

**PUBLIC DEFENDER SERVICE CORPORATION**  
**Board of Trustees Regular Meeting**  
**Tuesday, June 26, 2012**  
**Conference Room,**  
**Public Defender Service Corporation**  
**12:30 p.m.**

**A G E N D A**

**I. Call to Order**

**II. Roll Call**

**III. Proof of Due Notice of Meeting:**

5 Working Days Notice: Marianas Variety, Friday, June 15, 2012  
48 Hours Notice: Marianas Variety, Friday, June 22, 2012

**IV. Determination of Quorum**

**V. Approval of Minutes: (Regular Meeting of May 22 , 2012)**

**VI. Old/Unfinished Business:**

- A. Financial Status Update (PDSC and APD Allotment Releases)
- B. Domestic Violence Program Update
- C. Alternate Public Defender Update
- D. Trial College (Conference/Training)
- E. Committee on APD's Restructuring/Reorganization Report
- F. Resolution No. 04-12: Request to Use PDSC Lapsed Funds To Cover Night Differential Payments (4 GCA §6217)
- G. Resolution No. 05-12: Request to Use APD Lapsed Funds To Cover Night Differential Payments (4 GCA §6217)
- H. Director's Performance Review
- I. Representation of Current Clients in Related Protective Order Cases

**VII. New Business:**

- A. PDSC's Handling of Non-Criminal Cases
- B. PDSC's Policy for Conflicts of Interest

**VIII. Public Discussion**

**IX. Adjournment and Next Meeting Date**

# NYC mayor opposes NYPD oversight

**NEW YORK (Reuters)** – New York City Mayor Michael Bloomberg will oppose planned legislation to create independent oversight of the New York Police Department, a measure introduced by city lawmakers as the NYPD comes under growing criticism for controversial policies.

Two members of the City Council introduced legislation on Wednesday that would create the position of inspector general, an independent auditor with subpoena power and broad investigative authority to monitor the 35,000-member NYPD. The measure has found support among civil libertarians.

"If you can have an inspector general at the FBI and the CIA, why can't you have an inspector general at the NYPD?" said Councilman Jumaane Williams, a co-sponsor of the proposed bill.

Like his predecessor Rudy Giuliani, Bloomberg has resisted calls for independent oversight of the police department.

The NYPD "is the most regulated department in the entire city," Bloomberg said on Wednesday. "I think we've got



The NYPD is under fire for some of its practices. [theburner.com](http://theburner.com)

enough supervision and oversight. We've got to focus on just getting the bad guys off the street and getting the guns out of their hands."

Even with crime rates falling, the police department has come under fire in the past year for increased use of its stop and frisk program, which whistleblower cops and police union officials say is driven by an illegal quota system.

NYPD surveillance of Muslim communities in and outside of New York has also been condemned by critics, who say it constitutes racial profiling.

The legislation's sponsors

would need a two-thirds majority—or 35 of the 51 members—to override a mayoral veto.

Currently, about a dozen council members have expressed support for the bill, according to Williams, who said he believed "that probably within weeks we should be close to or at a veto-proof majority."

Critical support for the measure from Christine Quinn, the powerful City Council speaker and likely 2013 mayoral candidate, remains uncertain. She declined to comment Wednesday on the legislation, which she said she hasn't yet reviewed.

# Judge blocks union election at AA

**FORT WORTH (Reuters)** – A judge on Wednesday temporarily halted a union organizing drive for 10,000 passenger service agents at bankrupt American Airlines that had been cleared by federal mediators.

U.S. District Judge Terry Means issued an order in Fort Worth, Texas, preventing a representation election scheduled for June 21 through Aug. 2.

The Communications Workers of America wants to represent agents at airports nationwide.

Means found that American was likely to prevail in a lawsuit challenging criteria used by the National Mediation Board, or NMB, to permit the vote. The agency overseeing union balloting had asked Means to dismiss the complaint.

The closely watched decision comes amid a series of organizing setbacks at big airlines.

