traffic offenses referred by law enforcement authorities. Offenses such as white collar, government corruption and public integrity crimes are independently investigated and prosecuted by the Division. In 2014, the Prosecution Division filed a total of 1,851 cases with the Superior Court of Guam; 1,155 misdemeanors and 696 felonies. They took 66 cases to trial and won 34.

The Division is composed of the following criminal trial units/teams: Family Violence and Sex Crimes, Property Crimes, Drugs and Guns, White Collar and Public Integrity Crimes, Major Crimes that include homicides, attempted murder and aggravated assault, General Felonies, Misdemeanors, and Traffic Crimes, the Appellate and Motions Unit, and the DUI Unit.

The **Criminal Investigations Unit** is responsible for conducting independent investigations and follow-up investigations in support of on-going prosecutorial matters. The members of the Unit include two direct Investigative Supervisors and seven Investigative Agents who conduct a full range of investigative services for the Attorney General. Investigative duties encompass criminal, civil and employment/disciplinary issues. The Investigative Unit executes follow-up

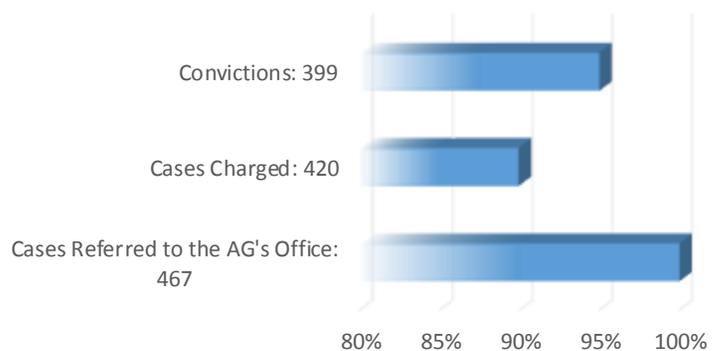
and pre-trial criminal investigations associated with cases submitted to the Office of the Attorney General for prosecution. The Unit also performs initial investigations to criminal matters of special interest to the Attorney General, and provides investigative support to local and federal law enforcement agencies. Investigative Agents regularly provide testimonial evidence in Grand Jury and Criminal Jury or Bench Trial proceedings. Members of the Unit are Peace Officers, authorized to carry concealed firearms and enforce the laws of Guam.

The Prosecution Division continues to improve its operations and pursue justice for victims of crime. The Division continues to meet the demands of a steadily increasing case load despite limited personnel and resources by advocating and supporting aggressive prosecution based on evidence obtained from thorough and complete investigations and on sound case development.

The Division continues to maintain collaborative relationships with local and federal law enforcement agencies to prosecute on behalf of the People of Guam.

Total Cases Filed in the Superior Court of Guam			
<u>Year</u>	<u>Misdemeanor</u>	<u>Felonies</u>	<u>Total</u>
2014	1,155	696	1,851
2013	1,083	710	1,793
2012	1,207	735	1,942
2011	1,300	728	2,028
2010	1,273	762	2,035
2009	1,346	671	2,017
2008	1,213	618	1,831
2007	1,084	618	1,702
2006	1,040	564	1,604

DWI/DUI CASE DISPOSITION



In 2014, the OAG filed 90% of all Driving While Intoxicated (DWI)/Driving Under the Influence (DUI) cases received from law enforcement. The conviction rate for all DWI/DUI cases filed in the Superior Court of Guam was 95%.

A federal grant was obtained through The National Highway of Transportation and Safety Administration to handle some of the cost associated with the prosecution of DWI/DUI defendants.