



HON. ROBERT J. TORRES
CHIEF JUSTICE

Judiciary of Guam

Administrative Office of the Courts
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
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HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

DANIELLE T. ROSETE, ESQ.
ADMINISTRATOR OF THE COURTS

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC) FOURTH PLENARY MEETING

Thursday, August 31, 2023

In-person: Honorable Joaquin V.E. Manibusan Sr. Memorial Courtroom, Guam Judicial Center
via Videoconference (Zoom) and via Live-streamed on the Judiciary of Guam YouTube Channel

MINUTES

I. CALL TO ORDER

The Fourth Plenary Meeting of the Guam Criminal Law and Procedure Review Commission (CLRC) on August 31, 2023 was called to order by Chairman Jonathan R. Quan at 12:01 p.m.

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day and 48-hour Notices of Meeting of the Guam Criminal and Procedure Review Commission, as required under the Open Government Law, were published in the Guam Daily Post. Copies of proof of the newspaper notices were included in the meeting packet.

III. DETERMINATION OF QUORUM ROLL CALL

Management Officer Valerie Cruz began the roll call. Members were present as indicated below:

CLRC Members:

Hon. Jonathan R. Quan, Present, Judiciary of Guam
Hon. Anita A. Sukola, Present, (via Zoom)
Atty. William Bucky Brennan, Present, Judiciary of Guam
Acting Director of Corrections Fred Bordallo, Present (Judiciary of Guam)
Chief of Police Stephen Ignacio or Designee, Absent for Roll Call
Atty. Joseph McDonald, Present (Judiciary of Guam)
Atty. Randall Cunliffe, Absent for Roll Call
Mr. Monty McDowell, Absent for Roll Call
Atty. John Morrison, Present (Judiciary of Guam)
Asst. AG Marianne Woloschuk, Present, (via Zoom)
Atty. Michael Phillips, Absent for Roll Call
Ms. Valerie Reyes, Absent for Roll Call
Atty. Christine Tenorio, Absent for Roll Call (Presence via Zoom later recognized by Chairman Quan)
Atty. Phillip Tydingco, Present (Judiciary of Guam)

Ex-Officio, Non-Voting Members:

Executive Director Andrew S. Quenga, Present, (Judiciary of Guam)
Compiler of Laws Geraldine Cepeda, Present, (via Zoom)

This meeting determined a quorum of 8 commission members present. Chairman Quan acknowledged the presence of ex-officio members Hon. Elizabeth Barrett-Anderson and Lenny Rapadas. Chairman Quan indicated that the meeting was taking place in-person at the Hon. Joaquin V.E. Manibusan Sr. Memorial Courtroom, via Zoom and also live-streamed on the Judiciary's YouTube channel.

IV. DISPOSAL OF MINUTES: Approval of April 06, 2023 Third Plenary Meeting

Chairman Quan indicated that the minutes of the third plenary meeting on April 06, 2023 were being presented for approval. Hon. Anita Sukola moved to approve the minutes. Atty. McDonald seconded the motion. With no opposition, the minutes were approved.

Before continuing on to the next agenda item, Chairman Quan welcomed back all the members. He stated that this is the first meeting the CLRC has had since Typhoon Mawar, which caused our third plenary meeting scheduled for June 08, 2023 to be cancelled. He noted that subcommissions have been diligently meeting to the best of their ability since the typhoon.

V. OLD BUSINESS

A. Membership Update

Chairman Quan acknowledged CLRC's newest member, Acting DOC Director Fred Bordallo. He will be serving on the CLRC's Subcommission on Drugs & Other Criminal Offenses (Drugs & Other Criminal Offenses). We are still waiting on the Governor's appointment to replace the Honorable Elizabeth Barrett-Anderson who had to step-down due to her service on the Criminal Injuries Compensation Commission. We also welcome Atty. Lenny Rapadas as a volunteer auxiliary ex-officio member on the Subcommission on Criminal Procedure (CP).

VI. NEW BUSINESS

A. Presentation of Amendment and Repeal Worksheets for Discussion and Approval:

Chairman Quan stated that the Subcommissions presenting at this meeting will provide reports on their review of the statutes, present recommendations for discussion, and if ready, approval by voting members of our Commission.

Chairman Quan presented an Excel spreadsheet in the meeting packet showing the recommendations, amendments, repeals, no changes, of the Criminal Procedure and the Crimes Relating to Property Subcommissions on the chapters that were discussed during their working sessions.

1. Presentation of the Subcommittee on Criminal Procedure

Hon. Anita Sukola introduced members of the Criminal Procedure Subcommittee and indicated that although this subcommittee is primarily responsible for reviewing GCA Title 8, the Criminal Procedure Code, but because P.L. 36-119 prioritized the review of Title 9, the Criminal Correctional Code, Chairman Quan assigned several chapters of Title 9 to this subcommittee. Hon. Sukola turned the review to Executive Director Serge Quenga for further presentation.

Executive Director Quenga presented the subcommittee's recommendations in a PowerPoint presentation, which was made part of the meeting packet distributed to members prior to the meeting and included with these minutes for reference as Attachment 1. Recommended changes are shown in redline format.

Director Quenga summarized the presentation as follows:

- **Title 9 Chapter 71 – The Guam Gun-free School Zone Act of 2004**
 - Referral to Crimes Against Persons.
 - Recommend the following amendments:
 - § 71.20(c) Correct Typo.
 - § 71.30 Clarify title.
 - § 71.60 Remove unnecessary verbiage.
 - § 71.70 Move this definition of “loaded firearm” to the definitions section §71.20 as a new subsection (d) and consolidate and simplify definition.
 - Discussion:

Hon. Elizabeth Barrett-Anderson questioned the definition of loaded firearm and whether it was taken from a definition elsewhere in the Guam code or another jurisdiction. She stated the definition is a good one. Attorney Brennan questioned why there is a distinction between loaded firearm and firearm.

Attorney McDonald questioned the constitutionality of this Act. Director Quenga stated such acts have been challenged but that the Guam statute is narrowly tailored and definition of school zone was limited to school property. Hon. Elizabeth Barrett-Anderson mentioned that she was the senator who introduced this legislation and that it was narrowed. Chairman Quan noted that no change in language is being recommended, only moving the definition to 71.20.

Hon. Elizabeth Barrett-Anderson noted searches in schools find unloaded firearms in lockers and noted the Legislature may want to include sections on loaded and unloaded firearms. Attorney Tydingco stated the federal definition of loaded firearm is the ability to expel a projectile. Hon. Elizabeth Barrett-Anderson asked if it included BB guns. Executive Director Quenga stated the chapter will be referred to the Crimes Against Persons Subcommittee and he will report back to the Commission on these issues. Chairman Quan said that there is no change to the language,

just a recommendation to move it to the final voting file. Tabled for further discussion.

- § 71.80 Update and remove outdated requirements
- § 71.81 Consolidate § 71.81, § 71.82 & § 71.83

- **Title 9 Chapter 80 – Disposition of Offenders**

- Recommendations:

- Subcommittee is doing a deep dive into this chapter as it contains many procedural provisions. Will work with other subcommittees and specific member agencies in working sessions on review of this chapter and will report back to the Plenary Commission.

- **Title 9 Chapter 81 – Reduction of Sentences**

- Recommendations:

- Refer to Drugs & Other Criminal Offenses. It provides for reduction of sentences by work credit. It could be a good fit in Article 1 of Chapter 80.
 - Move Chapter 81 to new § 80.23 of 9 GCA with minor clarifications.
 - Move § 81.10 (f) to 9 GCA § 92104(f), with amendments, as it fits better with the Driving While Impaired section of the Safe Streets Act.
 - Discussion: Acting DOC Director Fred Bordallo raised the disparity on work credit for work outside the prison as opposed to work inside the prison, which work credit is not given. Attorney Brennan noted the mandatory minimum sentence of a first offender is 48 hours and second offender has a 7-day minimum, how would work credit apply to such offenders? Director Quenga requested any comments be written up for review. Tabled for further discussion.

- **Title 9 Chapter 82 – Loss and Restoration of Rights Incident to Conviction or Imprisonment**

- Recommendations:

- Referral to Drugs & Other Criminal Offenses. Note Compiler note of possible unconstitutionality of § 82.25
 - § 82.20 Remove unnecessary language
Discussion: Attorney Morrison raised issue on “sentence of imprisonment.” Questioned whether it includes suspended sentence, probation or parole. Tabled for further discussion.
 - § 82.25(d) Correct typo

- **Title 9 Chapter 84 – Rehabilitative and Development Program**

- Recommendations:

- Referral to Drugs & Other Criminal Offenses
 - §84.15 (b) Remove unnecessary language and change the word “client” to “inmate”
 - Discussion: Hon. Elizabeth Barrett-Anderson noted this should be placed with Corrections, might be absorbed by DOCO. Chairman Quan commented that the referring subcommittee will send a letter to the subcommittee being referred. Have until the next plenary meeting to do this.
 - § 84.20 Remove long past deadlines in (a).

