



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
Tel: (671) 475-3278 • Fax: (671) 475-3140



HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

HON. JONATHAN R. QUAN
CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION PLENARY MEETING FEBRUARY 6, 2025 AGENDA

I. CALL TO ORDER

II. PROOF OF DUE NOTICE OF MEETING

III. DETERMINATION OF QUORUM

IV. DISPOSAL OF MINUTES December 3, 2024

V. OLD BUSINESS

A. Subcommittee Status Update and Report of the Executive Director

VI. NEW BUSINESS

A. Subcommittee on Drugs & Other Criminal Offenses: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

B. Subcommittee on Crimes Relating to Property: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

C. Subcommittee on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

D. Notice of Next Meeting: Thursday, April 10, 2025, Noon (Tentative)

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

IX. ADJOURNMENT



GUAM POWER AUTHORITY
 ATURIDĀT ILEKTRESEDĀT GUĀHAN
 P.O. BOX 2977 • HAGĀTNA, GUAM U.S.A. 96932-2977
 Telephone Nos. 671-648-3045/55 or Facsimile 671-648-3165



John M. Benavente, P.E.
 General Manager

INVITATION FOR BID

This notice is paid for by the **GUAM POWER AUTHORITY REVENUE FUNDS**
Public Law 26-12

BID NO.:	DUE DATE:	TIME:	DESCRIPTION:
GPA-018-25	02/18/2025	09:00 A.M.	Pole Mounted Transformers
GPA-022-25	02/18/2025	10:00 A.M.	Wires
GPA-023-25	02/18/2025	11:00 A.M.	LED Luminaries
GPA-024-25	02/18/2025	2:00 P.M.	Wires

Bid packages may be picked up at the GPWA Procurement Office, Room 101, 1st Floor, Gloria B. Nelson Public Services Building, 688 Route 15, Mangilao, Guam 96913. All interested firms should register with our GPA's Procurement Division to be able to participate in the bid. Please call our office at (671) 648-3054 / 3055 to register. Registration is required to ensure that all "Amendments and Special Reminders" are communicated to all bidders throughout the bid process. Procurement instructions are posted on the Authority's web site at https://go.opengovguam.com/tenders/tenders_list-standalone/gpa?tender_status=Available and https://notices.guam.gov/notices?view=list&keyword=&date_from=&date_to=&type_id=&event_date_from=&event_date_to=&department_id=&division_id=&topic_id=&topic_id%5B%5D=59&topic_id%5B%5D=62&group_id=&deadline=0&show_records=10#notices_start

/s/ John M. Benavente, P.E.
 General Manager



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John M. Benavente, P.E.
 General Manager

FINAL ADVERTISEMENT INVITATION FOR BID

This notice is paid for by the **GUAM POWER AUTHORITY REVENUE AND CIP FUNDS**
Public Law 26-12

BID NO.:	DUE DATE:	TIME:	DESCRIPTION:
GPA-016-25	02/06/2025	09:00 A.M.	Cross Arms (Revenue)
GPA-017-25	02/06/2025	10:00 A.M.	Cybersecurity Compliance Network Switches (CIP)
GPA-020-25	02/11/2025	10:00 A.M.	Miscellaneous Electrical Materials (Revenue)
GPA-021-25	02/06/2025	11:00 A.M.	Transformer Insulating Oil (CIP)

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/s/ John M. Benavente, P.E.
 General Manager

HOUSE FOR RENT

NEWLY RENOVATED
4 BEDROOM
2 BATHROOM
SECTION 8 WELCOME
CALL 671-489-8835

GUAIYA TODU FINANCIAL STATEMENT FOR THE YEAR ENDING DECEMBER 31, 2024 BALANCE SHEET STATEMENT OF ACTIVITIES

INCOME:	
PRIOR YEAR BALANCE	\$19,355.39
REIMBURSEMENT	\$ 200.00
CONTRIBUTIONS	\$ 5,000.00
MEMBERSHIP DUES	\$ 2,425.00
EVENTS	\$ 16,360.00

TOTAL: **\$23,985.00**

EXPENSES:	
TENNIS CLINICS	\$ 10,140.00
GUAM POST AD	\$ 140.00
BUSINESS OLD SERVICE FEE	\$ 120.00
EVENT EXPENSE	\$ 6,353.86
GT EXPENSES	\$ 218.97
DONATION TO GNTF	\$ 2,376.00

