



**GUAM PEACE OFFICER STANDARDS
& TRAINING COMMISSION (POST)**
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P.O.S.T. COMMISSION MEETING MINUTES
Tuesday, November 23, 2021

I. Called to Order. The P.O.S.T. (“POST”) Commission meeting of November 23, 2021, meeting was called to order at 9:37 a.m. by the Guam Customs & Quarantine Agency, Chief Vince Perez, the POST Commission Chairman.

Roll Call by Agency/Department:

Member-agencies/other agencies: Please refer to the sign-in sheet. Quorum was established. Present are representatives from the Guam Police Department, Guam Airport Police, Guam Port Police, Guam Attorney General, Guam Customs & Quarantine Agency, Guam Department of Corrections, Guam Fire Department, Unified Courts of Guam (Probation), Department of Administration Personnel Services Division, Department of Youth Affairs, GIAA Aircraft Rescue Fire Fighting (ARFF).

Documents Received. Document(s)/Packet: November 23, 2021 Agenda; October 15, 2021 P.O.S.T. Minutes; Documents from the POST Executive Director regarding a draft of the Guam P.O.S.T. Commission Decertification Process; Samples forms of the Guam Department of Corrections “General Order,” “Employee Medical/Psychological Assessment Form (Corrections Officer I),” and handout of “Employee Medical/Psychological Assessment;” Sample forms from the A.B. Won Pat International Airport ARFF “Return to Limited Work Permit” with a copy of the NFPA “Physical Exam Summary;” Documents from Guam Fire Department, Chief Joey Manibusan, a copy of Guam Governor’s Executive Order No. 2006-07, “Designation Of The National Incident Management System (NIMS) As The Basis For All Incident Management On Guam,” and the FEMA 2018 Update of the “National Incident Management System (NIMS) Implementation Objectives for Local, State, Tribal, and Territorial Jurisdictions.”

II. Review and Approval of the Minutes of October 15, 2021.

MOTION

M/S/C: (GPD/GFD): Motion was made to approve the Guam P.O.S.T. Commission Meeting Minutes of October 15, 2021, with corrections. Unanimously approved, motion adopted.

III. Chairman/Vice Chairman Remarks. The Chairman provided an update regarding some issues as follows:

-Meeting with the Lt. Governor's Office that the Vice Chairman Chief Mantanona also attended regarding membership of the POST Commission with a full-time staff, there is only one full time funded position which is not sufficient for the level of knowledge and qualifications needed for an Executive Director.

-That in order to focus attention, need an Executive Director to devote full time to be in line with the mission of the POST Commission.

-Working with the Lt. Governor's office and who has agreed to assist the POST Commission with funding for the Executive Director position.

-The Chairman will establish a budget and welcome input from the POST members regarding this.

-Will provide update on the POST to establish a law enforcement structured tier pay plan and endeavor for PoliceOne on the upcoming items in today's Agenda.

-Wishing everyone Happy Thanksgiving and to be safe.

The Vice Chairman mentioned the meeting with the Lt. Governor was a positive outcome.

-The Lt. Governor praised the Commission for bringing this to their attention.

-That the Chairman will come up with a plan for a budget in moving forward.

IV. Interim Executive Director Remarks. For record purposes, the Executive Director asked POST members to please state their name/agency so that the recording secretary can better identify the speakers when transcribing the Minutes.

The Executive Director also mentioned he has proposals for items on the Agenda such as the Medical Profiles and POST Decertification.

At this time, GFD Joey Manibusan will be presenting before the rest of the items on the Agenda are addressed.

V. Old Business.

a. Guam P.O.S.T. Executive Director Position/Budget allocation for GCC for \$72,121.00 for FY22 to fund a Program Specialist to "establish a Standardized and Uniformed Law Enforcement Officer General Force Leadership Structure Tier and General Pay Scale Plan for Category 1 Peace Officers."

The Chairman referred to the Budget Law as Public Law 36-54, which gives an amount for a Program Specialist but after meeting with the President, this is the same position for the Executive Director. This budget is for one position.

b. Plan on the authorization given to POST to establish a Standardized Uniform LEO General Force Leadership Structure Tier and Pay Scale Plan.