Republicans in Congress have forced changes in law to make it more difficult for airline labor groups to hold an election, pleasing industry and provoking liberal Democrats who count on union political support.

*The Communications Workers of America wants to represent agents at airports nationwide.*

Means scheduled a hearing for June 21 to determine whether the NMB exceeded its authority.

At issue is American's claim that mediators applied an outdated standard for determining necessary worker support for a union representation election.

A law that took effect in February requires at least 50 percent of eligible workers to sign cards stating they want a vote, up from the previous threshold of 35 percent.

The CWA said it requested an election before the standard was changed, and the NMB agreed the vote should move forward.

The case is not expected to affect American's bankruptcy restructuring. As a cost-cutting measure, the airline has threatened to void contracts for big unions, including pilots and flight attendants, if they do not agree to steep concessions soon.



## NOTICE OF PUBLIC MEETING SHORELINE SETBACK ANALYSIS FOR GUAM

The Bureau of Statistics and Plans (BSP) Guam Coastal Management Program (GCMP) is conducting a Public Meeting on the SHORELINE SETBACK ANALYSIS FOR GUAM on:

Tuesday, June 19, 2012  
Sinajana Senior Center  
6:00 pm. – 7:00 pm.

The meeting will include a presentation, discussions and the opportunity for the public to provide any comments on the analysis and its various components that will cover the shoreline setback areas on Guam.

For additional information, please call Ms. Evangeline Lujan, Administrator, Guam Coastal Management Program, Bureau of Statistics and Plans at 472-4201-3. Any person(s) needing special accommodations please contact Ms. Terry Perez at 475-9673. This advertisement was paid for by federal funds through GCMP.

/s/ THOMAS A. MORRISON  
Director, Bureau of Statistics and Plans

## NOTICE OF PUBLIC MEETING

The Public Defender Service Corporation Board of Trustees will conduct a regular meeting on **Tuesday, June 26, 2012 at 12:30 p.m.** in the Conference Room of the Public Defender Service Corporation, located at the MVP Sinajana Commercial Building, Unit B, 779 Route 4, Sinajana, Guam 96910.

Copies of the agenda will be available prior to the meeting at the Public Defender Service Corporation (address above).

Individuals requiring special accommodations are asked to contact Bernadette S. N. Chargualaf at 475-3100.

/s/ CHIEF JUSTICE F. PHILIP CARBULLIDO  
Chairman

*This public notice is paid for with government funds.*

# Revisions to 30-year-old Guam Food Code planned

By Zita Y. Taitano  
zita@mvguam.com  
Variety News Staff

The Guam Hotel & Restaurant Association was given a presentation on a measure that would amend and update the Guam Food Code.

Tom Nadeau, administrator for the Department of Public Health and Social Services Environmental Health Division, said the existing regulations are about 30 years old and they want to update the code.

Rather than going through the regular administrative adjudication process – because they are unable to fund the economic impact study – he said Sen. Dennis Rodriguez, chairman of the committee on health, was

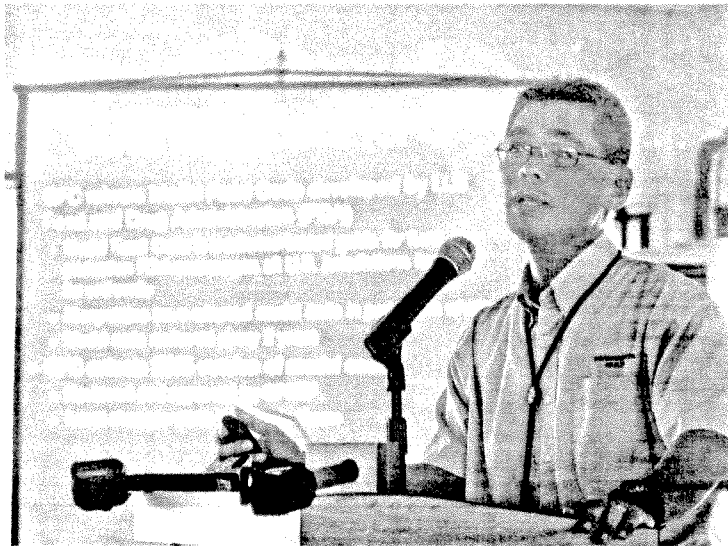
asked to introduce legislation, which eventually became Bill 307-31.