- § 84.02 should be § 84.15
- **Title 9 Chapter 85 – Guam Parole Board**
 - Recommendations:
 - Referral to Drugs & Other Criminal Offenses. Any change to inmate compensation should be requested by Parole.
 - § 85.72 Clarify language.
 - Discussion: Attorney Tydingco asked if “prisoner” should be changed to “inmate.” Hon. Barrett-Anderson commented that the definition of prisoner is everywhere in the code and is defined as “inmate or detainee” although they wanted to get rid of the word prisoner. Suggestion made to use “parolee.” Director Quenga stated we’ll consider this along with Drugs & Other Criminal Offenses. Chairman Quan stated that the definition is by statute.
- **Title 9 Chapter 86 – Compensation for Damages from Criminal Activities**
 - Recommendations:
 - Amended and renumbered by P.L. 27-138:4 to 8 GCA Chapter 161. Reference to Chapter 86 was kept in Title 9 to advise readers of its renumbering to 8 GCA Chapter 161. Deferred removal of this reference to Chapter 86 to the Compiler of Laws. 8 GCA Chapter 161 will be referred to Hon. Elizabeth Barrett-Anderson and the Criminal Injuries Compensation Commission.
- **Title 9 Chapter 87 – Victim Notification**
 - Recommendations:
 - Repealed by P.L. 27-138:3, which was enacted as 8 GCA Chapter 160. Reference to Chapter 87 was kept in Title 9 to advise readers of the repeal by P.L. 27-138. Deferred removal of this reference to Chapter 87 to the Compiler of Laws.
- **Title 9 Chapter 88 – Criminal Justice Substance Abuse Act**
 - Recommendations:
 - Refer to the Drugs & Other Criminal Offenses, Prosecution, Probation, Guam Behavioral Health and Wellness Center.
 - § 88.60, Repeal due to a reporting requirement that has long since passed.
 - Will discuss at working sessions for due process issues on § 88.40(b). Will report back to Plenary Commission on this.
- **Title 9 Chapter 89 – Crimes Against Minors and Sex Offenders Registry**
 - Recommendations:
 - Refer to Crimes Against Persons and Drugs & Other Criminal Offenses. Suggest asking input and comment from Probation, the Judiciary and AG Prosecution. Will report back to Plenary Commission.
- **Title 9 Chapter 93 – Criminal Sexual Conduct Assessment and Rehabilitation Act**
 - Recommendations:
 - Referral to Crimes Against Persons & Drugs & Other Criminal Offenses, Probation and Guam Behavior Health and Wellness Center. Will discuss at working sessions whether § 93.30 might raise due process issues for those found not indigent but unable to afford assessment/treatment options available to them. Will report back to Commission on this.
 - § 93.30(c) Repeal unnecessary and repetitive language which is already stated in 93.30(a) and (b).

Director Quenga reported that this completes the Subcommittee on Criminal Procedure's presentation and we will report back to the Commission on issues raised.

Chairman Quan summarized the recommendations as follows:

Note: NC = No Change; Tabled = Further Discussions.

Chapter 71 The Guam Gun-Free School Zone Act of 2004

§ 71.10 NC
§ 71.20 Amend – Tabled
§ 71.30 Amend
§ 71.40 NC
§ 71.50 NC
§ 71.60 Amend
§ 71.61 Amend
§ 71.70 Amend
§ 71.80 Amend
§ 71.81 Amend
§ 71.82 Amend
§ 71.83 Amend
§ 71.90 NC

Chapter 81 Reduction of Sentences

§ 81.10 Repeal & Re-enact as 80.23 – Tabled

Chapter 82 Loss and Restoration of Rights Incident to Conviction or Imprisonment

§ 82.10 NC
§ 82.15 Amend
§ 82.20 Amend – Tabled
§ 82.25 NC

Chapter 84 Rehabilitative and Development Program

§ 84.10 NC
§ 84.15 Amend
§ 84.20 Amend
§ 84.25 NC
§ 84.30 NC
§ 84.35 NC
§ 84.49 NC

Chapter 85 Guam Parole Board

§ 85.10 NC
§ 85.14 NC
§ 85.18 NC
§ 85.22 NC
§ 85.26 NC
§ 85.30 NC

§ 85.34 NC
§ 85.38 NC
§ 85.50 NC
§ 85.54 NC
§ 85.58 NC
§ 85.61 NC
§ 85.62 NC
§ 85.68 NC
§ 85.72 Amend

Chairman Quan: Other than those subsections tabled at request of members – 71.20, 81.10, 84.20, is there a motion to accept recommendations and move to the final reading file which will be addressed in the last two months? Atty. Brennan asked if there was any interest in putting these actions with a list and taking a vote at the next meeting? He commented that he was able to review what was given in the packet but didn't know if he looked at everything. Hon. Elizabeth Barrett-Anderson mentioned that the chapters were referred to Drugs & Other Criminal Offenses and members will be put on list to participate in discussions.

Attorney McDonald asked if voting was placed on agenda and newspaper notice. Chairman Quan stated voting was placed on the agenda. Director Quenga stated the agenda and notice published in the newspaper are the same.

MOTION by Atty. Tydingco to move the recommendations and amendments of the chapters reviewed to the reading file, including the ones for no change and for repeal, except for the three subsections (71.20, 81.10 & 84.20) which were tabled. **MOTION SECONDED** by Atty. Joseph McDonald. With no objections, the motion passed.

2. Presentation of the Subcommittee on Crimes Relating to Property Subcommittee

Attorney Tydingco presented the subcommittee's recommendations in a PowerPoint presentation, which was made part of the meeting packet distributed to members prior to the meeting and included with these minutes for reference as Attachment 2.

Attorney Tydingco summarized the presentation as follows:

Chapters Reviewed: Chapter 32, 34, 37, 40, 43, 46, 47 and 48
Chapters Remaining: Chapter 4, 13, 49, 69 and 70

- **Chapter 43 – Theft and Related Offenses**

- Recommendations:

- Amend offense grading values for thefts to increase as shown in table.
 - Discussion: Chairman Quan noted recommended change to 2nd degree felony should be equal to or greater than \$5000. Attorney Tydingco stated the increases are not empirical. Attorney McDonald asked if a survey of states was done.

Attorney Tydingco stated the increases here are arbitrary and meant to spur discussion. Amendments to offense grading values tabled for further discussion.

- § 43.31(a)(3) Delete the crime against community special allegation to address vagueness and ambiguity.

Discussion: Attorney McDonald asked if this section has been struck as it still exists in New Jersey (402 N.J Super. 177). Attorney Tydingco stated the language is vague and ambiguous in their view. Tabled for further discussion.

- **Chapter 37 Burglary**

- Recommendations:

- § 37.20 Amend to include GCA citation.
 - § 37.40 Repeal section. Language duplicative and already covered in § 37.20.

Discussion: Atty Tenorio agreed that it should be removed.

- § 37.20 Amend to add affirmative defense to Burglary.

Discussion: Attorney Rapadas asked why “school” is included in the added language. Attorney Brennan it is the same language.

- **Chapter 34 Arson, Negligent Burning, Criminal Mischief**

- Recommendations:

- § 34.60(a) Delete to clarify punishment is based on offense grading value only.
 - § 34.60(b) Amend to increase offense grading value for Criminal Mischief as shown in table.

Discussion: Attorney McDonald suggested a survey of states. Attorney Tydingco suggested tabling to include more empirical information. Attorney Tenorio commented the amounts do not matter for charging criminal mischief. Amendments to offense grading values tabled for further discussion.

- § 34.60(c) Delete mandatory minimum which includes mandatory minimum 48 hours jail time and fines for first, second, and third offenses, separate from general sentencing structure. Remainder of subsection (c) related to joint and several liability for parents of offending minors to remain.

- § 34.70(a)(3) Amend to include Department of Land Management in definition of owner.

- § 34.70(i) Amend punishment for consistency with general punishment for misdemeanor crimes.

- **Chapter 46 Forgery, Fraudulent Practices & Telephone Records**

- Recommendations:

- § 46.90 - \$46.94. Recommend repeal.

Discussion: Attorney Tydingco stated he doesn’t recall this statute being charged and does not understand how this statute works. Tabled for further discussion.

- § 46.30. Amend to increase offense grading values for dishonored checks as shown in table. Suggested increases not empirical.

Discussion: Attorney Tenorio suggested amount for petty misdemeanor may be too low and provided example of a mom and pop store. Attorney Tydingco stated the increases are not empirical. Chairman Quan suggests tabling for further review. Amendments to offense grading values tabled for further discussion.

- § 46.50. Recommend repeal.

Discussion: Attorney Tydingco stated this seems related to greyhound or pari-mutuel racing which have been out for a while and not applicable anymore in our community.

- § 46.35(a) Amend to address use of credit information without using physical credit card – Asked to table to get update.

Discussion: Attorney McDonald suggested adding payment card, debit card. Attorney Tenorio agreed with adding debit cards. Tabled for further discussion.

- § 46.35(d) Amend to increase offense grading values for Fraudulent Use of Credit Card as shown in table.

Discussion: Attorney Tydingco stated looking also at other store value cards, gift cards.

- § 46.80(c) Amend to increase offense grading values for Impersonation and Identify Theft Crimes. Tabled for further discussion.

- § 46.103 Amend to increase offense grading values for Mortgage Fraud. Tabled for further discussion.

- § 46.104. Repeal “Mortgage Fraud Prosecutor and Investigators.”

Discussion: Attorney Tydingco stated AG has discretion and authority to hire prosecutors and investigators, without specific need for “mortgage fraud prosecutor and investigators.

- § 46.504(a). Amend and strike-out duplicative language.
- § 46.504(b). Amend and strike-out duplicative language.
- § 46.504(c). Amend and strike-out duplicative language.
- § 46.504(d). Amend and strike-out duplicative language.
- § 46.504(e). Amend and strike-out duplicative language.
- § 46.504(f). Amend and strike-out duplicative language.
- § 46.504(g). Amend misdemeanor to felony.

- **Chapter 32 Financial Exploitation of Elderly and Individuals with Disabilities**

- Recommendations:

- Repeal of entire Chapter. Vulnerable victim sentencing enhancement and theft statute provide sufficient criminal prohibition; conflicting mens rea language throughout statute.

Discussion: Attorney Tenorio noted this chapter is recent – from 2019 and suggests looking into legislative intent. She agreed that mens rea is inconsistent. Chairman Quan asked if she agreed that this is covered by the vulnerable victim statute. Attorney Tenorio did not agree as vulnerable victim covers second degree theft and third degree robbery. Amounts will not cover. Tabled for further Discussion.