The Chairman mentioned this is also from the Budget Law, Public Law 36-54.

Need to establish a committee with representatives from all the Government of Guam Law Enforcement agencies and to include DOA, and guidance from the Guam Federation of Teachers and Civil Service Commission to develop this LEO general force leadership structure tier and pay scale plan.

-DOA is the HR organization for the Executive Branch.

-Public Law 36-54 mandates that the POST include GFT and the Civil Service as part of this process.

The Executive Director mentioned he was informed by the Governor that DOA is already working on a pay scale for all Govt. of Guam law enforcement.
Proposed to meet with all the law enforcement agencies' directors/representatives first and anticipate meeting sometime in January 2022.

The Executive Director proposes at least two meetings to discuss this further at length with the DOA Director so as not to duplicate the process in discussing a strategy with this pay scale.

- Anticipate final presentation before the Board regarding this pay scale at the next POST Commission meeting.

- Meeting can be at GCC or at DOA, just need to schedule.

- Mr. Francis Flisco from DOA mentioned that this study is still under review.

- Study is from the Governor's authority but the POST has authority to conduct a review as well.

- Mr. Flisco will inform Mr. Birn of the possibility of a meeting in January 2022 before the next POST Commission meeting.

GPD Chief Ignacio mentioned he met with Mr. Edward Birn and Mr. Shane Ngata a few months ago and discussed the pay scale plan for GPD, which is supposed to encompass the pay scale for law enforcement agencies in general.

- That the pay plan with the Governor's authority is similar to what was done for the nurses' pay scale.

- That depending on your position, job description and where assigned determines the nurses' pay.

- Mr. Flisco explained that this plan was for differential pay.

- Chief Ignacio mentioned that the pay scale plan is different from the differential pay. The differential pay is an incentive which could be rescinded in comparison to the pay scale plan.

- Suggest continuing with the pay scale plan for the POST because the nurse's pay scale plan is an incentive pay.

The Executive Director asked DOA if they can confirm if the POST pay scale plan is similar to the Hay Study and not just as an incentive pay.

- That if it is for an incentive pay, recommend to proceed with the pay scale plan for all Law Enforcement Officers.

- Mr. Flisco said he will confirm with Mr. Birn.

The Chairman mentioned he liked the idea of incentive pay being a good idea but looking at P.L. 36-54, this is to create a leadership structure plan, which he says is still necessary.

The Chairman explained with the development of this structure, there are different levels for individuals entering the Govt. of Guam law enforcement from a high school graduate as trainees, apprenticeships, Basic Law Enforcement training, to a higher education graduate, to noncompetitive positions, basically from entry to management level.

- Give the Commission members a standard so that when you look at the position in your organization, you will see the different levels for each position.

- Combine this with what DOA is doing.

- Put together the different levels modeling what GPD is currently using with career progression, although there is still room for additional positions.

- Further discussions at the next POST Commission meeting.

c. POST endeavor with POLICEONE. Funding? The Executive Director informed the Commission that he spoke with the Lt. Governor and was informed to anticipate using ARRA funds to pay for this.

- Would initially use approximately \$70,000 to implement the Learning Management System software.
- Is working out the details with the Chief of Staff.
- That all Government of Guam law enforcement agencies will have access to this.
- Training will be included.
- This system will manage all of the Govt. of Guam LE agency certifications, trainings, etc.
- The late Dr. Fee did a lot of work to get this started.
- Need total number of Law Enforcement officers within each agency, which determines the amount for payment.
- Submit the count of current employees and a separate list for vacancies.
- The Airport mentioned there is a cost for annual membership to maintain Police One.
- That the Airport Police are currently paying approximately \$5,000 per year for a total of 80 registered. An amount to consider when budgeting after the initial cost to maintain annually.
- This digitizes all LEO's training records and to be able to access other materials.
- System would have to be uploaded and will require a lot of administrative work, including an individual to manage the system.

There were further discussions as to what this system will do for certifications in the future.