Nadeau said the food code applies specifically to food facilities that provide directly to consumers.

"It does not include wholesalers or distributors. It is for restaurants, delis, bakeries, and grocery stores," he said.

One of the changes requires establishments to further lower the temperature for freezers, from 45 degrees to 41 degrees.

"Another requirement is the wearing of gloves when handling certain types of foods. That's a concern to the food industry because there may be additional costs involved," Nadeau said.



Tom Nadeau, administrator for the Department of Public Health and Social Services Environmental Health Division, said the existing regulations are about 30 years old and they want to update the code. David Castro / For Variety

At present, Nadeau said employees who handle food that can be distributed right away don't have to use gloves as long as they wash their hands.

"But we have concerns. We're

seeking this requirement when handling certain foods that are ready to be served right away, for example, salad and dessert," he said, adding at least one restaurant, Subway, has already made

it a priority for their employees to wear gloves while making sandwiches for customers.

Nadeau further said Bill 307-31 will mirror federal standards.

Please Join Us, A Fundraiser with the Committee to Elect

**SAN AGUSTIN**  
Joe Shimizu  
for SENATOR (D)

Friday, June 22, 2012, 6-10 pm  
Cloud 9, Hafa Adai Exchange, Tamuning  
\$10 Donation - Thank you for your support!  
*Includes one free domestic beer, soda or water and chasers*

The Honorable  
EDDIE B. CALVO  
Governor

The Honorable  
RAY TENORIO  
Lt. Governor

A.B. WON PAT  
A.B. Won Pat International Airport Authority

## PUBLIC NOTICE

The Board of Directors of the A.B. Won Pat International Airport Authority, Guam (GIAA) will convene its Regular Board meeting on Friday, June 29, 2012 at 2:00 p.m. in Terminal Conference Room No. 3. In addition to regular matters, pursuant to 5 G.C.A. §8111(c)(2), Executive Session will be held to discuss pending litigation to which GIAA is a party. Parking is available in the Public Parking Lot.

For special accommodations or agenda items,  
please call the Board Office at 642-4717/18.

(This ad paid for by GIAA)

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Is/ CHIEF JUSTICE F. PHILIP CARBULLIDO  
Chairman

This public notice is paid for with government funds.

## Drug conspirator sentenced to 8 years

By Geraldine Castillo  
geraldine@mvguam.com  
Variety News Staff

AFTER pleading guilty to conspiracy to distribute methamphetamine, James D. Acfalle was sentenced to eight years and four months in federal prison with credit for time served.

Acfalle, 39, was sentenced Wednesday in the District Court of Guam by Chief Judge Frances Tydingco-Gatewood. Upon release from imprisonment, Acfalle will face five years of supervised release.

Acfalle, along with co-defendant Roland Nauta, were charged with conspiracy to distribute methamphetamine, a statement from the office of U.S. Attorney Alicia Limtiaco said.

Nauta was sentenced earlier this month to 13 years and one month in prison with credit for time served and five years supervised release for the offenses of conspiracy to distribute methamphetamine and using, carrying or possessing a firearm during and in relation to a drug trafficking crime.

Nauta and Acfalle were arrested in Feb. 23, 2011 after receiving an intercepted package that was expected to contain more than 300 grams of meth from California. The package was addressed to Nauta. When authorities raided his home, agents found a .25 semi-automatic pistol, which Nauta said was his.

Court documents state Acfalle knew Nauta had been receiving meth via mail and that he would obtain the drug from Nauta to supply people who called him for meth.

## Man wanted on child pornography charges in Maine arrested on Guam

By Geraldine Castillo  
geraldine@mvguam.com  
Variety News Staff

A 45-year-old man was arrested on Guam yesterday, wanted in the state of Maine for the alleged possession of child pornography.