- **Chapter 48 (Notification of Breaches of Personal Information)**

- Recommendations:

- No change but remove from criminal code and move to civil statute. Tabled for further discussion.

- **Chapter 47 Trademark Counterfeiting Act – no proposed amendments**

- **Chapter 40 Robbery – no proposed amendments**

Attorney Tydingco reported that this completes the presentation of the Subcommittee on Crimes Relating to Property.

Chairman Quan summarized the recommendations as follows:

Note: NC= No Change; Table = Further Discussions.

Chapter 43: Theft & Related Offenses

43.10 NC
43.15 NC
43.20 NC
43.21 NC
43.25 NC
43.30 NC
43.31 Amend – Tabled
43.35 NC
43.40 NC
43.45 NC
43.50 NC
43.51 NC
43.55 NC
43.56 NC
43.60 NC
43.65 NC
43.70 NC
43.75 NC

Chapter 46 Forgery, Fraudulent Practices and Telephone Records

46.10 NC
46.15 NC
46.20 NC
46.30 Amend – Tabled
46.35 Amend – Tabled
46.40 NC
46.45 NC
46.50 Repeal
46.55 NC
46.60 NC
46.65 NC
46.70 NC
46.75 NC
46.80 Amend – Tabled
46.90 Repeal – Tabled
46.91 Repeal - Tabled
46.92 Repeal – Tabled
46.93 Repeal- Tabled
46.94 Repeal - Tabled
46.100 NC

46.101 NC
46.102 NC
46.103 Amend - Tabled
46.104 Repeal
46.401 NC
46.402 NC
46.403 NC
46.404 NC
46.405 NC
46.406 NC
46.407 NC
46.408 NC
46.501 NC
46.502 NC
46.503 NC
46.504 Amend
46.505 NC
46.506 NC
46.507 NC
46.508 NC
46.601 NC
46.602 NC
46.603 NC
46.604 NC
46.605 NC
46.606 NC
46.607 NC
46.608 NC

Chapter 37: Burglary and Home Invasion

37.10 NC
37.20 Amend
37.30 NC
37.40 Repeal
37.210 NC
37.220 NC
37.230 NC
37.240 NC
37.310 NC
37.330 NC
37.340 NC
37.350 NC
37.360 NC

Chapter 34: Arson, Negligent Burning Criminal Mischief

34.10 NC
34.20 NC
34.30 NC
34.40 NC
34.50 NC
34.60 Amend
34.70 Amend
34.80 NC
34.90 NC

Chapter 32: Financial Exploitation of the Elderly and Individuals with Disabilities

32.10 Repeal - Tabled
32.20 Repeal - Tabled
32.30 Repeal - Tabled
32.40 Repeal - Tabled
32.50 Repeal – Tabled

Chapter 48 Amend - Tabled

Chapter 47 NC

Chapter 40 NC

Chairman Quan requested a motion to accept the recommendations and move to the final reading file.

Attorney McDonald made a **MOTION** to accept the recommendations. **MOTION SECONDED** by Hon. Anita Sukola. With no opposition, the motion passed.

Hon. Barrett-Anderson requested that the CLRC Chairman make a request to the Governor to fill the vacancy on the Drugs & Other Criminal Offenses Subcommittee and mentioned a member who has not shown up at meetings and should be replaced as Drugs & Other Criminal Offenses will receive many referrals.

Chairman Quan stated we will send a formal letter.

- B. Reminder – Subcommittee Third Quarter Status Reports Due Friday, September 15, 2023. Third Quarter ends September 30, 2023.**

Chairman Quan announced Third Quarter end date and status reports due date.

- C. Notice of next meeting: Thursday, October 05, 2023, Noon (Tentative) at the Joaquin V.E. Manibusan Sr. Memorial Courtroom, Judicial Center,**

Chairman Quan stated that at the next Plenary Meeting (10/05/23), the Subcommittees on Crimes Against Persons (Crimes Against Persons) and the Drug & Other Criminal Offenses (Drugs & Other Criminal Offenses) will be giving their presentations on their subcommittee's progress. Thank you all.

VII. **Communications**
None.

VIII. **Public Comments**
None.

IX. **Adjournment**

Chairman Quan requested a motion to adjourn. Atty. Phil Tydingco **MOTIONED** to adjourn the meeting, **SECONDED** by Atty. Joseph McDonald. There being no opposition, the Fourth Plenary Meeting of the CLRC was adjourned by Chairman Quan at 1:50 p.m.

Respectfully submitted this 5TH day of October, 2023.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the August 31, 2023 meeting were approved by the CLRC at the October 05, 2023 meeting.



Jonathan R. Quan, Magistrate Judge
Chairman

Dated: 10/5/2023

NOTICE OF PUBLIC MEETING

The Guam Criminal Law and Procedure Review Commission
will conduct a plenary meeting on
Thursday, August 31, 2023, at 12:00 pm
in the Guam Judicial Center, Judge Joaquin V.E. Manibusan, Sr. Memorial Courtroom,
120 West O'Brien Drive, Hagåtña, and by videoconference.
A monitor will be set up for any member of the public
who would like to observe and offer comments.
The meeting will be streamed live on the Judiciary of Guam YouTube channel:
<https://www.youtube.com/channel/UCfnFCWwllp99fAeh9zi4Q4g/featured>

AGENDA

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES April 6, 2023
- V. OLD BUSINESS
 - A. Membership Update.
- VI. NEW BUSINESS
 - A. Presentation of Amendment and Repeal Worksheets for Discussion and Approval:
 - 1. Subcommittee on Criminal Procedure
 - 2. Subcommittee on Crimes Relating to Property
 - B. Reminder - Subcommittee Third Quarter Status Reports Due Friday, September 15, 2023. Third Quarter ends September 30, 2023
 - C. Notice of next meeting: Thursday, October 5, 2023, Noon (Tentative)
- VII. Communications
- VIII. Public Comment
- IX. Adjournment

Any person(s) needing special accommodations, auxiliary aids, or
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Magistrate Judge Jonathan R. Quan, Chairman

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Guam Solid Waste Authority Board of Directors Regular Meeting

Thursday, August 31, 2023 – 1:00 PM (ChST)

Join Zoom Meeting

Link: <https://zoom.us/j/9140408814?pwd=TjZ3U0dHSVd0ajlKRjBhcWFr1ZlZz09>

Meeting ID: 914 040 8814 Passcode: 777546

The Guam Solid Waste Authority Board of Directors will have a board meeting August 31, 2023 at 1:00 PM. The meeting will be conducted via Zoom.

Agenda: I. Call to order; II. Roll Call; III. Determination of Proof of Publication; IV. Approval of Agenda Items; V. Approval of Minutes; VI. Reports a. Management Reports i. Operational Update ii. Financial Update b. Legal counsel report c. Committee Report VII. Unfinished Business a. Island wide trash collection initiative b. Ordot post closure plan update c. Layon cells 1 and 2 closure d. Rate case with the Public Utilities Commission VIII. New Business a. Procurement of Legal Services IX. Communications and Correspondences X. Public Forum-Members of the public to contact GSWA to be placed on the agenda if they wish to address the board XI. Next meeting XII. Adjourn

Access live stream of the meeting on GSWA website: <https://www.guamsolidwasteauthority.com/>

For more information, please contact GSWA Admin at admin@gswa.guam.gov or 671-646-3215. Persons needing telecommunication device for the Hearing/Speech Impaired (TDD) may contact 671-646-3111. This advertisement was paid for by GSWA.

TEMPORARY LANE CLOSURES

 **THE CONSTRUCTION OF
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FOR THE VILLAGE OF DONKI

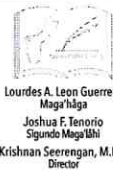
SEPTEMBER - NOVEMBER 2023
8:00PM TO 4:00AM

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CONTACT INFORMATION

 Kilhak Kunimoto  (671) 989-9770  killy@kunimotodesign.us



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GUAM PUBLIC LIBRARY SYSTEM
Government of Guam



LOURDES A. LEON GUERRERO
Governor (Maga'haga)
JOSHUA F. TENORIO
Lt. Governor (Sigundo Maga'haga)

Guam Public Library System (GPLS) Regular Board Meeting

Thursday, August 31, 2023, 4:00 pm at the Hagåtña Library

AGENDA

Call to Order, Roll Call, Approval of Minutes of 05-18-23, Library Board Manual, Director's Report (Proposal to accept Bookmobile from Matson, Library for the Blind & Print Disabled, E-Books, Nomination for GPLS, Proposal from Senator Sabina Perez), Old Business (Presentation of Library Policy for the Library Resource Fund 30%, Bookmobile, Internet Cafe), New Business (UOG's 36th Annual Regional Language Arts Conference, Lions Club D204 Story Hour), Open Discussion and Adjournment.

Please call June Aflague for those requiring special accommodations, auxiliary aid or services at 671-475-4755/54

This ad is paid for by government funds



Solicitation Notice

Office of the Attorney General of Guam
OAG-RFP-004-2023
Legal Consultation Services

The Office of the Attorney General of Guam (OAG) is soliciting proposals from qualified and interested firms for Professional Services for Legal Consultation Services. Copies of the solicitation will be available on August 24, 2023 at 590 S. Marine Corp Dr., Ste 901, ITC Building, Tamuning Guam 96913, from 8:00 am to 5:00 pm, Monday through Friday. Electronic copies of the solicitation will also be available online at the following website: <http://oagguam.org/request-for-proposal>. OAG recommends all prospective proposers to register contact information with the OAG to ensure they receive any notices regarding any changes or updates to the RFP. OAG shall not be liable for failure to provide notice to any party who did not register contact information. All communications and inquiries shall be addressed to OAG Procurement and submitted via email to procurement@oagguam.org or via facsimile to 671-477-4703 and must reference OAG-RFP-004-2023 in the subject or reference.

