



**PEACE OFFICER STANDARDS & TRAINING
COMMISSION
(P.O.S.T.)**

*P.O. Box 23069 GMF, Barrigada, Guam 96921
1 Sesame Street, Mangilao, Guam*



**P.O.S.T. COMMISSION MEETING MINUTES
Thursday, March 28, 2019**

I. Called to Order. The P.O.S.T. (“POST”) Commission meeting of March 28, 2019, was called to order at 9:08 a.m. by Department of Corrections Deputy Director Joey Terlaje, Vice POST Chairman, assisted by Mr. Robert Camacho (former Chairman and Chief of the Guam Airport), in the absence of a POST Commission Executive Director, held in the Guam Community College Learning Resource Center (Library) Room 112 in Mangilao, Guam.

Roll Call by Agency/Department:

Member-agencies/other agencies: Please refer to the sign-in sheet. Quorum was established. Representatives from GPD, Guam Airport Police, Guam Port Police, Attorney General of Guam, Guam Customs & Quarantine Agency, Department of Corrections, Unified Courts of Guam-Marshal, Unified Courts of Guam-Probation, Guam Department of Administration (DOA); Department of Youth Affairs, GDOE School Resource Officers. Senator Pedro Terlaje and Mr. Chris Carilo from the Guam Legislature were present.

Documents Received. Document(s)/Packet: March 28, 2019 Agenda; February 28, 2019 POST Minutes; P.O.S.T. Verification Training Verification Request form (proposed revised draft); Information sheet re Title 17 Guam Code Annotated (Education) Chapter 51 Peace Officer Standards and Training Commission, §51104 and 27 GAR- Public Safety Ch. 3-Guam P.O.S.T. (Peace Officer Standards and Training) Commission Administrative Rules; Application for Peace Officer Certification.

II. Review and Approval of Minutes of February 28, 2019.

MOTION

M/S/C: (GPD/AG): Motion was made to approve the Guam P.O.S.T. Commission Meeting Minutes of Thursday, February 28, 2019, with corrections. Unanimously approved, motion adopted.

III. Chairman Remarks. Due to a schedule conflict, Chairman Stephen Ignacio was unable to attend today’s meeting although representatives from GPD were present.

- a. P.O.S.T. Training Verification Request Form for P.O.S.T. Certification Process. Mr. Bob Camacho mentioned he reviewed the Verification form and Application for Peace Officer Certification and the law regarding P.O.S.T Certification.
-He referred to the Application for Peace Officer Certification and mentioned this has to be revised to be in line with Title 17 regarding the POST Commission.

-He also referred to information sheet regarding Title 17, which outlines the qualifications as a Peace Officer.

-He proposed this to be used as a checklist and insert what is in Title 17, the current law, and make sure the criteria for qualification are in the certification application.

-The first issue that has to be resolved and looked into is the certification process with GCC and DOA.

-The second issue that has to be resolved is when does this apply.

-Mr. Camacho then referred to Title 17 under, Section 3106, Standards for Certification of Each Category of Peace Officer. "Any person who has been serving on a permanent basis as a peace officer on Guam prior to the promulgation."

-The promulgation date is October 13, 2017.

-That with the verification, there are classroom/course requirements.

-Issue is can't have an employee go back to GCC after so many years to take these classroom requirements.

-The significant is that there is a timeline to start the classroom requirements, which is October 2017.

-Referring to the Verification Form, there is no requirement for Math according to the law and this form has to be changed.

-The Verification Form should also reflect the portion of the law that states, "Any person who has been serving on a permanent basis as a peace officer on Guam prior to the promulgation hereof and who is currently employed as a peace officer, or was previously employed as a peace officer for at least ten (10) years prior to September 7, 2007, may be certified as a peace officer by the Executive Director without having complied with §51104(b) and (c)."

-That the law is clear on this but is subject to review by the Attorney General's Office.

-Need to get clarification for this because this is one of the issues that has to be resolved.

-Need to work on this form with GCC and come to a resolution regarding this Section.

There is a question as to how is a person currently being certified.

In discussion with the former Executive Director, Dennis Santo Tomas, Mr. Camacho mentioned there is an academic review by GCC with the Verification Form.

Lt. Mark Torre mentioned that GPD developed a draft certification review form for each of the different peace officer categories, for example, for GPD, GFD, DOC, etc., just as a draft that list what is reflective of what the law states.

-This draft form to be considered which lists the courses the respective agencies require.

-Some copies of the draft were issued and Lt. Torre will provide electronic copies to the members.

-If this form is adopted, Lt. Torre will request Sgt. Gamboa to make a form specific to each agency.

-Mr. Camacho mentioned **the next issue to be resolved is the Physical Fitness for new hires.**

-He referred to the information sheet regarding 27 GAR, Public Safety Chapter 3, Guam P.O.S.T. Commission Administrative rules under Section 3104, Pre-Employment Requirements.

-He mentioned the new PFQT is not effective until 2020.

