



**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, April 27, 2017**

I. Called to Order. The P.O.S.T. ("POST") Commission meeting of April 27, 2017 was called to order at 9:00 a.m. by Mr. Robert "Bob" Camacho, Chairman, 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.

Documents Received. Document(s)/Packet: 4/27/17 Agenda; Letter dated March 29, 2017 from the Office of the Attorney General of Guam re Procedure for amendment of P.O.S.T. Commission Fitness Standards, Information and guidance, Ref. POST 17-0045 signed by the Assistant Attorney General, Mr. Monty R. May; a copy of an excerpt of the Exhibit "A" to Public Law No. 32-232 as a reference regarding Chapter 3, Section 3005, of the Guam P.O.S.T. (Peace Officer Standards and Training) Commission Administrative Rules; and write-up on the 4/27/17 POST Agenda.

II. Approval of Minutes from previous meeting of February 23, 2017. There were no Minutes due to unavailability of recording.

III. Chairman Remarks. The Chairman mentioned, the following:

a. AG Opinion on PFQT Adjustments

- A letter was received from the Office of the Attorney General that explained the POST Commission does have to go through the Guam Legislature to make any changes/adjustments to the PFQT.
- The Chairman and the Executive Director meet with Senator Nelson to discuss a forthcoming proposal regarding any changes/adjustments.
- Was informed by the Senator that she will support what has to be done to help the POST Commission regarding this, however, would need input as to how the POST Commission want this drafted to best benefit the community.
- Senator Nelson anticipates introducing this June 2017.
- The Chairman informed the members that would need everyone's input by the next meeting.
- Would need discussions, input from the community and go through the AAA process given the opinion from the office of the Attorney General.

b. PFQT remains status quo - equivalent to U.S. Air Force Fitness Test

- The Chairman further explained that in the meantime, would have to adhere to the current PFQT, status quo with the Air Force standards.
- Should the proposed bill is not passed before December 2017, the current PFQT will remain as is as the general standards for all Guam peace officers.
- The Chairman mentioned he is confident the proposal will be passed, however, there will be questions from the public and the senators and overall scrutiny as to why the POST is lowering the standards.
- Just have to be prepared and continue to conduct the physical fitness tests.
- That the statistics from previous fitness tests will help with any public scrutiny.
- That there is current recommendations for review and to further discuss.

IV. PFQT Updates from departments/agencies

a. Judiciary of Guam

Mr. Roy Hanes from the Judiciary of Guam presented as follows:

- For the PFQT there is a sixty percent (60%) passing rate with the AFI standards, with no modifications.
- There are some exemptions that will be tested later.
- The rate was higher in October 2016 with a sixty-eight percent (68%) to a seventy percent (70%) passing rate.
- The holidays might have been a factor for the lower rate for 2017.
- Mr. Hanes further reported that the Judiciary is in support of any recommended changes.
- Just wanted to be in compliant with the current PFQT requirements.

GPD Chief at this point informed the POST, as follows:

- GPD has other issues and have communicated with some of the senators from the 33rd Guam Legislature.
- From observation he mentioned that historically, it takes approximately six (6) months to process (a bill) through the Guam Legislature.
- It is now April 2017 and need a plan right now in order to introduce a proposed bill through Senator Nelson and pass it into law before December 2017
- Mentioned that with the Judiciary's passing rate of 60% and best passing rate for GPD is 30%, there will be problems with the other 70% not being certified.
- Need to expedite this process as soon as possible before December 2017.

The Chairman proposed to meet in May 2017 as soon as possible and to also take a vote and introduce this to Senator Nelson.

- GPD Chief Cruz mentioned that Senator San Agustin was a former police officer, retired Guard member, and has been working closely with Chief Cruz and feels the POST Commission should get support from him as a co-sponsor for a proposed amendment to Public Law No. 32-232.

The Chairman agrees in communicating with both senators to introduce an amendment to the Public Law No. 32-232 regarding the current PFQT.

- At this point, the POST Commission should come up with a proposed verbiage.
- At the next meeting, should have an agreement of the proposed verbiage.

-To get each agency's input.

V. Proposed Verbiage for PL 32-232 (Bill No. 418-32 [COR]). The Executive Director, Dennis Santo Tomas, explained that he provided a copy of an excerpt of the Exhibit A to Public Law No. 32-232 as a reference regarding Chapter 3, Section 3005, of the Guam P.O.S.T. (Peace Officer Standards and Training) Commission Administrative Rules, as well as a write-up below.