Proposals shall be submitted via electronic mail to: rftsubmissions@oagguam.org or hand delivered to 590 S. Marine Corps Dr., Ste 901, ITC Building, Tamuning Guam 96913, in the format specified in the solicitation and must be received no later than 3:00 p.m., September 5, 2023. Failure to submit proposals at the specified location, date, and time will be grounds for rejection of the proposal.

*THIS ADVERTISEMENT WAS PAID FOR WITH GOVERNMENT FUNDS BY
THE OFFICE OF THE ATTORNEY GENERAL OF GUAM*

/s/ DOUGLAS B. MOYLAN
Attorney General of Guam

NOTICE OF PUBLIC MEETING

The Guam Criminal Law and Procedure Review Commission will conduct a plenary meeting on Thursday, August 31, 2023, at 12:00 pm in the Guam Judicial Center, Judge Joaquin V.E. Manibusan, Sr. Memorial Courtroom, 120 West O'Brien Drive, Hagåtña, and by videoconference. A monitor will be set up for any member of the public who would like to observe and offer comments. The meeting will be streamed live on the Judiciary of Guam YouTube channel: <https://www.youtube.com/channel/UCfnFCWwlp99fAeh9zi4Q4g/featured>

AGENDA

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING August 24 and 29, 2023
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES April 6, 2023
- V. OLD BUSINESS
 - A. Membership Update
- VI. NEW BUSINESS
 - A. Presentation of Amendment and Repeal Worksheets for Discussion and Approval:
 1. Subcommission on Crimes Relating to Property
 2. Subcommission on Criminal Procedure
 - B. Reminder - Subcommission Third Quarter Status Reports Due Friday, September 15, 2023. Third Quarter ends September 30, 2023
 - C. Notice of next meeting: Thursday, October 5, 2023, Noon (Tentative)
- VII. Communications
- VIII. Public Comment
- IX. Adjournment

Any person(s) needing special accommodations, auxiliary aids, or services, please contact Executive Director Andrew Ouenga at 671-475-3278.

This ad was paid for with Government of Guam funds.
Magistrate Judge Jonathan R. Quan, Chairman

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"I Erensia, Lina'la, Espiritu-ta"
Attorneys for Petitioner

IN THE SUPERIOR COURT OF GUAM

**IN THE MATTER OF THE ESTATES OF
FREDERICK B. QUINENE and
CECILIA U. QUINENE,**
Deceased.

PROBATE CASE NO. PR0116-23

**NOTICE TO HEARING:
PETITION FOR PROBATE AND FOR
LETTERS OF ADMINISTRATION
IN PERSON HEARING**

**THIS NOTICE IS REQUIRED BY LAW. YOU ARE NOT
REQUIRED TO APPEAR IN COURT UNLESS YOU DESIRE**

NOTICE IS HEREBY GIVEN that CECILIA ROSE U. QUINENE has filed a Petition for Probate and for Letters of Administration for the ESTATE OF FREDERICK B. QUINENE and CECILIA U. QUINENE, deceased, reference to which Petition is hereby made for further particulars.

A hearing on the Petition is set for September 06, 2023, at 9:30 am., in the courtroom of the Honorable Dana A. Gutierrez, Judge, Superior Court of Guam.

Dated : July 12, 2023

SOPHIA S DIAZ

Clerk of Court, Superior Court of Guam
/s/ **Pauline I. Untalan**
Chamber/Courtroom Clerk

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 2. Subcommittee on Criminal Procedure
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- VIII. Public Comment
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This ad was paid for with Government of Guam funds.
Magistrate Judge Jonathan R. Quan, Chairman



Guam Solid Waste Authority Board of Directors Regular Meeting

Thursday, August 31, 2023 – 1:00 PM (ChST)

Join Zoom Meeting

Link: <https://zoom.us/j/9140408814?pwd=TjZ3U0dHSVd0ajlKRjBhcWFr1ZYZz09>

Meeting ID: 914 040 8814 Passcode: 777546

The Guam Solid Waste Authority Board of Directors will have a board meeting August 31, 2023 at 1:00 PM. The meeting will be conducted via Zoom.

Agenda: I. Call to order; II. Roll Call; III. Determination of Proof of Publication; IV. Approval of Agenda Items; V. Approval of Minutes; VI. Reports a. Management Reports i. Operational Update ii. Financial Update b. Legal counsel report c. Committee Report VII. Unfinished Business a. Island wide trash collection initiative b. Ordor post closure plan update c. Layon cells 1 and 2 closure d. Rate case with the Public Utilities Commission VIII. New Business a. Procurement of Legal Services IX. Communications and Correspondences X. Public Forum-Members of the public to contact GSWA to be placed on the agenda if they wish to address the board XI. Next meeting XII. Adjourn

Access live stream of the meeting on GSWA website: <https://www.guamsolidwasteauthority.com/>

For more information, please contact GSWA Admin at admin@gsua.guam.gov or 671-646-3215. Persons needing telecommunication device for the Hearing/Speech Impaired (TDD) may contact 671-646-3111. This advertisement was paid for by GSWA.



GUAM REGIONAL TRANSIT AUTHORITY

GOVERNMENT OF GUAM

Lourdes A. Leon Guerrero, Honorable Governor (Maga'håga)
Joshua F. Tenorio, Honorable Lt. Governor (Sigundo Maga'låhi)
Tyrone Taitano, Interim Executive Manager



Job Opportunity

EXECUTIVE MANAGER

The Guam Regional Transit Authority (GRTA) is a government entity, created via P.L. 30-05. The GRTA is responsible for providing island-wide public transportation services for the population of Guam. The Guam public transit system provides both a fixed route and paratransit services.

Qualifications:

- (1) a combined minimum of six (6) years of operational, supervisory, and management experience working in an organization that provides transportation related services; and
- (2) possess at a minimum, from an accredited institution, a Bachelors degree, preferably in the field of business administration, city planning, urban planning, engineering, engineering technology, public administration or closely related field or discipline.

Job Description:

The Executive Manager is an unclassified position and reports to the Board of Directors. This position is responsible for administering the overall GRTA operations including contracts, leases, concession agreements and permits and to execute all instruments necessary or convenient in the exercise of its purpose and powers.

Key responsibilities include enforcing all applicable rules and regulations; attending all board meetings; plan public transit services routes, route schedules, operate facilities and terminals, receive and disburse federal funds, submit project grant applications, report program projects to federal agencies and enter into formal agreements concerning projects with federal agencies.

Impose, prescribe, implement and revise policies and collect fees for the purpose of carrying commercial advertisement on real and personal property owned by the Authority or used in the provision of transit services pursuant to this statute.

Salary:

This is an unclassified position within the Government of Guam, the salary is subject to discussion.

How to Apply:

Please submit a Government of Guam application and resume to the Guam Regional Transit Authority office 2nd Floor Building B DPW Compound, 542 N. Marine Corps Drive, Tamuning, Guam 96913 or via email to rosie.blas@grta.guam.gov or contact 671-475-4686.

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HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

DANIELLE T. ROSETE, ESQ.
ADMINISTRATOR OF THE COURTS

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC)
THIRD PLENARY MEETING
THURSDAY, APRIL 06, 2023
Guam Judicial Center
via Videoconference (Zoom)

MINUTES

I. CALL TO ORDER

The Third Plenary Meeting of the Guam Criminal Law and Procedure Review Commission (CLRC) on April 06, 2023 was called to order by Chairman Jonathan R. Quan at the hour of 12:00 p.m. He noted for the record that this meeting was being recorded on Zoom and live on the Judiciary's YouTube channel. Due notice was provided for this meeting.

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day and 48-hour Notices of Meeting of the Guam Criminal and Procedure Review Commission, as required under the Open Government Law, were published in the Guam Daily Post. Acknowledgements are on file.

III. DETERMINATION OF QUORUM ROLL CALL

CLRC Members:

Hon. Jonathan R. Quan, Present, Hagatna

Hon. Anita A. Sukola, Present, Tamuning

Attorney William Bucky Brennan, Absent

DOC Designee Major Antone Aguon, Present, Mangilao

Chief of Police Stephen Ignacio or GPD Designee Lt. David Brantley, Absent

Attorney Joseph B. McDonald, Absent

Attorney Randy Cunliffe, Present, Hagatna

Mr. Monty McDowell, Present, Harmon

PDSC Designee Attorney John Morrison, Present, Sinajana

AG Designee Asst. AG Marianne Woloschuk, Present, Tamuning

Attorney Mike Phillips, Absent

Ms. Valerie Reyes, Absent

Attorney Christine Tenorio, Present, Tamuning

Attorney Phil Tydingco, Present, Hagatna

Ex-Officio, Non-Voting Members:

Executive Director Andrew S. Quenga, Present, Hagatna

Compiler of Laws Geraldine Cepeda, Present, Hagatna

Management Officer Valerie Cruz began the roll call. Members were present as indicated above. Chairman Quan ascertained a quorum of nine members present and concurred by Executive Director Quenga. Chairman Quan held a moment of silence to honor Department of Corrections Director Robert Camacho.

IV. DISPOSAL OF MINUTES: Ratification of January 13, 2023 First Plenary Meeting & Approval of February 09, 2023 Second Plenary Meeting

Chairman Quan requested ratification of the minutes of the January 13, 2023 First Plenary Meeting due to a technical issue with the livestreaming of the February 9, 2023 Plenary Meeting. Mr. Monty McDowell moved to approve the minutes. Hon. Anita Sukola seconded the motion. With no opposition, the motion passed.

The Minutes for the February 09, 2023 Meeting were presented for approval. Mr. Monty McDowell motioned to approve the minutes and seconded by Compiler of Laws Geraldine Cepeda. With no opposition, the motion passed.