-Questions come up such as if there is a new hire, can the new hire be penalized for not passing the PFQT and not hire that individual?

-He asked for input and would like an opinion as well from the Attorney General.

Chief Perez mentioned there can be interim policies by using the old version for the PFQT.

-Recommends utilizing the new PFQT as that is the goal.

-Mr. Camacho's question was whether that person will be penalized for not passing as a new hire, as an entry level.

Lt. Torre referred to a job announcement for a Police Officer Trainee that should you pass the entry level with DOA, the department would still need a PFQT for an individual to maintain.

-That the current job announcement would also have to be revised to follow the law.

DOA asked what the different categories for each agency are.

-Mr. Camacho mentioned it is listed in the law, however, DOA will be provided with this list for each agency.

There is a question regarding individuals who are currently being hired in obtaining POST certification.

-Do you have to go through a verification for the educational requirements such as the EN100? This was confirmed.

-As to the physical agility test, this is currently being done by DOA and said this is confusing.

-This test is an assessment and the individual would still have to pass the department specific PFQT.

-Can this be set up for failure? Some agreed.

DOA stated there is a checklist sent out to the law enforcement agencies to ensure individuals have met the requirements of Title 17 but is only done upon selection.

-Mr. Camacho asked if there is a way agencies can assist with the selection to expedite the process to make things easier.

-To discuss how agencies can assist DOA with the process.

DOA will discuss this with the supervisors because there are liability issues.

-Not saying no at this point but will discuss it.

It was mentioned that liability issues relate with regards to physical fitness testing in case an individual passes out and require medical attention can be a problem.

-At this point the EN101 is an issue with the hiring process that is hindering the process.

-Mr. Camacho requested for a meeting regarding this.

-DOA mentioned that the reading and writing proficiency is a barrier in processing applicants.

-The POST Commission can decide to either use this at the front end of the application, which will be done by DOA, or later and determine what is acceptable for the POST Commission.

-DOA mentioned it would be up to the POST Commission as to when to place this requirement and what other requirements, if any, will be added. That whatever the POST Commission adopts DOA will comply with.

There were further discussions as to the requirements, to include this during the training cycle.

Senator Terlaje mentioned that there has to be a way to help the individuals with the hiring process. That the POST Commission has to come up with something as a group to make this process easier to hire individuals.

-Mr. Camacho proposed to place the EN100 requirement at the back end, do "in-service time such as a on the job training and get an instructor to conduct the EN100.

-The question is who will offer this. Mr. Camacho mentioned this can be done online and used as one option.

-More details would have to be researched and brought before the POST Commission.

It was mentioned that the Governor is asking what it is going to take to get this process going to hire law enforcement applicants.

- A goal has to be established to do this and need to find ways to have this done.
- Maybe something GCC can offer if applicants do not pass the placement tests. Fees is another discussion. This process is something for discussion.
- Cannot just take away this EN100 requirement, might require the Triple AAA process.
- There was a question of a written test. DOA confirmed there is one.
- A suggestion was to hire upon passing certain requirements along the way. This might not be a good idea especially after the individual does not pass and is already being paid and then is released from the agency.
- DOC suggested to look at the DOA written test to make it in lieu of the reading and writing requirement.
- DOA mentioned their written test is not accredited.
- There were further discussions as to how the individual can obtain this requirement, however, have to look at the law for the EN100 requirement.

Mr. Camacho referred to the information sheet under POST Commission Administrative Rules, Section 3106 as to the list of educational requirements for POST: “Report Writing, Criminal Justice Overview, First Responder, Officer Survival and Use of Force, Firearms and Safety, First Aid, Cultural Awareness and Sensitivity, Dealing with Physically Challenged Individuals, Dealing with People with Disabilities, Dealing with People with Mental Health Challenges, Juvenile Justice and Delinquency Prevention Act, Active Shooter, Guam Criminal Procedure, and Guam Criminal Law.”

Mr. Camacho further referred to Section 3104 under Pre-Employment Requirements: “Reading and Writing Proficiency. All applicants must provide proof of satisfactorily passing an exam or course evidencing proficiency in reading and writing in English administered by an institution recognized or sanctioned by the P.O.S.T. Commission.”

- He believes an individual can take an exam, **or** course. That “or” is significant for this.
- Provide a test or what is required to pass this, do this at the back end of the application.
- There are options but will do research as to what is needed to conduct this class.
- That the institution has to be sanctioned by the POST.
- He requested that this is one way to take care of this portion in helping DOA.

DOC anticipated a motion to make this modification as a Commission placing the EN100 responsibility on the individual. Believes need to move forward on this and asked if the Commission does not make a decision can this be done through an Executive Order.

- An Executive Order is another option, however, there is the issue of the PFQT.
- A legislative action might need to be required. Under section 3104, the applicant would still require proof of this requirement under Section 3004 under Public Law 32-232.
- It was also mentioned that there is an AG’s Opinion regarding pre-employment. That an applicant must satisfy all the conditions for pre-employment before an individual is employed.