According to documents filed yesterday in the District Court of Guam, federal authorities on May 30 raided the apartment of Paul R. Rouselle in Biddford, Maine, and seized three computers

suspected to contain media depicting minors engaged in sexually explicit conduct.

During the investigation, agents discovered more than 200 videos of child pornography. Shortly after the raid, authorities were alerted on June 5 that Rouselle had purchased a one-way ticket from Portland with a final destination to Manila, Philippines, court documents stated.

That same day, a complaint was filed in the District Court

of Maine charging Rouselle with possession of child pornography. Additionally, the court issued a warrant of arrest but Rouselle already had allegedly fled.

It is unclear in court documents how Rouselle was apprehended on Guam. However, Magistrate Judge Joaquin Manibusan issued an order yesterday which will remove Rouselle and send him back to Maine pursuant to the warrant of arrest.

Marianas Variety-Guam Edition is circulated by home and office delivery, consignments, and vending machines throughout Guam, as mail delivery to the Federated States of Micronesia, the Marshall Islands, South Pacific, Hawaii, Japan and the continental U.S. Daily coverage can also be read from our website [www.mvguam.com](http://www.mvguam.com).

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**PUBLIC DEFENDER SERVICE CORPORATION  
BOARD OF TRUSTEES  
Regular Meeting of  
Tuesday, May 22, 2012  
12:30 PM  
PDSC Conference Room**

**MINUTES**

**I. CALL TO ORDER:**

This meeting was called to order by the Chairman, Chief Justice F. Philip Carbullido, at 12:42PM.

**II. ROLL CALL:**

Present: Chief Justice F. Philip Carbullido, Chairman  
Presiding Judge (Acting) Michael J. Bordallo, Vice-Chairman  
Attorney Cynthia V. Ecube, GBA President  
Donna Muna-Quinata, Member

Absent: Cathy Ann C. Gogue, Member

Others Present: Attorney Eric D. Miller, PDSC Executive Director  
Attorney Ana Maria Gayle, APD Attorney Supervisor  
Cecilia A. T. Lizama, Chief Fiscal Officer  
Edbert J. Quintanilla, Personnel Specialist IV  
Cecelia M. Fernandez, Administrative Assistant  
Julito B. Tingson, Jr., MIS Administrator

**III. PROOF OF DUE NOTICE OF MEETING:**

“Notice of Public Meeting” was published in Marianas Variety on Friday, May 11, 2012 and Friday, May 18, 2012.

**IV. DETERMINATION OF QUORUM:**

With the presence of four (4) board members, a quorum was determined for this meeting.

**V. APPROVAL OF MINUTES:** Minutes of the Board Regular Meeting on April 24, 2012 was approved as submitted. (First Motion: Board Member Donna Muna-Quinata; Second Motion: Board Member Cynthia V. Ecube)

**VI. OLD BUSINESS:**

**A. Financial Status Update:** Chief Fiscal Officer, Cecilia A.T. Lizama, reported Public Defender (PDSC) received half of May, as of May, which is 94% of the scheduled allotments. Lizama contacted DOA and they do have the second half to be released on their schedule, but is not too sure (will not know until Friday, May 25, 2012) if it will be released or not. For Alternate Public Defender (APD), we received more than 100% because we received up through June.

**B. Domestic Violence Program Update:** Lizama prefaced her report by correcting her previous update from the April 24, 2012 Board Regular Meeting by stating that the actual amount submitted for reimbursement at the time was \$6,011.00 instead of the \$6,600.00 as previously reported. The payment was received last week. Lizama submitted the April request for reimbursement and expects to receive it within the next two (2) weeks. Lizama explained to those present that the request is not a direct request through DOA. These requests need to go through the Federal Programs Office. After the request is submitted to the Federal Programs Office, they review all our documents and submit the request to DOA. Sometimes it takes several weeks to receive the reimbursement. Lizama submits each request at the end of the month because it is due by the 10th. To ensure the process is understood, Lizama reiterated that the process is that we advance the funds to the Federal Programs account, prepare a request for reimbursement at the month end, submit it to the Federal Programs Office and they submit it to DOA. Presiding Judge (Acting) Michael J. Bordallo questioned whether there have been any problems when dealing with the Federal Programs Office. Lizama responded by stating that the problems only occur when the contract ends and it takes anywhere from three (3) to five (5) months for the Memorandum of Understanding (MOU) to circulate. Once the MOU is approved, then the requests for reimbursement may be submitted.