The Chairman explained that he met with Dr. Okada and the Lt. Governor and discussed combining the funding for the Program Specialist and the Governor's Authority to fund the Executive Director position. Will have future discussions with Dr. Okada and the Lt. Governor regarding this and will be providing updates.

d. POST Decertification. Development of Rules. The Executive Director provided two handouts as reference, an "Employee Medical/Psychological Assessment" and a "POST Decertification Process" regarding POST Decertification with a briefing.

- Has heard of individuals who have been terminated within their agency, transferred, reclassified, etc., which poses questions especially with POST Decertification.
- The Executive Director provided a list of authority within the statutes relating to POST Decertification and a proposal of the process for POST Decertification.
- Explained that agencies do not have the authority to decertify peace officers.
- The POST Commission is the only entity authorized to decertify peace officers.
- That although agencies can formalize an adverse action, the decertification process is different.
- That there are some challenges when looking at decertifications.
- That the proposal he submitted will be just a starting point.
- Request for all agency heads to review and provide input.
- Anticipate finalizing for the next POST Commission meeting in January 2022.

The Executive Director further explained that this proposal basically recommends agencies to go through the grievance process first for disciplinary action.

- If an individual is not satisfied with a transfer, termination, etc., the individual can go through the Civil Service Commission.
- Cautioned for each agency to look very closely as to what is asked of that law enforcement/peace officer.
- You might get a doctor that advises an individual is unable to perform certain jobs.

-As an example, an officer has a broken arm and is his firing arm, etc., and the agency makes a decision and says individual cannot perform his/her duties, this would be questionable as to how would that agency know.

-That it is not right for those in each agency's administration to make a determination of the individual's capabilities and process for decertification.

-That the POST Commission should be the one to make a decertification determination.

The Executive Director also advised agencies to check and ensure it is not violating any ADA laws.

-Advised that if any officer has a preexisting condition that the officer is unable to control, would need to check if this is an ADA issue.

-Can contact a federal EEO if something like this fall under this category.

-The Chairman further advised that at any time there is an issue with physical abilities, agency should check if this deals with ADA compliance.

-Everyone has a different aspect as to how this applies.

-Should an employee get terminated, transferred and goes to Civil Service and Civil Service determines employee's complaint is valid, we follow Civil Service's decision.

-If an individual is unhappy with Civil Service's decision, that individual has another opportunity to go through the Courts.

The Executive Director reiterated for all agencies to review the proposal and provide input as to said draft and vote at the next POST Commission meeting.

e. Medical Profiles. Discussion on how to deal with extended medical profiles.

The Executive Director mentioned there are many law enforcement officers that are on profile.

-That the first step is to provide reasonable accommodations.

-Which is what an individual usually requests and is within the parameters of the administrative rules.

-Aside from this, another step can be provided.

-The Chairman provided copies of documents utilized by the Department of Corrections to use as form samples.

-That without violating the Health Insurance Portability and Accountability Act of 1996 (HIPAA), stay within the individual's duties and responsibilities.

-An example, if unable to work outside, accommodation could be to place the individual in dispatch, or write police reports.

-That DOC has used this approach and has established the forms as part of its policy, to include General Orders just as a sample and can make changes fit for each LE agency.

-This form will be emailed to POST members.

-DOC used all of the job descriptions from a Corrections Office I to III, etc., to include administrative duties.

-The form is filled out by a doctor.

-The form does not ask specifics regarding any health issues so as not to violate HIPAA but rather what the individual is able to do on the job.

-The form provides the agency as to how long the individual is to be accommodated, which can provide agencies a basis on whether or not to reclassify due to maybe an officer's inability to do certain duties such as carry a weapon, run, or "dead man's carry," etc.

-This form can help the agency in this situation with reclassifying.

- DOC has had an employee who went to Civil Service due to an officer being reassigned and contested it.
- The Executive Director explained the importance of being very specific as to what is required of each and every employee especially when reassigning them.
- The Executive Director mentioned he is available to assist with each agency's form.
- The Executive Director further mentioned that if agencies have medical profiles, to be also compassionate towards their situation.
- That there are complaints from other officers as to why they are placed on overtime for another individual; why is the individual receiving hazardous pay and not doing the full time work.
- That this is also about equality and fairness for all the officers.
- The Executive Director anticipates these forms can help solve some of the issues and requested members to go through these forms with each agency's senior officers/management, including discussions with HR.