TOTAL: **\$19,348.83**

AVAILABLE BALANCE	\$23,991.56
BANK BALANCE	\$24,060.54
PENDING CHECK CLEARANCE	\$ 68.98

Certified true and correct,
 Joy Ambrale, Treasurer



JUDICIARY OF GUAM
 Guam Judicial Center
 120 West O'Brien Drive, Hagåtña, Guam 96910-5174
www.guamcourts.org

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION PLenary MEETING FEBRUARY 6, 2025 NOTICE OF MEETING

The Guam Criminal Law and Procedure Review Commission will conduct a plenary meeting on Thursday, February 6, 2025, 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. The meeting will be streamed live on the Judiciary of Guam YouTube channel:
<https://www.youtube.com/channel/UCfnFCWllp99fAeh9zi4Q4g>

AGENDA

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES DECEMBER 3, 2024
- V. OLD BUSINESS
- VI. NEW BUSINESS
 - A. Subcommission Status Update and Report of the Executive Director
 - B. Subcommission on Drugs & Other Criminal Offenses: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - C. Subcommission on Crimes Relating to Property: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - D. Subcommission on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - E. Notice of Next Meeting: Thursday, April 10, 2025, Noon (Tentative)
- VII. COMMUNICATIONS
- VIII. PUBLIC COMMENT
- IX. ADJOURNMENT

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

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



Louder A. Leon Guerrero
 Governor of Guam

GHURA

Guam Housing and Urban Renewal Authority
 Aturidat Ginima' Yan Rinueban Siudad Guahan
 117 Bien Venida Avenue, Sinajana, GU 96910
 Phone: (671) 477-9851 · Fax: (671) 300-7565 · TTY: (671) 472-3701
 Website: www.ghura.org



Joshua F. Tenorio
 Lieutenant Governor of Guam

Board of Commissioners Meeting Thursday, February 06, 2025 at 12:00 PM. This meeting is open to the public via Zoom.

Join Zoom Meeting

<https://us06web.zoom.us/j/89741920241?pwd=cx0lf02QFzCKZthHERJrCLO7xCdke.1>

Meeting ID: 897 4192 0241, Passcode: 759257

Watch YouTube Live Stream

<https://www.youtube.com/channel/UCGqKWU0kOmTOFOLyn48Ulag>

AGENDA:

- I. ROLL CALL
- II. BOARD MEETING PUBLIC ANNOUNCEMENTS
- III. APPROVAL OF PREVIOUS BOARD MINUTES - December 10, 2024
- IV. NEW BUSINESS
 1. Resolution FY2025-013; Resolution commending Ms. Lucy R. Awa, Accountant I, for her dedication and contributions to the Guam Housing and Urban Renewal Authority (GHURA)
 2. Resolution FY2025-014; Resolution commending Ms. Norma P. San Nicolas, Section 8 Administrator, for her dedication and contributions to the Guam Housing and Urban Renewal Authority (GHURA)
 3. Intent of Award: IFB GHURA-24-14; GPD Eastern Substation, Talofofo, Guam
- V. OLD BUSINESS
 1. 2024 LIHTC QAP / Application Cycle
- VI. GENERAL DISCUSSION / ANNOUNCEMENTS
 1. Next proposed scheduled Board Meeting - Tuesday, February 25, 2025 @ 12:00 p.m.
- VII. EXECUTIVE SESSION
 1. Discuss Pending Litigation
- VIII. ADJOURNMENT

The complete Board packet may be viewed on our website at www.ghura.org.
 For more information, please contact Audrey Aguan at 475-1378 and for special accommodations, please contact Chief Planner - Designated Section 504 / ADA Coordinator at 475-1322 or TTY 472-3701.

This advertisement was paid for by GHURA.

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AVAILABLE JOBS FOR ELIGIBLE U.S. WORKERS

23-CARPENTER WITH 1 YEAR EXP.

Read blueprints, drawings, sketches to fully grasp requirements. Take measurements & calculate the size & amount of material needed.

\$18.34 PER HR.*

19 - CEMENT MASON WITH 1 YEAR EXP.

Smooth & finish surfaces of poured concrete such as floors, walls, sidewalks, roads or curbs using a variety of hand & power tools. Align forms for sidewalks, curbs or gutters; patch voids & use saws to cut expansion joints.