V. OLD BUSINESS

A. Membership

Chairman Quan announced one membership change. Compiler of Laws Geri Cepeda is serving as Acting Chair of the Drug & Other Criminal Offenses (DOCO) Subcommittee. Hon. Elizabeth Barrett-Anderson stepped down from her appointment due to being a member of the Criminal Injuries Compensation Commission and the statutory prohibition against serving on two commissions. However, she continues on the DOCO Subcommittee as an ex-officio nonvoting member. CLRC will be advised when the Governor makes another appointment to fill her vacancy.

Chairman Quan presented an updated list of Subcommittee Ex-Officio members: Hon. Elizabeth Barrett-Anderson (Drugs & Other Criminal Offenses), Attorney Kat Siguenza (Drugs & Other Criminal Offenses), Attorney Sean Brown (Crimes Relating to Property), and Attorney Brian Eggleston (Criminal Procedure).

B. CLRC Website

Executive Director Quenga announced the launch of the CLRC webpage thanks to the Court's MIS Division, specifically, Ms. Amber Toves.

C. Review of Processes for Subcommittee Review and Recommendations

Compiler of Laws Geri Cepeda summarized the Amend and Repeal Process as a process meant to guide and not prescribe. In cases where there would be a wholesale or dramatic change or wholesale repeal of a chapter or article, simply attaching the amended chapter or article as a whole rather than individual sections would be the most expedient. The COL Office and Guam Law Library stands ready to help the Subcommissions and the entire Commission in their work. Chairman Quan added that the COL said the forms were created to guide the Subcommissions, so if there were any portions that the Subcommissions did not know, it was fine to put down “was not able to locate or cannot be found.” Chairman Quan further stated that the input provided was more important than filling out every item and that the forms were just guidance and to fill in what can be filled. The Executive Director also offered his assistance to any of the Subcommissions.

VI. NEW BUSINESS

A. Member Stipend Under 5 GCA § 43104

Executive Director Quenga stated that members were requested to submit W-9 forms in order for \$50 stipend payments to be made as required by 5 GCA § 43104. Executive Director Quenga stated per the statute, members serving in their official capacity as a government of Guam official or employee are not entitled to receive the stipend.

B. Presentation of First Quarter Report

Chairman Quan indicated the meeting packet includes the CLRC’s First Quarterly Report to the Governor, Speaker and Chief Justice as required by Public Law 36-119. This report was submitted on April 03, 2023 and provides information on the Subcommissions’ progress during the first quarter of 2023, which is from January 01, 2023 to March 31, 2023. Chairman Quan stated this is the first ever quarterly report, so it is limited to the reporting of the progress of each Subcommittee and significant CLRC activities. There are no conclusions or decisions in this report. Discussions about and approval of Subcommittee recommendations will be done at forthcoming plenary meetings. This report will be available on the CLRC webpage.

C. Report by Chairpersons of the Subcommittee on Crimes Against Persons and Subcommittee on Drug & Other Criminal Offenses

Chairman Quan stated that it is anticipated there will be reports from two Subcommittee chairs at each plenary meeting.

Geraldine Cepeda, acting Chairperson for the Subcommittee on Drugs and Other Criminal Offenses presented on the progress of her Subcommittee. The Acting Chair reported that the DOCO Subcommittee, under the direction of former Chair Barrett-Anderson, began their work on Chapter 90. They feel the loss of Director Robert Camacho due to his dedication to Corrections and the idea of rehabilitation. They are at the point of getting Chapter 90 ready for the Commission's voting. COL Geri Cepeda invited those interested to join their Subcommittee meetings. Chairman Quan asked how DOCO was handling the total revamp of Chapter 90 using the forms. The Acting Chair replied that DOCO will modernize and consolidate Chapter 90 and then attach it as a whole with the repeal and amend worksheets. Judge Barrett-Anderson echoed the COL's comments about Director Camacho and said that he knew that statute in and out. Judge Barrett-Anderson commended the DOC staff for their work and that the Subcommittee will be able to present the review of Chapter 90. Responding to a question from a member, on Youth Offender Sentencing, Judge Barrett-Anderson stated that it is in the DYA statute.

Chairman Quan stated that the Subcommittee on Crimes Against Persons' report will be tabled to the next meeting since Attorney McDonald was not present. He commented that all the Subcommittees are working hard and thanked everyone for their time and effort. He went on to thank the Compiler of Laws and Judge Barrett-Anderson for their presentation. At the next Plenary Meeting, the Crimes Relating to Property, Criminal Procedure, as well as the tabled Crimes Against Persons Subcommittees reports will be presented.

D. Notice of Next Meeting: Thursday, June 1, 2023, Noon (Tentative)

Chairman Quan announced that the tentative date for the next Plenary Meeting has been changed from Thursday, June 01, 2023 to Thursday, June 08, 2023 due to recent obligations for himself. Going forward, Chairman Quan indicated that he will have a physical location for the Plenary Meetings if anyone wants to attend in-person at his Courtroom in the Judicial Center. Zoom will still be available as well as broadcasting in the Atrium. There will also be live-streaming via YouTube.

VII. Communications

None.

VIII. Public Comments

None.

IX. Adjournment

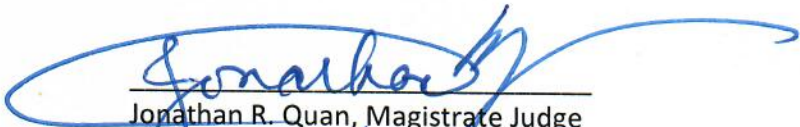
Chairman Quan thanked everyone for their continued work and said that what they are doing is very important and is very much appreciated. There being no other discussion, Mr. Monty McDowell motioned to adjourn the meeting, seconded by Attorney Randy Cunliffe. There being no opposition, the Third Plenary Meeting of the CLRC was adjourned by Chairman Quan at 12:33 p.m.

Respectfully submitted this 31st day of August, 2023.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the April 06, 2023 meeting were approved by the CLRC at the August 31, 2023 meeting.



Jonathan R. Quan, Magistrate Judge
Chairman
Dated: 8/31/23

Report of the Subcommission on Criminal Procedure August 31, 2023 CLRC Plenary Meeting

**Members: Honorable Anita A. Sukola (Chairperson), Marianne
Woloschuk, Esq., Brian Eggleston, Esq., Leonardo Rapadas, Esq.,
Serge Quenga, Esq.**

Review of Guam Code Annotated Title 9 Chapters



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HON. ROBERT J. TORRES
CHIEF JUSTICE

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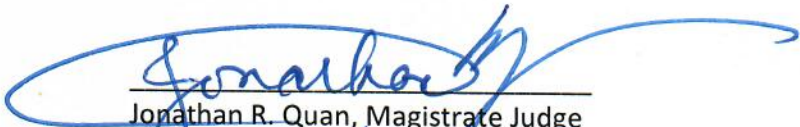
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Jonathan R. Quan, Magistrate Judge
Chairman
Dated: 8/31/23

The Criminal Procedure Subcommittee is primarily responsible for review of Title 8 – the Criminal Procedure Code. P.L. 13-198 (1976).

Title 9 - the Criminal and Correctional Code - was prioritized by P.L. 36-119. The Chairman of the CLRC, Magistrate Judge Jonathan Quan, assigned several chapters in GCA Title 9, to our Subcommittee for review.

Chapter	Title of Chapter
71	The Guam Gun-Free School Zone Act of 2004
80	Disposition of Offenders
81	Reduction of Sentences
82	Loss and Restoration of Rights Incident to Conviction or Imprisonment
84	Rehabilitative and Development Program
85	Territorial Parole Board
86	Compensation for Damages from Criminal Activities
87	Victim Notification
88	Criminal Justice Substance Abuse Act
89	Crimes Against Minors and Sex Offender Registry
93	Criminal Sexual Conduct Assessment and Rehabilitation Act

We have also begun reviewing Title 8 – The Criminal Procedure Code of Guam. We will return to the Title 8 chapters for a more detailed review. Our review today will be limited to the Title 9 chapters assigned to our Subcommittee.

Title 9 Chapter 71 – The Guam Gun-free School Zone Act of 2004

This Chapter 71 was not part of the Criminal & Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 27-116 in 2004. It has not been amended since its adoption.

None of the sections in this chapter are substantively addressed in Superior Court and Supreme Court decisions that are available online. Its enforcement may be infrequent.

We recommend referral of this chapter to the Subcommittee on Crimes Against Persons (GPD is a member) for review and comment.

Pending feedback from other Subcommittees, we recommended these changes:

1. Correct a typo in 9 GCA § 71.20(c):

(c) “Concealed firearm” shall mean as defined in ~~9~~ 10 GCA § 60108(e). [This typo was in the original public law and can be corrected by the Compiler of Laws]
2. Clarify title of 9 GCA § 71.30.

§ 71.30. ~~Person Not Allowed to Possess Firearms~~ Possession of Firearms in a School Zone.

3. Remove unnecessary verbiage in 9 GCA § 71.60.
§ 71.60. Punishment.

Any person who ~~violates~~ is convicted of violating § 71.30, § 71.40, or § 71.50 of this Act shall be guilty of a felony of the third degree and ~~any person who is convicted of an offense pursuant to § 71.30, § 71.40, or § 71.50~~ shall be sentenced as follows:

(a) For a first offense, the Court shall impose a sentence of imprisonment of no more than three (3) years, a fine of not less than One Thousand Dollars (\$1,000.00), and mandatory community service of no less than one hundred and fifty (150) hours.

(b) In cases where the person has been convicted of felonies under any provision of this Chapter, the person shall be sentenced to a term of imprisonment which shall not be less than five (5) years and in addition, may be fined not more than Fifteen Thousand Dollars (\$15,000.00). The sentence, ~~if for a term of years~~, shall include a special parole term of not less than one (1) year in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended, and probation shall not be granted. Sentence in these cases must also include mandatory community service of no less than one hundred fifty (150) hours unless the term of imprisonment is for life.