**C. APD Update:**

**1. APD Statistical Reports:** APD Attorney Supervisor, Ana Maria C. Gayle, reported she has not had an opportunity to revise the statistical reports due to Law Week and other schedule conflicts since the last board meeting. Chief Justice F. Philip Carbullido questioned Gayle as to whether she needs assistance from PDSC. MIS Administrator, Julito B. Tingson, Jr., interjected by informing Carbullido that he creates the reports based on the information entered into the system and he just needs the report parameters in order to generate the reports based on what they want to see. Tingson acknowledged receiving an email from E.J. Quintanilla, Personnel Specialist IV, with the parameters to create a case Aging Report as requested by Presiding Judge Alberto C. Lamorena III during the last board meeting. Gayle reminded everyone, Lamorena wants to see a report which shows when a case is opened and the amount of time it takes to close the case. Carbullido questioned whether there is a standard methodology for reports which address attorney performance. PDSC Executive Director, Eric D. Miller, mentioned that the reports he uses take into account the number of cases assigned in the year and the number of cases that were pending as of the end of the previous year. Miller defined pending cases as those cases which were not closed as of the end of the previous year and had activity scheduled within the following twelve months. Furthermore, Miller explained there

is an issue with the data in the system because there are some cases which should be closed but are not closed in the system. Those cases skew the number of open cases. Carbullido suggested to Gayle, a standard written policy should be created to define when a case should be closed in the system and it could either be an administrative policy or a policy adopted by the Board. Additionally, Carbullido suggested that each attorney review the cases and recommend which cases should be closed. Bordallo added to the discussion, the court's definition and the attorney's definition of a closed case should differ. *(Further discussion was tabled until the next board meeting, pending revision of the statistical reports.)*

2. **APD Fiscal Year 2013 Budget Request:** The Budget Request was amended with the following changes: Off-Island travel was zeroed out; Supplies was decreased from \$7,000.00 to \$5,000.00; Miscellaneous category has an increase for Local Training in the amount of \$3,500.00; Costs for job announcement publications was zeroed out; No new positions are being requested for Fiscal Year 2013 due to the current financial constraints; The revised budget request is now a 3% increase from the current budget and is primarily due to the mandated increases as required by statute. With no further discussion, Chief Justice Carbullido recused himself from voting and the remaining Board Members unanimously approved the APD Fiscal Year 2013 Budget Request in the amount of \$846,896.00 with all its provisions contained therein and as adopted by Resolution No. 08-12. The Board approved budget request will be transmitted to the Administrator of the Courts, Perry Taitano, so it can be added to the Judicial Council meeting agenda. It most likely will not be on the agenda until July, due to the Court's Ways and Means meeting with Senator Pangelinan on July 6, 2012.

**D. Trial College (Conference/Training):** Miller reported, the Trial College took place May 10 - 12, 2012 and thanked the Guam Bar Association, Chief Justice, Judges and Board Members for their support. The first day took place at the U.S. District Court. Judge Francis Tydiengco Gatewood welcomed the attendees and provided the venue free of charge. Seventy-nine attorneys attended the first day of the college. All PDSC and APD attorneys received the training which would have cost thousands of dollars per attorney. The actual cost was \$295.00 per attorney and was paid out to the Guam Bar Association for staffing of the event. Gayle described the event as a wonderful interoffice experience with APD, PDSC and other defense lawyers. Chief Justice Carbullido suggested holding the event every two (2) years. Miller concluded his report by informing those present that the trainers received a gift basket and thank you letter for their work.