\$17.51 PER HR.*

4- HEAVY EQUIPMENT MECHANIC WITH 1 YEAR EXP.

Drive to project sites to inspect trucks, bulldozer & other heavy equipment. Repairs engine & hydraulic systems for various brands such as, but not limited to, Hitachi, Komatsu, Caterpillar, Kubota, Sakai & Hyundai for proper performance.

\$21.77 PER HR.*

19 - HEAVY EQUIPMENT OPERATOR WITH 1 YEAR EXP.

Operate heavy equipment such as motor graders, bulldozers, scrapers, compressors, pumps, cranes, derricks, shovels, tractors or front-end loaders to excavate, move & grade earth, erect structures or pour concrete or other hard surface pavement in compliance with company's operating safety policies & procedure.

\$18.97 PER HR.*

10 - PIPEFITTER WITH 1 YEAR EXP.

Lays out, assembles, installs & maintains pipe systems, pipe supports or related hydraulic or pneumatic equipment for steam, hot water, heating, cooling, lubricating, sprinkling or industrial production or processing systems.

\$19.48 PER HR.*

Benefits: Roundtrip airfare for off-island hire; food & lodging @ \$150.00 per week; local transportation from employer's designated lodging facility to/from jobsites; employer/employee paid medical insurance.

***Special wage rate:** Work to be performed on DPRI-funded projects and projects covered by Davis Bacon, Service Contracts Act, and/or Executive Order 14206 will be paid no less than the indicated wage rate but may be paid more where special rates apply.

Successful applicant must be able to obtain military base access. Off-island hires must complete a health screening prior to working on Guam.

The job offer meets all EEO requirements, and initiates a temporary placement. The recruitment associated with this job offer is closely monitored by the Department of Labor. Qualified, available and willing U.S. workers are highly encouraged to apply. Should you qualify for the job and are not hired, you may appeal with the Department of Labor who will independently review matter.

**For complete job duties, apply in person at American Job Center
414 W. Soledad Avenue, Suite 300, GCIC Building, Hagatña, Guam
Or apply online at www.hireguam.com; Enter Keyword: 2025-032**

FIRST NOTICE TAMUNING-TUMON-HARMON MUNICIPAL PLANNING COUNCIL REGULAR MONTHLY MEETING

6:30 P.M. Thursday - February 06, 2025

Tamuning Community and Senior Center

AGENDA

- I. Call to Order
- II. Roll Call
- III. Recitation of the Pledge of Allegiance and Inifresi
- IV. Approval of Minutes of January 09, 2024
- V. Tumon Police Precinct Report
- VI. Mayor's/Vice Mayor's Report
- VII. Sister Military Command Report
- VIII. Youth Congress Report
- IX. Old Business:

- X. New Business: GLUC Application by VG Gozum Construction LLC for a Conditional Use at Lot 5048-4, Tamuning, for a Warehouse and Temporary Workforce Housing Facility
- XI. Community Reports:
- XII. Public Comments
- XIII. Announcements:
- XIV. Adjournment:

In compliance with the American with Disabilities Act. Individuals requiring special accommodations may contact Mayor Louise Rivera via email: mayordrivera.tatuha@gmail.com or call 671-480-4440.

**Broadcast Live on Tamuning Mayor's Office Facebook Page
This Advertisement is paid for by Government of Guam procurement.**



MINUTES
CLRC PLENARY MEETING OF
DECEMBER 3, 2024



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
Tel: (671) 475-3278 • Fax: (671) 475-3140



HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

HON. JONATHAN R. QUAN
CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC) PLENARY MEETING | THURSDAY, DECEMBER 3, 2024 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chairman Jonathan Quan at 12:00 PM.

II. PROOF OF DUE NOTICE OF MEETING

Chairman Quan noted that public notices of the meeting were published pursuant to the Open Government Law and are included in the meeting packet.

III. DETERMINATION OF QUORUM

CLRC Administrative Support Lisa Ibanez called the roll.