The AG's office thanked the Executive Director for the forms and mentioned a concern on the draft Decertification.

- The AG referred that item #4 refers to Decertification and item #3 refers to the Adverse Action process.
- Asked if Decertification should be before Adverse Action.
- The Executive Director understands this is a good point and appreciates everyone providing input for the next POST Commission meeting.

The Chairman asked if there were challenges to this form.

The Executive Director confirmed yes there has been especially for those using PTSD as a reason although a medical doctor confirmed the individual is able to perform a certain task.

- In this case, where there does not seem to be any signs of any physical issues, the issue might be a psychological one.
- Individuals are then advised to have their counselors complete the form.

GPD mentioned they have a similar form which they adopted from the Court.

- Recommended all agencies to review this and compare to each agencies' form and provide input for one standardized form for POST.

There were some discussions. DOA mentioned he agrees with GPD's recommendation for each agency to compare their form with the sample forms from the Executive Director and come up with one standardized form for approval by the POST.

VI. New Business

a. Discussion on establishment of a Fire Services sub Committee of the POST

Commission. GFD Joey Manibusan, Fire Marshal/Assistant Fire Chief, mentioned that he is also the appointed voting member for the Guam Fire Department and presented the following:

- Provided a copy of Guam Governor's Executive Order No. 2006-07, "Designation of The National Incident Management System (NIMS) As the Basis for All Incident Management on Guam," and a copy of the FEMA 2018 Update of the "National Incident Management System (NIMS) Implementation Objectives for Local, State, Tribal, and Territorial Jurisdictions."

Chief Manibusan explained that the National Fire Protection Association (NFPA) is a national consensus organization comprised of professionals in fire service, fire engineering, fire protection and emergency response organizations.

-The NFPA is a huge organization and its standards are used globally in countries such as England, India, Japan, Australia, etc. and recognized as an authority in fire service professionals standards, including qualifications standards. He then explained further what is the NFPA.

The NFPA Certification Professional Qualifications establishes minimum criterias for organizations, fire brigades, fire departments, etc.

-There are different types of duties and tasks in a fire service organization, which he listed such as the NFPA 1001, Standard for Fire Fighter Professional Qualifications, this covers Fire Fighters 1 and Fire Fighters 2, which starts with the basic duties and up towards more technical tasks for Fire Apparatus Driver/Operator, Airport Firefighter, Technical Rescuer, Marine Firefighting, Fire Officer, etc.

-With the Fire Officer, one of the advantages with this program is it helps in terms of leadership development from Fire Officer I through IV.

-With NFPA 1021, Standard for Fire Officer Professional Qualifications, this starts off as a basic supervisor, towards management, administrative and overall at the executive level as a Fire Officer.

-Throughout these standards, which he referred to the list, one of which is also the NFPA 1033 for Fire Investigators.

-Chief Manibusan said that these qualification standards are well established and created in a form of job performance requirements (JPRs), which are used to develop curriculum, performance evaluations, hiring qualifications, etc.

-Can go online to nfpa.org to obtain more information regarding the different NFPA Standards, or contact Chief Manibusan, should anyone have questions.

Chief Manibusan further explained why he is presenting this to the Commission.

-That part of the POST mandate is to approve curriculum and to develop standards that help our emergency responders, our peace officers.

-That these are standards that are well established.

-Wanted to bring this before the Commission to use as a model for specific agencies, our LEOs for developing these types of standards.

-Especially with a Fire Officer, that there is a lot of process applied across the board.

-Should there be another model the agencies can use, can also utilize that and bring it before the POST for approval.

-That the NFPA model is just another approach for professional development.

-That GFD currently use this with DOA for necessary special qualifications.

-One of the things Chief Manibusan has observed with our government, our island, he found that we are doing this kind of backwards.