(c) The Court shall apply any minimum sentence, fine or community service specified in this Section, except in unusual cases where the interests of justice would best be served ~~by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment, fine or community service required in this Subdivision or~~ by granting probation or suspending the execution or imposition of sentence, fine or community service with conditions other than those set forth in this Section, in which case the Court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

4. The fines and sentences in § 71.60(a) and (b), above, have not been changed since adoption of this law in 2004. However, they do not appear to be inconsistent with the fines and sentences under 10 GCA Chapter 60 – Firearms.
5. § 71.70 defines a loaded firearm. We recommend moving it to the definitions section - § 71.20 as a new subsection (d).

~~§ 71.70. What Constitutes a Loaded Firearm.~~

~~For purposes of this Chapter, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.~~

§ 71.20(d). “Loaded Firearm” shall mean a firearm loaded with an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

6. Amend § 71.80 to update it and remove outdated requirements.

§ 71.80. Notice.

~~(a)~~ The Department of Education and other entities covered by this Chapter shall post permanent signs with large visible lettering stating at a minimum, “Warning this is a Gun-Free Zone” at the main entrances of the covered facilities within their control ~~on or before January 1, 2005~~. This Section does not require that notice be posted regarding the proscribed conduct for the purposes of prosecution of any violation of this Act.

~~(b) The Guam Police Department within sixty (60) days of the effective date of this Act shall implement a public relations campaign to inform the general public of its provisions.~~

7. Consolidate “Not Applicable” sections (71.81-71.83) into one section.

§ 71.81. Chapter ~~Not Applicable to Peace Officers and Military.~~

(a) This Chapter does not apply to a duly appointed peace officer as defined in § 5.55, Article 2, Chapter 5, Title 8, Guam Code Annotated, a full-time paid peace officer of another state or the Federal government who is carrying out official duties while in Guam, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of Guam or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard engaged in the performance of his or her duties.

~~§ 71.82. Not Applicable to Security Guards.~~

(b) This Chapter does not apply to an on-duty security guard authorized to carry a loaded firearm, provided the security guard is an employee of an entity contracted by the school for security purposes.

~~§ 71.83. Not Applicable to Existing Shooting Ranges.~~

(c) This Chapter does not apply to an existing shooting range at a public or private school or university or college campus.

Title 9 Chapter 80 – Disposition of Offenders

Our Subcommittee is doing a deep dive into this Chapter 80 as it contains many procedural provisions. The substance of this Chapter 80 also requires review by the enforcing agencies.

Chapter 80	1977 Criminal and Correctional Code	Title 9 Guam Code Annotated
Article 1	General Provisions	General Provisions
Article 2	Imprisonment	Imprisonment
Article 3	Fines and Restitution	Fines and Restitution
Article 4	Probation	Probation
Article 5	Parole	Parole
Article6	N/A	Alternative Community Service
Article 7	N/A	Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders

Chapter 80, as it was enacted by P.L. 13-185, contained 5 articles. It now contains 7 articles and has been extensively updated by the Legislature.

We will work closely with other Subcommittees and their specific member agencies in working sessions on review of this chapter. We will report back to the Plenary Commission at a later date.

Title 9 Chapter 81 – Reduction of Sentences

This Chapter 81 was not part of the original Criminal & Correctional Code. It was added by P.L. 15-116:4 (1980). Last amended in 2022 by P.L. 35-103:5.

Recommend referral to the Subcommission on Drug & Other Criminal Offenses (DOCO) for review and comment by the Director of Corrections, who is a member of that Subcommission.

This Chapter 81 provides for the reduction of sentences by work credit. It is a very short chapter consisting of only one section. Because it involves sentences, it would be a good fit in Article 1 of Chapter 80, which contains sections regarding sentences.

Pending feedback from other Subcommittees, we recommend these changes:

1. Move Chapter 81 to a new Section 80.23 of 9 GCA and make minor clarifications:

9 GCA § ~~81.10~~ 80.23. Reduction of Sentence by Work Credit.

(a) Any person in custody may work at cleaning up littered areas, parks and beaches or other types of work details beneficial to the island of Guam, including participation in a preapprenticeship program authorized through the Guam Registered Apprenticeship Program as provided in Article 1, Chapter 10, Title 22, Guam Code Annotated; provided, that the Director of Corrections:

(1) determines that the person meets the following eligibility requirements that he or she:

(A) has not been convicted of a second degree felony or higher ~~which is~~ including homicide, criminal sexual conduct, robbery or escape as set forth in Chapters 16, 25, 40, and 58 of this Title, respectively; and

(B) is physically able to do such work.

(b) The Director shall ~~provide~~ ensure supervision of the work detail.

(c) The person's sentence shall be reduced by one (1) day for each forty (40) hours of work done that involves cleaning up littered areas, parks, and beaches or other types of work details beneficial to the island of Guam. The person's sentence shall be reduced by two (2) days for each forty (40) hours of work done that involves educational or on-the-job training, or a combination of both.

(d) The Directors of Public Works and Parks and Recreation, and any non-profit organization authorized to participate in the Work Credit program, shall cooperate with the Director of Corrections in choosing sites for work.

(e) Inmates who were eligible to work in previous work detail programs shall only participate in work governed by this Section if they qualify.

~~(f) This Section shall apply to any person who is convicted for the first time of Driving Under the Influence, as defined by 9 GCA § 92101(a), et seq.~~ [See below]

2. Subsection (f), above, fits better in the Driving While Impaired section of the Safe Streets Act. We recommend repeal and reenactment of Subsection (f) to 9 GCA § 92104(f) as amended:

9 GCA § 92104. First Offender Conviction: Punishment.

A person convicted of a first violation of driving while impaired is guilty of a misdemeanor and shall be sentenced as follows:

...

(f) First time offenders are eligible for work credit under 9 GCA § 80.23.

Title 9 Chapter 82 – Loss and restoration of Rights Incident to Conviction or Imprisonment

This Chapter 82 has not been amended since adoption of the Criminal & Correctional Code by P.L. 13-185 (1976).

This Chapter 82, in part, involves Parole. Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO), as the Chief Parole Officer has actively participated in this subcommission. The Parole Board may take special note of § 82.25 (Discretionary Lifting of Disqualification by Parole Board) and the commentary by the Compiler of Laws that this section may violate the Organic Act.

Pending feedback from other Subcommissions, we recommend the following changes:

1. Amend § 82.20 to remove excess verbiage.

§ 82.20. Jury or Voting Disqualification for Duration of Sentence Only.

Notwithstanding any other provision of law, a person who is convicted of a crime shall be disqualified:

(a) from voting in a primary or general election ~~if and only so long~~ as he is committed under a sentence of imprisonment; and

(b) from serving as a juror until he has satisfied his sentence.

2. Correct a typo in § 82.25(d).

(d) The removal of disqualifications or disabilities shall not constitute a pardon nor preclude any person from taking into consideration the fact that the petitioner has been found guilty of a crime where such fact may have previously lawfully been considered.

Title 9 Chapter 84 – Rehabilitative and Development Program

This Chapter 84 was not part of the Criminal & Correctional Code adopted by P.L. 13-185 (1976). This Chapter 84 was adopted by P.L. 21-75 (1992). It has not been amended since it was adopted.

Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO) for review and comment by the Director of Corrections, as this chapter substantively affects DOC.

Pending feedback from other Subcommittees, we recommend the following changes:

1. Amend § 84.15 to provide clarification and a correction.

§ 84.15. Inmate Compensation and Distribution of Income Received.

(a) Inmates shall be paid by the Department at rates determined by the Director by regulation.

(b) The inmate's wages derived from the Program, ~~before being disbursed to the inmate~~, shall be divided and disbursed as follows:

(1) Ten percent (10%) to be deposited in the inmate's name for personal use;

(2) Forty five percent (45%) to be deposited in the ~~client's~~ inmate's name to pay any legal obligations such inmate may have incurred, such as but not limited to spouse and child support.

(3) Forty-five percent (45%) to be used, first, to restore to the victim(s) of the inmate's crime(s) any monies that were lost as a result of such crime(s), with the balance, if any, to be transferred to the Criminal Injuries Compensation Fund (the "Fund") for compensation to the victims of crime.

(c) Profits, if any, derived from the Program ^{Subcomm Criminal Procedure} ~~shall be deposited~~ in the Fund.

2. Amend § 84.20 to update it and correct a misnumbered reference.

§ 84.20. Authorization to Charge for Work Products of the Program.

- (a) Every effort shall be made by the Director to make the Program self-supporting from the funds generated therefrom. The Director shall submit to the Governor and to the Speaker of the Legislature a full report on the status of the Program ~~within ninety (90) days after the enactment of this Chapter and~~ annually ~~thereafter~~, when the Department's budget request is submitted to the Governor.
- (b) The Director is authorized and directed to establish fees and charges for the work products or products generated by the Program and to use such funds generated, after paying the inmates as provided in ~~§ 84.02~~ 84.15, to support the Program by way of supplies, equipment and administrative expenses.
- (c) When services, produce, or products generated by the Program are used by the Department for its own in-house purposes, the Director is authorized to pay the inmates from appropriations to the Department for their labor in creating such services, produce or products.

Title 9 Chapter 85 – Territorial Parole Board

This Chapter 85 was part of the Criminal & Correction Code adopted by P.L. 13-185 (1976). It has been amended since 1976 and most recently in 2017.

Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO), because Chapter 85 is the enabling law for the Parole Board and should be reviewed by the Director of Corrections, Chief Parole Officer, Parole Services Division, and Parole Board.

Pending feedback from other Subcommissions and entities, the Subcommittee recommends this change:

1. Clarify the language in § 85.72:

§ 85.72. Paroled Prisoner to Receive Clothes, Transportation and Maximum of \$25.