- a. CURRENT §3005, line 4: "shall be equivalent to the U.S. Air Force fitness test, as currently embodied in Air Force Instruction 36-2905, dated 21 October 2013, or as amended."
- b. PROPOSED §3005, line 4: "shall be modeled after the U.S. Air Force fitness test, as currently embodied in Air Force Instruction 36-2905, dated 21 October 2013 Incorporating Change 1, 27 August 2015 or as amended. The Commission retains the authority to implement changes or modifications to the PFQT to ensure law enforcement missions and peace officer readiness are not impacted. The Commission may also consult with POST certified law enforcement fitness trainers to ensure training changes are appropriate for peace officers to adequately perform their duties as required."
- c. CURRENT §3005 (a), line 2: "There shall be a mandatory test at the beginning of the second year and at the end of the third year."
- d. PROPOSED §3005 (a), line 2: "There shall be a mandatory test beginning in the third year and at the end of the fourth year."
- e. CURRENT §3005 (a), line 6: "in addition to the mandatory test at the beginning of the second year and at the end of the third year."
- f. PROPOSED §3005 (a), line 6: "in addition to the mandatory test at the beginning of the third year and at the end of the fourth year."
- g. CURRENT §3005 (b), line 2: "until the end of the third year."
- h. PROPOSED §3005 (b), line 2: "until the end of the fourth year."
- i. CURRENT §3005 (b), line 3: "At the end of the third year, the PFQT"
- j. PROPOSED §3005 (b), line 3: "At the end of the fourth year, the PFQT"
- k. CURRENT §3005 (a), line 2: "There shall be a mandatory test at the beginning of the second year and at the end of the third year."
- l. PROPOSED §3005 (a), line 2: "There shall be a mandatory test beginning in the third year and at the end of the fourth year."
- m. CURRENT §3005 (a), line 6: "in addition to the mandatory test at the beginning of the second year and at the end of the third year."

- n. PROPOSED §3005 (a), line 6: “in addition to the mandatory test at the beginning of the third year and at the end of the fourth year.”
- o. CURRENT §3005 (b), line 2: “until the end of the third year.”
- p. PROPOSED §3005 (b), line 2: “until the end of the fourth year.”
- q. CURRENT §3005 (b), line 3: “At the end of the third year, the PFQT”
- r. PROPOSED §3005 (b), line 3: “At the end of the fourth year, the PFQT”

-Chief Bob mentioned the POST could still use the Air Force standards but with flexibility as previously discussed.

Further discussions as follows:

- Major Perez asked if the POST Commission meets with Senator Nelson and it submits the proposal regarding Item “b” will this suffice and meet the intent of what the POST Commission is trying to achieve, or amend other portions of the legislation.
- Major Perez explained that if the AFI is to be followed, there will be unfunded mandates.
- That the Air Force has logistical support, unlike the Government of Guam.
- That law enforcement agencies want to follow what is mandated but it does not have a health and wellness center to refer employees.
- That it was not written into the public law as to how this was to be covered to equate what is in the AFI.

Chief Bob mentioned this is something that can be written into the modifications, to cover this issue.

- That this is the opportunity to go before the Guam Legislature and answer questions such as this.

Major Perez asked that maybe add another line in Item “b” that allows the POST Commission in the same light to be able to make modifications, if necessary, not just to the standards but other areas of the AFI that relates to the impacting of the mission of law enforcement entities.

Chief Cruz mentioned that he agrees with Major Perez.

- That if you were to follow the AFI and take into consideration that the Air Force is a large entity with support mechanisms.
- The Air Force is able to set up the AFI and its service members for success with said support mechanisms.
- However, these support mechanisms do not exist for Government of Guam, especially for agencies with shift workers
- Chief Cruz does not believe this will work unless there is a support system not just for this area but for all areas.

Chief Bob mentioned that verbiage has to be proposed to cover all areas of the AFI.

- There were discussion to push everything forward one (1) year, implementation date for December 2018.

-It was mentioned to include the data collected to date to support the amendments.

The Marshals had a question regarding sub-committees for training that were formed earlier.

-Chief Bob mentioned that this was a good point and that all the training representatives should get together to have a final discussion of amendments before submission to the Guam Legislature.

-To get each agency's consensus.

-Chief Bob proposed for a meeting on May 12, 2017 to discuss a proposal and anticipate a vote.

Asst. Chief Chris Roberto from the Guam Port Police mentioned the Port stands ready with any adoption by the POST Commission.

-There were further discussions as to what happens with the amendments today and what ramifications will it have in the future, especially for those who are entering retirement age. What happens to them if they are not fit but not ready for retirement.

Chief Bob mentioned that this has been discussed in the past, to grandfather employees, and other issues. Could use the modifications recommended earlier however, there is a table that has the age range, etc., and consider adopting this as part of the proposal.