-We are using a third-party qualification as a necessary special qualification.

- This process is o.k., if Guam does not have a state entity like the POST Commission but the state should provide the qualification and anything from the outside can be used for reciprocity.
- That other states have its special qualifications first and many times use other models such as NFPA, FEMA, Homeland Security, OSHA, and others that they chose.
- In other words, the POST should first have its standards and anything outside our standards should be used through reciprocity.
- That this process makes more sense because we do not want to be dependent on an outside certification force.
- Doing so will be a problem should that organization no longer use their standards.
- That if the POST Commission is the primary organization an entity that develops all standards to include everything from fitness, training, curriculum, etc., and that in order to utilize any standards, it should first go through the POST Commission.
- We would be setting all of our peace officers up for failure if we do not develop our state standards first.

Chief Manibusan explained that the GFD is currently facing this challenge and anticipate that the POST Commission could be part of the solution.

- Believes the Guam POST Commission can be that solution because it is the primary, legal state entity designated to approve standards for training, curriculum, etc., for certification.
- This concludes the NFPA.

Chief Manibusan then referred to the Guam Governor's Executive Order No. 2006-07, "Designation of The National Incident Management System (NIMS) As the Basis for All Incident Management on Guam."

- In 2006, the President of the U.S. mandated all federal agencies to become NIMS compliant.
- In 2006, through Executive Order No. 2006-07, the Governor also mandated Guam to adopt NIMS for all its emergency operations which is applicable to all organizations that are involved with incident command.
- In order to command an incident, you would have to be certified as an Incident Commander.
- This is important because any state that does not adopt the NIMS will become ineligible for federal grants, which is the law.
- Guam is dependent upon federal grants so Guam agencies would have to be NIMS compliant.
- If we are not in compliance, there is the potential to lose federal grants and there is the potential for an individual or entity to grieve as to why you are not in compliance.
- One of the things GFD has to do is under the necessary special qualifications is to complete a Pro Board incident commander program.
- This incident commander program would have to be NIMS compliant first, which is important.
- Civil Defense, Guam Community College is offering NIMS compliant Incident Command Course 300, which has prerequisites.
- The prerequisites are that you would have to take the NIMS 100, 200, 700 before taking the 300 or 400.
- The 300 is equivalent to a HazMat Incident Commander program because it is designed for Incident Commanders that are in the field with either a fire, terror or crime scene.

- For those out in these scenes, would have to be certified as an Incident Commander, which is also the law.
- It does not matter whether you are a top ranking official and you are not certified to command the scene, this poses a problem if anything goes wrong because this individual is not trained to do this type of job.
- When this was mandated, Civil Defense was ordered to ensure Guam became NIMS compliant.
- This is important to the Guam POST Commission because it is charged with the duties and mandated to create and approve qualification standards for all Guam Peace Officers.
- This also applies to the Department of Administration (DOA) because anything that DOA approves for any necessary special qualifications that has to do with incident command has to be NIMS compliant.
- All training that deals with incident commands are required to be NIMS compliant.
- All are invited annually and required to participate in the Territorial Emergency Response Plan and one is currently being planned that Chief Manibusan is involved in said planning.
- The NIMS course sets the criteria for other incident command courses.
- There are courses out there that far exceed the qualifications standard and the point Chief Manibusan is making is that the POST research what is out there and provide a list as a POST Commission and produce a document that says this is the stance of the POST Commission on this particular course when it comes to necessary special qualifications.

The Executive Director asked if the intent is the program mentioned herein will be incorporated into the GCC law enforcement academy.

- Chief Manibusan explained that GCC will be offering courses that deal with fire and said it is highly recommended.
- That these are national standards that help to develop curriculum and that when the former Executive Director, Col. Dennis Santo Tomas was at GCC, he was helping him update courses using the national consensus standards.
- The Exec.Dir. asked if all on the list will be incorporated into GCC's training program.
- Chief Manibusan confirmed it will be and will not be the only source because there are also other sources that have to be addressed.
- For example, with the OSHA respiratory protection program. Any job that deals with HazMat or anything of this nature, has to be OSHA compliant.
- NFPA is not a federal organization but a consensus standard. There are federal workers that work with NFPA as well as state professionals.
- NFPA is one of the oldest organizations that work on improving fire safety for the community to include the responders, they set up standards.
- A large number of agencies in law enforcement follow this as well as state fire marshals, the International Association of Arson Investigator, etc.
- The GPD Fire Investigators have to be certified and follow this.
- That the NIMS and NFPA are just two sources and there are others such as OSHA.