~~When a~~ A prisoner who is placed on parole, ~~he shall receive from Guam~~ shall be provided civilian clothing and transportation to the place in Guam in which ~~he~~ the prisoner is to reside. At the discretion of the Board, the prisoner may be advanced such sum for his temporary maintenance as said Board may allow, not to exceed Twenty-Five Dollars (\$25.00), from a fund which shall be provided for use of the Board for this purpose.

We note that the amount of money (\$25) that may be provided to a parolee has not been increased since 1976. An increase, if any, should be requested by Parole.

Title 9 Chapter 86 – Compensation for Damages from Criminal Activities

In 2004, this Chapter 86 was amended and renumbered by P.L. 27-138:4 to 8 GCA Chapter 161 – Compensation for Damages from Criminal Activities. Reference to Chapter 86 was kept in Title 9 to advise readers of its renumbering to 8 GCA Chapter 161.

We have deferred removal of this reference to Chapter 86 to the Compiler of Laws.

Title 9 Chapter 87 – Victim Notification

In 2004, this Chapter 87 was repealed in its entirety by P.L. 27-138:3, which enacted 8 GCA Chapter 160 - the Crime Victim's Rights Act of 2004. Victim notification is covered in that Chapter 160. Reference to Chapter 87 was kept in Title 9 to advise readers of the repeal by P.L. 27-138.

We have deferred removal of this reference to Chapter 87 to the Compiler of Laws.

Chapter 88 – Criminal Justice Substance Abuse Act

This Chapter 88 was not part of the original Criminal and Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 23-060:1 (1995) and has not been amended.

Recommend referral to the Subcommission on Drug and Other Criminal Offenses (DOCO) for review and comment. Recommend referral to Prosecution, Probation and GBHWC for review and comment.

Pending feedback from other Subcommissions and entities, the Subcommission recommends this change:

1. Repeal of § 88.60, which is contained a reporting requirement that has long since passed.

~~§ 88.60. Report to the legislature.~~

~~On or before September 1, 1996, the Superior Court of Guam, the Department of Corrections, the Territorial Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center shall jointly make a report to a committee meeting of the Guam Legislature's standing committee with appropriate oversight (as designated by the Legislative Committee on Rules) regarding the implementation of this Act; the results of the programs created by this Act, including any reduction in substance abuse by offenders while incarcerated; the standardized procedures developed pursuant to this act; and the number and kinds of punitive sanctions imposed upon offenders pursuant to this Act.~~

Title 9 Chapter 89 - Crimes Against Minors and Sex Offender Registry

This Chapter 89 was not part of the original Criminal and Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 25-072:2 (1999) and has been amended several times since its adoption.

This chapter contains mandates for many different entities (DOC, Parole, Probation, GPD, the Judiciary. It also contains electronic monitoring provisions. Recommend referral to the Subcommittee on Crimes Against Persons (GPD) and Subcommittee on Drug and Other Criminal Offenses (DOCO) for review and comment. Also, suggest asking for input and comment from Probation, the Judiciary and AG Prosecution.

We will discuss at working sessions whether § 88.40(b) (requiring punitive sanctions against offenders testing positive for alcohol or controlled substances) might raise due process issues if testing results in false positives. We will report back to the Plenary Commission on this.

Title 9 Chapter 93 – Criminal Sexual Conduct Assessment and Rehabilitation Act

This Chapter 93 was not part of the original Criminal and Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 35-071:1 (2020).

Recommend referral to the Subcommission on Crimes Against Persons (GPD) and Subcommission on Drug and Other Criminal Offenses (DOCO) for review and comment. Also, suggest asking for input and comment from Probation and GBHWC for review and comment.

Will discuss at working sessions whether § 93.30 (requiring assessment of convicting sex offenders) might raise due process issues for individuals found to not be indigent but not having affordable assessment/treatment options available to them.

Pending further discussions, the Subcommittee recommends the following change:

1. Repeal unnecessary and repetitive language of § 93.30(c), which is already stated in 93.30 (a) and (b).

§ 93.30. Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders.

(a) A person convicted of a criminal sexual conduct felony committed on or after the effective date of this Act who is to be considered for probation, pre-sentence release, sentencing, or parole shall be required, as part of the pre-sentence or probation investigation, to submit to an assessment developed pursuant to § 93.20(a)(1). The court shall order such person to comply with the recommendations of such assessment as a condition of probation, pre-sentence release, or parole, and as part of the sentence, at the person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(b) Each person convicted of a criminal sexual conduct misdemeanor committed on or after the effective date of this Act shall be required to submit to an assessment developed pursuant to § 93.20(a)(1). The court shall order such person to comply with the recommendations of such assessment at the person's own expense, unless such person is indigent. If such person is sentenced to probation, such person shall be ordered to comply with the recommendations as a condition of probation at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

~~(c) The assessment required by Subsection (a) of this Section or the assessment required by Subsection (b) of this Section shall be at the expense of the person assessed, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.~~

Subcommittee on Crimes Relating to Property Update

Guam Criminal Law Review and Procedure Commission

August 31, 2023

Subcommittee Chairperson: Phillip J. Tydingco, Esq.

Subcommittee Members: F. Randall Cunliffe, Esq., Mr. Monty McDowell, William B. Brennan, Esq.

Preliminary Review Completed (by Chapter)

- 9 GCA Chapter 32 (Financial Exploitation of Elderly)
- 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)
- 9 GCA Chapter 37 (Burglary)
- 9 GCA Chapter 40 (Robbery)
- 9 GCA Chapter 43 (Theft and Related Offenses)
- 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)
- 9 GCA Chapter 47 (Trademark Counterfeiting Act)
- 9 GCA Chapter 48 (Notification of Breaches of Personal Information)

Chapters Remaining

- 9 GCA Chapter 4 (General Principles of Liability)
- 9 GCA Chapter 13 (Attempt, Solicitation, Conspiracy)
- 9 GCA Chapter 49 (Government Bribery, Other Unlawful Influence and Related Offenses)
- 9 GCA Chapter 69 (Antitrust Law)
- 9 GCA Chapter 70 (Miscellaneous Crimes)

Highlights of Preliminary Review

9 GCA Chapter 43 (Theft and Related Offenses)

- Recommend amendment to offense grading values

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	\$0 - \$49.99	\$0.00 - \$499.99
Misdemeanor	\$50.01 - \$499.99	\$500.00 - \$2,499.99
3 rd Degree Felony	\$500.01 - \$1499.99	\$2,500.00 - \$4,999.99
2 nd Degree Felony	> \$1,500.00	> \$5,000.00

9 GCA Chapter 43 (Theft and Related Offenses)

Recommend deletion of subsection 43.31(a)(3) of the crime against community special allegation to address vagueness and ambiguity:

Existing Statute with subsection (a)(3) only, (emphasis added):

“A person is guilty of a Crime Against the Community if that person knowingly takes, obtains or exercises unlawful control over government-owned, leased or borrowed property, or interferes with, obstructs, or takes action regarding government services in such a way that . . . ~~(3) does so for a purpose other than the original purpose for which the property or services were to be provided.~~”

9 GCA Chapter 37 (Burglary)

Add cross reference to the Family Court Act in Section 37.20:

“ . . . However, if the offender is under the age of eighteen years the court shall have the discretion to suspend all or a portion of the minimum sentence, and may encourage the Balanced Approach Restorative Justice Process as provided for in 19 G.C.A Section 5134. ”

9 GCA Chapter 37 (Burglary)

Recommend Repeal of Section 37.40 “The Breaking of Window Glass to Gain Access to Vehicles.”

Subcommittee Concerns: Language duplicative and already covered by burglary specific statutory language proscribing burglarizing a vehicle at Section 37.20, do not need additional separate offense at a second or third degree felony level if window broken to accomplish burglary

9 GCA Chapter 37 (Burglary)

Recommend Amendment to Section 37.20(a) regarding affirmative defense to Burglary:

A person is guilty of burglary if he enters or surreptitiously remains in any habitable property, building, or a separately secured or occupied portion thereof, or if he enters or surreptitiously remains in any School as defined in § 37.10(e) of this Chapter, with intent to commit a crime therein, unless the premises are at the time open to the public or the defendant is licensed or privileged to enter, or a person is guilty of burglary if he enters or surreptitiously remains in any motor vehicle, semi-trailer, trailer, truck tractor, vehicle combination, motor bus, motor truck, or vehicle, with intent to commit a crime therein. It is an affirmative defense to prosecution for burglary that the property, or building, or motor vehicle was abandoned or if the person reasonably believed that he or she owned, leased rented or was otherwise licensed to enter and remain in the habitable property, building, or a separately secured or occupied portion thereof, or the School, motor vehicle, semi-trailer, trailer, truck tractor, vehicle combination, motorbus, motor truck, or vehicle.

9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend deletion of Subsection 34.60(a) to clarify punishment is based on offense grading value only
- Recommend amendment to offense grading value for Criminal Mischief:

Offense Level	Existing Statute	Recommended Change
Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
Petty Misdemeanor	\$24.01 - \$49.99	\$50.00 - \$499.99
Misdemeanor	\$50.01 - \$499.99	\$500.00 - \$2,499.99
3 rd Degree Felony	> \$500.01	\$2,500.00 - \$4,999.99
2 nd Degree Felony	-	> \$5,000.00

9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend deletion of mandatory minimum in Section 34.60(c) which includes mandatory minimum 48 hours jail time and fines for first, second, and third offenses, separate from general sentencing structure
- Remainder of Subsection(c) related to joint and several liability for parents of offending minors to remain

9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend Amendment to definition of owner for Graffiti statute at Section 34.70(a)(3):

“(3) Owner means any and all persons with legal and/or equitable title to real property in Guam as their names and addresses are shown upon the records of the Department of Revenue of Taxation **or the Department of Land Management.**”

9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend Amendment punishment at Section 34.70(i) for consistency with general punishment for misdemeanor crimes:

In addition to any punishment listed in subsections (f), (g) and (h), any adult convicted for violating subsections (b), (c), (d) or (e) is guilty of a misdemeanor punishable by imprisonment. ~~for not less than a~~ ~~mandatory sixty (60) days.~~

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Subcommittee is considering recommending repeal of Sections 46.90 to 46.94 :

“Prohibition on Use of Telephone Records”

Subcommittee concerns: potentially obsolete, significant penalties, unused statute.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to offense grading values for dishonored checks (Section 46.30)

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	< \$250.00	< \$500.00
Misdemeanor	\$250.01 - \$1,000.00	\$500.01 - \$2,499.99
3 rd Degree Felony	> \$5,000.00	\$2,500.00 - \$9,999.99
2 nd Degree Felony	-	> \$10,000.00

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend repealing Section 46.50:
“Rigging of Public Exhibitions; Defined; Failure to Report; Soliciting Punishment.”

