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## **OFFICE OF THE ATTORNEY GENERAL**

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**FOR IMMEDIATE RELEASE**

### **Carillo Case Dismissed Customs Agrees to Involve AG's Office at the Onset of Cases**

*June 06, 2013- Hagatna, Guam-* In the investigation leading up to the case of *People of Guam v. Christopher Carillo* (CF-0113-13), the Guam Customs & Quarantine Agency responsible for investigating the case violated- perhaps inadvertently- the 4<sup>th</sup> amendment rights guaranteed to Mr. Carillo and any defendant accused of a crime under the laws of Guam and the U.S. Constitution.

More specifically, the package which was at the center of this case was intercepted by law enforcement and identified as containing an illegal controlled substance under a federal search warrant involving the U.S. Postal Service Inspector and Guam Customs. Subsequently, the case was reportedly relinquished over to Guam Customs, who thereafter had an electronic tracking device inserted into the package. The package was then delivered and later brought into a private residence while still being electronically monitored. Guam Customs responded and entered the residence to retrieve the device, but then made their first contact with the Office of the Attorney General about wanting to search the entire residence for contraband and evidence of the investigated crime. Guam Customs was advised by the Office of the Attorney General that they needed a search warrant to do so and one was obtained. However, after the case was charged and a motion to suppress the evidence was filed by the defendant's counsel, it was discovered that Guam Customs had not obtained a search warrant to place an electronic monitoring or surveillance device into and to track the package, nor was an anticipatory search warrant obtained at that time by Guam Customs. Under these circumstances, such continuous monitoring of an electronic signal inside a residence is unconstitutional and improper.

Carillo's defense counsel has correctly pointed out that when the constitutional rights of a suspect are violated in obtaining evidence against him, that evidence, no matter its strength, cannot be the basis of a criminal case. Where, as here, the Office of the Attorney General agrees with defense counsel that a constitutional violation was committed by law enforcement officers in the course of investigating a case; evidence in the case gathered by virtue of that violation must be suppressed. Here, the violation occurred at the inception of the case, leaving no additional evidence which would otherwise support continued prosecution.

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The duty of a prosecutor is to seek justice, not merely to convict, which includes safeguarding the constitutional rights of those accused of crimes. Therefore, the Office of the Attorney General has no choice but to dismiss cases where the law of Guam and the constitutional rights of defendants are violated by law enforcement officers, whether inadvertent or not, as is in this particular case.

The Office of the Attorney General and our law enforcement partners nonetheless remain committed to the on-going battle in attempting to identify, investigate, and prosecute the trafficking and use of illegal drugs on our island. In fact, the management of Guam Customs in a recent meeting has agreed to our recommendation that whenever a drug case is intended by them to be investigated and prosecuted in the Superior Court Guam rather than in federal court that they will consult our Office as early as possible regarding the need for search warrants.

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