The Chairman asked if the intention is to come back to the next scheduled meeting to establish a committee.

--There were further discussions and Chief Manibusan informed the members that it would take a lot to form a committee and keep meeting and all announcements would have to be issued and not ideal for now and adding another committee again might not be ideal.

-Chief Manibusan can present standards, review by emailing to all the POST members and provide input.

-Chief Manibusan thanked everyone for their time and again informed the Commission that he can be reached for any questions.

At this time, Airport Police mentioned the following:

-During the past year, due to the pandemic, the Airport has had to make adjustments to its PFQT.

-For the past year, the Airport Police revised its PFQT Policy and referred to it as the Airport Police Physical Agility Test (APPAT).

-Part of the revisions include profilers.

-Anticipate this draft will be considered for approval at the next POST Commission meeting.

The Vice Chair provided input and provided forms that ARFF is currently utilizing as another form to be used. There were discussions.

The Executive Director is concerned about HIPAA regulations being violated and to keep this in mind.

The GPD obstacle course is currently under repair.

GPD is requesting for an extension with submission of its PFQT for another month until January 2022.

The Airport is also requesting for an extension as well due to its amended Airport Police Officer Training (APOT) being considered for approval first by the POST Commission, anticipate at the next POST Commission meeting.

MOTION

M/S/C: (GPD/Airport Police): Motion was made to extend submission of PFQT for GPD and Guam Airport Police until January 31, 2022. Unanimously approved, motion adopted.

At this time, GPD Chief Ignacio mentioned a concern about certain matters that should have been adopted into the Guam Administrative Rules and that when matters are adopted it should be forwarded and captured into the Guam Administrative Rules.

-There were discussions that this is part of the challenges the POST Commission encounters and one of the reasons for the need of a full time POST Executive Director.

-This issue will be discussed further in the future.

VII. Next Scheduled Meeting. January 2022 and is subject to change.

VIII. Announcements.

Another issue brought up was the new law that was recently passed regarding current and new employees' requirement to complete an Ethics in Government training per Public Law 36-25 passed in May 2021.

- The requirement is for current employees to attend training thirty-six (36) months after enactment of the public law and for new employees within six (6) months after employment.
- There is a concern that law enforcement agencies should comply with this new law.
- Airport mentioned they conducted their Ethics Training.
- The Executive Director mentioned the law was specific as to who is authorized to provide this training and believes it's the Ethics Commission.
- Airport will look into this and confirm.
- GPD Chief Ignacio mentioned that he had to look into his budget for this and used the journal voucher for direct payment.
- The training is \$80 per person and would have to go through the Ethics Commission.

GPD Chief Ignacio also mentioned that he will be submitting a proposal for the POST Commission's consideration to approve its De-escalation Training.

- The Court and the Airport are also developing something similar.
- The Court mentioned it was awarded a grant and is something they are currently looking at.
- This is a train the trainer and some agencies have expressed interest in this.
- Will develop a curriculum and will be offered sometime.

There were some discussions.

- De-escalation training in some states are mandating officers to attend this type of training.
- There are different types of de-escalation trainings and are all good.

GPD mentioned something about the late Dr. Fee regarding establishing a fee schedule the POST should adopt. Funds from this can help fund any staff or the Executive Director position as well as any other POST expenses. For future discussions.

IX. Adjournment.

MOTION

M/S/C: (GPD/DYA): A motion was made to adjourn the meeting of November 23, 2021. Unanimously approved.

There being no further discussion, the meeting was adjourned at approximately 11:15 a.m.

/s/

Dated this 28th day of January 2022.

Bertha M. Guerrero
Recording Secretary