**E. Committee on APD's Restructuring / Reorganization Report:** *(This agenda item was tabled until the next board meeting due to the absence of the committee chairperson, Board Member Cathy Ann C. Gogue.)*

**F. Resolution No. 04-12: Request to Use PDSC Lapsed Funds To Cover Night Differential Payments (4 GCA §6217):** Miller reported that he has not received an opinion from the Office of the Attorney General. The last response from the Office of

the Attorney General was that the opinion is with upper management for approval. Furthermore, Miller affirmed to the Board Members that the night differential payments have not been paid, but does not foresee a significant financial impact for the agency. *(This agenda item was tabled until the next board meeting due to the pending opinion from the Office of the Attorney General.)*

**G. Resolution No. 05-12: Request to Use APD Lapsed Funds To Cover Night Differential Payments (4 GCA §6217):** *(This agenda item was tabled until the next board meeting due to the pending opinion from the Office of the Attorney General.)*

**H. Director's Performance Review (5GCA §43201):** Miller informed those present that his Performance Review has not been completed. Chief Justice Carbullido reaffirmed the necessity to comply with the statute and to keep the item on the agenda until it is completed. *(This agenda item was tabled until the next board meeting due to the absence of the committee chairperson, Board Member Cathy Ann C. Gogue.)*

**I. Resolution No. 13-12: Representation of Current Clients in Related Protective Order Cases:** Miller reminded those present that the question surrounding the topic is whether or not the agency should be representing our criminal clients in cases where it involves the same facts and the victim is the respondent. The agency already represents the client in a criminal case but the question is whether we should also represent the client in a civil case. The Board agreed during the last board meeting that it would be the appropriate thing to do. However, Presiding Judge (Acting) Bordallo raised a concern that the attorney representing the petitioner is not the attorney handling. *(This agenda item was tabled until the next board meeting.)*

## **VII. NEW BUSINESS:**

**A. Resolution No. 11-12: Request to Use PDSC Lapsed Funds for the Purchase of a Replication Server:** Tingson explained to those present, the old server of the PDSC crashed last week. Luckily, the PDSC already had a new server and he was in the process of acclimating himself to the new hardware and system. Due to the technical issue, Tingson and his staff worked countless hours trying to restore all the employees' user accounts and agency files. With the usage of the new server and the absence of a server to backup all the stored data, Tingson requested board approval to use lapsed funds for the purchase of a replication server. The replication server would mirror the current server and would prevent any data or time from being lost. With the adoption of Resolution No. 11-12, the Board approved the usage of lapsed funds to purchase a replication server with an amount capped at \$12,000.00. (First Motion: Board Member Ecube; Second Motion: Board Member Muna-Quinata)

**B. Resolution No. 12-12: Request to Use Lapsed Funds for Fiscal Year 2011 Laserfiche Software Assurance Plan Services:** Tingson informed those present, the agency utilizes the Laserfiche Software Assurance Plan (LSAP) services provided by Island Business Systems and Supplies (IBSS) for the archiving of case files and documents. The annual fee for maintenance and support is \$3,400.00 and has been budgeted every year.

However, the agency did not receive an invoice from IBSS in Fiscal Year 2011 until May 2012, due to an organizational change within IBSS, for the services provided from May 01, 2011 to April 30, 2012. After providing the background information on the issue, Tingson requested and received board approval, through the adoption of Resolution No. 12-12, for the usage of lapsed funds in the amount of \$3,400.00 to pay for the Fiscal Year 2011 Laserfiche Software Assurance Plan Services. (First Motion: Board Member Ecube; Second Motion: Board Member Muna-Quinata)

**VIII. PUBLIC DISCUSSION:**

Board Member Muna-Quinata informed those present that she will be off-island from July 3 through August 7, 2012.

**IX. ADJOURNMENT AND NEXT MEETING DATE:**

There being no further business up for discussion, the meeting was adjourned at 1:23PM. The next meeting date was agreed upon to be held on June 26, 2012, 12:30 PM.

Respectfully submitted,

  
EDBERT J. QUINTANILLA  
Acting Board Secretary