Mr. Camacho suggested that an applicant can take an exam for this per the law, that it can conduct the reading and writing proficiency test and if the applicant passes, this condition for pre-employment is met.

- The course is an English course and not necessarily an EN100, which can then be administered at the agency level with the requirements of other pre-employment requirements. This will then make an applicant eligible.

Mr. Flisco mentioned that if this is for college credits, GCC course requirements for the English is stated in its catalog and suggested to have this verified.

-There was a discussion that there is more than one way to fulfill this requirement, to take the placement test, or a course taken from any accredited institution.

-DOA will accept what the POST Commission decides to either place this at the front or at the end of the application but still fulfilling the pre-employment requirement.

The Commission will meet in approximately two weeks to work out this issue and recommended a meeting on April 11, 2019 to vote on this.

IV. Public Safety Committee Chairperson - Senator Jose "Pedo" Terlaje was present.

With regards to autonomy that is up for discussion, however, the POST Commission will not be given full autonomy.

-There have been discussions for the POST Commission to consider adopting its Rules but subject to the Triple AAA process.

V. Old Business.

VI. New Business.

There were discussions with the PFQT. When can the new PFQT be implemented?

In the meantime DOA is still conducting the old testing.

If someone is picked up this year, use the 2.1, January 2020 is when the new PFQT standards will be in effect.

In effect, cannot enforce the newly adopted policies but should continue with existing employee in utilizing the 2.1, including for new hires until January 2020 when the new policy will be in effect.

GPD mentioned Judiciary is now using the new standards for testing with a high passing rate but in the meantime for existing and newly hired employees, stay with the 2.1, otherwise could be held liable. Cannot enforce the newly adopted policies.

DOA mentioned that the staff attorney reviewed the new standards and have been testing the Marshal's and there are 7 failures out of 65. Been told to test with the new standards.

GPD mentioned the newly adopted policies were just adopted as is, whatever was submitted is as is.

Customs brought up the provision of officers that want to utilize their rights for re-employment. - Although some fall under the provision as a "grandfathered" employee, they are required to go to GCC and obtain a request for certification as peace officers.

-That at the time of initial employment, courses such as EVOC, which was not required back then are now required making the individual lacking that requirement.

-Chief Perez mentioned that the law states that these employees are allowed to come back without having to obtain the certification as provided in the law.

-Just want to make sure that it is clear, that if there are "grandfathered" employees at this point issues should be resolved as to these employees to be hired as "grandfathered" employees.

Mr. Camacho had a question regarding reinstating an employee, whether the individual is hired back with the same status when the individual was still employed with the same rights and privileges before they left the agency.

-DOA mentioned the employee is given the same salary and position last held but stipulation is that they need to meet the current requirements of the position.

-As an example, a Correction Officer I requires the English proficiency but did not initially was required, now has to meet this requirement.

Chief Perez referred to Public Law 32-232 with regards to the Guam P.O.S.T. Commission Administrative Rules under Section 3006, Standards for Standards for Certification of Each Category of Peace Officer. "Any person who has been serving on a permanent basis as a peace officer on Guam prior to the promulgation hereof and who is currently employed as a peace officer, or was previously employed as a peace officer for at least ten (10) years prior to September 7, 2007, may be certified as a peace officer by the Executive Director without having complied with §51104(b) and (c)."

-That with this Section, there is an exemption.

-Lt. Lizama mentioned there is a caveat to this to make sure other requirements are met such as a background investigation, also mentioned under the actual public law.

Further discussions:

-DOC asked if requirements would be under the department and not DOA. Lt. Lizama mentioned that what it appears to be.

-DOA mentioned that it received an opinion in 2010 from the Guam Attorney General's Office regarding this specifically to GPD that states it must meet all the requirements.

-Considering this is a 2010 Opinion, it might need to be updated for POST.

-Customs mentioned that following the provision of the law, this allows individuals that fall under this provision to assert their right for re-employment.

Further discussions included issues as to what happens to employees who have to go through this for re-employment when job positions that are urgently needed are not being filled; obtaining another Opinion regarding re-employment.

-There is a request for DOA to request another AG's Opinion.

DOC asked what happens to an individual's rights for re-employment but fails a background check, etc.

-DOA mentioned the department head has the prerogative to hire or not to hire.

-Although re-employment is at the discretion of the Director and an individual does not meet the requirements, the individual does not qualify.

-DOA mentioned she heard this from Legal that the Director has the authority not to hire.

-Still has to be vetted for the job position.

VII. Next Meeting Scheduled. April 11, 2019 subject to rescheduling.

VIII. Announcements:

With the passage of recreational marijuana, there was discussion that it is very important that each agency keep stats for future use.

IX. Adjournment.

MOTION

M/S/C: (Marshal's/AG's): A motion was made to adjourn the meeting of March 28, 2019. Unanimously approved.

There being no further discussions, the meeting adjourned at approximately 10:45 a.m.

Dated this 12th day of April 2019.

/s/

Bertha M. Guerrero
Recording Secretary