Comment to section: “This Section is provided not in repose to an apparent need, but for its prophylactic effect. However, this Section would deal directly with cases of dog-doping at the Greyhound Track.”

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend Amendment to Section 46.35(a) to address use of credit information without using physical credit card:

A person commits an offense if he uses a credit card or **the account number of a credit card account** with the intent of obtaining property or services with knowledge that:

- (1) the card **or account number** is stolen or forged;
- (2) the card **or account number** has been revoked or cancelled; or
- (3) for any other reason his use of the card **or account number** is unauthorized.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment of offense grading values for fraudulent use of credit card Section 46.35(d):

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	< \$250.00	< \$500.00
Misdemeanor	\$250.01 - \$1,000.00	\$500.01 - \$2,499.99
3 rd Degree Felony	> \$5,000.00	\$2,500.00 - \$9,999.99
2 nd Degree Felony	-	> \$10,000.00

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to offense grading values for Impersonation and Identity Theft crimes Section 46.80(c)

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	< \$500.00
Misdemeanor	-	\$500.01 - \$2,499.99
3 rd Degree Felony	< \$5,000.00	\$2,500.00 - \$9,999.99
2 nd Degree Felony	> \$5,000.00	> \$10,000.00

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to Section 46.103 to update offense grading values for Mortgage Fraud.

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	< \$500.00
Misdemeanor	\$300.01 - \$1,000.00	\$500.01 - \$2,499.99
3 rd Degree Felony	\$1,000.00 - \$ 4,999.99	\$2,500.00 - \$9,999.99
2 nd Degree Felony	> \$5,000.00	> \$10,000.00

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend repeal of Section 46.104:

“Mortgage Fraud Prosecutor and Investigators.”

Subcommittee Concerns: Duplicative, Attorney General has discretion and authority to hire prosecutors and investigators, without specific need for “mortgage fraud prosecutor and investigators”

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to Section 46.504(a):

~~“person who violates this Act is guilty of a third degree felony, and is subject to a fine not to exceed Five Thousand Dollars (\$5,000), or imprisonment not to exceed five (5) years, or both.”~~

Subcommittee Concerns: Duplicative, provides for Third Degree Felony base penalty, without first offender exception

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(a):

“A person who violates § 46.503 (a), (b), (c), (d) or (e) is guilty of a third degree felony, ~~and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~”

Subcommittee Concerns: Duplicative, provides for Third Degree Felony base penalty.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(b):

“person who violates § 46.503 (a), (b), (c), (d) or (e) involving the transmission of more than two hundred fifty (250) commercial electronic mail messages during a twenty-four (24) hour period; two thousand five hundred (2,500) commercial electronic mail messages during any thirty (30)-day period; or twenty five thousand (25,000) commercial electronic mail messages during any one (1)- year period is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~”

Subcommittee Concerns: Duplicative, provides for Second Degree Felony base penalty.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(c):

“person who violates § 46.503 (c) or (d) involving twenty (20) or more electronic mail accounts, or ten (10) or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from the accounts or using the domain names is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~

Subcommittee Concerns: Duplicative, provides for Second Degree Felony base penalty.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(d):

“A person who violates § 46.503 (a), (b), (c), (d) or (e) that causes a loss of One Thousand Dollars (\$1,000) or more during any one (1)-year period is guilty of a third degree felony, ~~and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~”

Subcommittee Concerns: Duplicative, provides for Third Degree Felony base penalty.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(e):

“A person who violates § 46.503 (a), (b), (c), (d) or (e) in concert with three (3) or more other persons as the leader or organizer of the action that constitutes the violation is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~”

Subcommittee Concerns: Duplicative, provides for Second Degree Felony base penalty.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(f):

“A person who violates § 46.503 (a), (b), (c), (d) or (e) in furtherance of a felony, or who has previously been convicted of an offense under the laws of Guam, another state, or under any federal law involving the transmission of multiple commercial electronic mail messages is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed ten (10) years or a fine not to exceed Twenty-Five Thousand Dollars (\$25,000), or both.~~”

Subcommittee Concerns: Duplicative, provides for Second Degree Felony base penalty.

9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(g):

“A person who violates § 46.503 (f) or (g) is guilty of a ~~misdemeanor~~ ~~felony~~, ~~and upon conviction is subject to imprisonment not to exceed one (1) year or a fine not to exceed Five Thousand Dollars (\$1,000), or both.~~”

Subcommittee Concerns: imprisonment penalty for misdemeanor, but language stated offense is felony grade

9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities)

- **Recommend Repeal of entire Chapter**
- Subcommittee Concerns: vulnerable victim sentencing enhancement and theft statute provide sufficient criminal prohibition; conflicting *mens rea* language throughout statute.

9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities)

- If not repealed, confusing definition of elderly person 33.10(d) (after 55 years or older).

“(d) Elderly person means a person fifty-five (55) years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.”

9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities)

- If not repealed, amend the statute to clarify conflicting *mens rea* requirements throughout statute, i.e. the existing statute provides:

A person is guilty of financial exploitation of an elderly person or individual with a disability if he or she:

- (a) **knowingly** obtains or uses, or endeavors to obtain or use, an elderly person's or individual with a disability's funds, assets, or property **with the intent** to temporarily or permanently deprive the elderly person or individual with a disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or individual with a disability, by a person who: (1) stands in a position of trust and confidence with the elderly person or individual with a disability; or (2) has a business relationship with the elderly person or individual with a disability;
- (b) obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use an elderly person's or individual with a disability's funds, assets, or property **with the intent** to temporarily or permanently deprive the elderly person or individual with a disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or individual with a disability, **by a person who knows or reasonably should know** that the elderly person or individual with a disability lacks the capacity to consent;
- (e) is a caregiver or a person who stands in a position of trust and confidence with the elderly person or individual with a disability who **intentionally or negligently fails** to effectively use an elderly person's or individual with a disability's income and assets for the necessities required for that person's support and maintenance

No Changes at this Time

9 GCA Chapter 48 (Notification of Breaches of Personal Information) – recommend amending to civil cause of action and removing from criminal code

9 GCA Chapter 47 (Trademark Counterfeiting Act) – no proposed amendments

9 GCA Chapter 40 (Robbery) – no proposed amendments

The Subcommittee on Crimes Related to Property continues its work and will finalize submit its finalized recommendations and worksheets for Commission Review.

Thank you

Subcommittee Chairperson: Phil Tydingco

Subcommittee Members: F. Randall Cunliffe, Monty McDowell, William (Bucky) Brennan



GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

Fourth Plenary Meeting

August 31, 2023, 12:00 p.m.



Agenda

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES April 6, 2023
- V. OLD BUSINESS
 - A. Membership Update.
- VI. NEW BUSINESS
 - A. Presentation of Amendment and Repeal Worksheets for Discussion and Approval:
 - 1. Subcommittee on Criminal Procedure
 - 2. Subcommittee on Crimes Relating to Property
 - B. Reminder - Subcommittee Third Quarter Status Reports Due Friday, September 15, 2023. Third Quarter ends September 30, 2023
 - C. Notice of next meeting: Thursday, October 5, 2023, Noon (Tentative)
- VII. Communications
- VIII. Public Comment
- IX. Adjournment



Membership Update Subcommissions

Crimes Against Persons

Joseph McDonald, Esq. Chair

GPD Chief Steve Ignacio

Stephen Hattori, Esq.

Christine Tenorio, Esq.

Drug and Other Criminal Offenses

Compiler of Laws Geri Cepeda, Esq. Acting

Chair

Michael Phillips, Esq.

Ms. Valerie Reyes

Acting DOC Director Fred Bordallo

Vacant

Crimes Relating to Property

Phil Tydingco, Esq.

Criminal Procedure

Hon. Anita A. Sukola, Chair

Marianne Woloschuk, Esq.

Executive Director Serge Quenga, Esq.

William Bucky Brennan, Esq.

Brian Eggleston, Esq.

Lenny Rapadas, Esq.



Subcommission Ex-Officio Members

Hon. Elizabeth Barrett-Anderson, Kat Siguenza, Esq. (Drugs &
Other Criminal Offenses)

Sean Brown, Esq. (Persons)

Brian Eggleston, Esq., Lenny Rapadas, Esq. (Criminal
Procedure)



Report of the Subcommission on Criminal Procedure August 31, 2023 CLRC Plenary Meeting

Members: Honorable Anita A. Sukola (Chairperson), Marianne
Woloschuk, Esq., Brian Eggleston, Esq., Leonardo Rapadas, Esq.,
Serge Quenga, Esq.

Review of Guam Code Annotated
Title 9 Chapters



Subcommission on Crimes Relating to Property Update

Guam Criminal Law Review and Procedure Commission

August 31, 2023

Subcommission Chairperson: Phillip J. Tydingco, Esq.

Subcommission Members: F. Randall Cunliffe, Esq., Mr. Monty McDowell, William B. Brennan, Esq.



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Thank you!