-The proposal would have to include the POST Commission develop/write-up its PFQT, standards and justifying not using the AFI as its base for said standards.

-An example for part of the write-up would be after what happens after passing the PFQT, when is the next test such as 6 months, forms will have to be changed, the whole process, etc.

-Port mentioned that what the POST Commission decides now at this level will affect what happens further, just wanted to mention it.

-Chief Bob said he agrees. That there has to be discussions regarding the verbiage.

-That for the past 2 years there has been input from different agencies regarding the different issues and the "grandfathering" saying he is kind of hesitant about it, however, the POST Commission as a majority would have to figure a solution together.

-That there will be a lot of controversy regarding this.

GPD Chief Cruz mentioned he spoke with individuals who were initially involved when the discussions were being held to implement Public Law 32-232 and incorporate the requirements of the PFQT.

-Thinks that the Legislature were looking at what is the spirit and intent of the law, notwithstanding the uniqueness of what each agency is required to do.

-As an example, why would DOC need to run when they are confined to the prison, and why a police officer would need to handle a fire hose, etc.

-That there is a uniqueness to each of the law enforcement entities that make up the public safety community.

-Believes the intent of this law was to implement something that is scientifically based for an overall physical fitness program to look out for the overall fitness, notwithstanding again the uniqueness of what an individual needs to do within their respective agency.

-This could be an argument as to why would DOC have to handle what GPD handles, etc.

-Chief Cruz mentioned that he and a team of GPD officers with physical fitness individuals have discussed the AFI and thinks it meets the intent of the spirit of what the law was trying to do.

- That because the military has the mechanism set in place to support the AFI for its service members to succeed, this does not exist for Government of Guam and believes this is where the gap and disconnect is.
- Chief Cruz mentioned that if the gap can be identified and then close it, this is how the modifications can be made and thinks this will meet what the senators were trying to do.
- Chief Cruz further mentioned he has discussed this with the Lt. Governor and sees it the same way.
- That Chief Cruz has researched what else exists with other law enforcement agencies, including with the Cooper Institute, and that others have higher standards.
- That when making modifications/adjustments, believes the AFI will work for the POST Commission but just have to make modifications Public Law 32-232.
- Chief Bob also has conducted research with other off-island law enforcement agencies and does agree that Government of Guam does not have the same support with the Air Force.

- Chief Cruz mentioned that during his research, he has not found a law enforcement agency that has a physical fitness mandate like the Guam POST Commission that has to otherwise be decertified. Believes Guam is the only one that has this. What is in place in other agencies is an in-house policy.
- That the intent of the spirit of the law should be set up for success and not failure and this is something that should be brought up with the Guam Legislature. To get a clear intent.
- Other off-island law enforcement entities have asked Chief Cruz about this, that there is a law that mandates this and that though there is a program, these entities want their officers to be fit and there is no law within their jurisdiction that governs this. They recommend the POST Commission should have further discussions with its Legislature otherwise the POST is setting itself up for failure.

There were further discussions, as follows:

- Focus of the POST Commission right now should be to gain control of its standardized testing program because other people will agree and disagree.
- With the required PFQT, believes the numbers on this can be changed.
- That as a POST Commission, it has the ability to control the academics for POST certification, then it should also be the same for the physical aspects.
- That each agency should be able to decide what recourse to take should an individual not pass its PT such as not being promoted, possibility of being flagged, etc.
- Can use what is currently required with the AFI and recommend that the subcommittee review the data and find an average to see if this is something that can be measured.
- That if an individual does not pass at first, is this something that is achievable.
- Believes the AFI is good but need to figure how it works as a law enforcement perspective not as a military component.
- Recommend part of the change is a review period such as three (3) to four (4) years.
- That this can be handled in-house.
- If the majority of the law enforcement fail the test, it will affect the public's safety should there be a government shutdown.
- The POST Commission should take into consideration the Conclusion of the Assistant Attorney General, Mr. Monty May, in his letter (Ref. POST 17-0045) regarding "the Commission might consider drafting and submitting legislation that specifically exempts the establishment of physical standards from the application of the AAL."

No further discussions, the Chairman informed the Commission that when a meeting is scheduled with the Senators, all representatives from each agency will be notified.

VI. Next Meeting Scheduled. May 12, 2017.

VII. Adjournment.

MOTION

M/S/C (Office of Attorney General/Guam Police Department): There being no further discussions, the meeting adjourned at approximately 9:58 a.m.

/s/

Dated this 11th day of May 2017.

Bertha M. Guerrero
Recording Secretary