CLRC Members:

Hon. Jonathan R. Quan, Present, Judiciary of Guam

Hon. Maria T. Cenzone, Present, Judiciary of Guam

Hon. Anita A. Sukola, (No response during roll call)

Atty. William Bucky Brennan, Present on Zoom, Chalan Pago

DOC Director Fred Bordallo or designee Maj. Antone F. Aguon, Present, Judiciary of Guam

Chief of Police Stephen Ignacio or Designee Lt Ron Taitano, (No response during roll call)

Atty Joseph B McDonald, Present, Judiciary of Guam

Atty. F. Randall Cunliffe, Present on Zoom, Tamuning

Mr. Monty McDowell, Present, Judiciary of Guam

Public Defender Stephen Hattori or Designee Dep. Dir. John Morrison, Present, Judiciary of Guam

Attorney General Douglas Moylan or Designee DAG Nathan Tennyson, Present on Zoom, Tamuning

Atty. Mike Phillips, (No response during roll call)

Ms. Valerie Reyes, (No response during roll call)

Atty. Christine Tenorio, Present on Zoom, Tamuning

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, Judiciary of Guam

Attorney Kristine Borja, Present on Zoom

Attorney Valerie Nuesa, Present, Judiciary of Guam

Attorney Zachary Taimanglo, Present, Judiciary of Guam

Chairman Quan acknowledged a quorum present.

IV. DISPOSAL OF MINUTES: September 12, 2024

The minutes from the previous Plenary Meeting, September 12, 2024, was approved without objection.

V. OLD BUSINESS

A. Subcommittee Status Update and Report of the Executive Director.

Director Quenga provided an informational report.

- Welcomed Attorney Zach Taimanglo from the Public Defender and Attorney Valerie Nuesa from the Attorney General's Office who will be assisting the DOCO Subcommittee as ex-officio members. Welcomed to the CLRC Lisa Ibanez as CLRC Administrative Assistant and Attorney Gordon Anderson as a legal researcher. Thanked Attorney Brian Eggleston, who relocated from Guam, for his work with the Criminal Procedure Subcommittee.
- Provided a status update of Title 9 chapters that have been presented and completed or tabled, and chapters that have not been presented as shown in the PowerPoint presentation for Attachment. Out of 46 chapters, on 13 are pending review. Other chapters have been presented and completed or tabled in the first phase review.
- Advised the Commission that CLE credits will be available to attorney members for their work over the past year.

VI. NEW BUSINESS

A. Subcommittee on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommittee Chair Attorney McDonald presented redline markups of his Subcommittee's recommendations brought before the Commission at the last plenary meeting. Attorney McDonald's PowerPoint presentation is included as Attachment 1.

- 9 GCA Chapter 19. Assault, Reckless Endangering, Terrorizing.
 - § 19.50. Terroristic Conduct; Defined and Punished. Amend (a) as shown in Attachment 1, Slide 4.
 - Discussion: Remove the semicolon after "assembly" and replace with a comma. Compiler of Laws stated this should be a formal amendment to avoid interpretation issues.
 - § 19.81. Interfering with the Reporting of Family Violence; Defined & Punished. Amend (c) as shown in Attachment 1, Slide 5.
 - Discussion: Reduce offense level from felony to misdemeanor.
 - Amend 9 GCA § 30.300 (Interfering with the Reporting of Family Violence), which mirrors § 19.81. Amend (c) as shown in Attachment 1, Slide 7.
 - Discussion: Reduce offense level from felony to misdemeanor.
- 9 GCA Chapter 22. Kidnapping and Related Offenses.
 - § 22.20. Kidnapping; Defined & Punished. Amend (a)(2) as shown in Attachment 1, Slide 9.
 - Discussion: Replace "felony" with "crime." Attorneys Morrison and Cunliffe objected, citing concerns about over-broadening the statute. Attorney Tenorio stated this was her recommendation after surveying different jurisdictions that refer to crime instead of felony, also

difficult to charge kidnapping if not able to determine the felony someone is trying to commit.

- 9 GCA Chapter 25. Sexual Offenses.
 - § 25.10. Definitions. Add new (a)(12) and (a)(13) as shown in Attachment 1, Slide 11.
 - Discussion: New subsections add definitions of affinity and consanguinity.
- 9 GCA Chapter 25A. Solicitation of Children and Child Pornography.
 - § 25A102. Indecent Electronic Display to a Child. Amend (c) as shown in Attachment 1, Slide 13.
 - Discussion: Delete (c) and add back as a new § 25A106.
 - § 25A103. Electronic Enticement of a Child as a Third Degree Felony. Amend (a) and (d) as shown in Attachment 1, Slide 14.
 - Discussion: Delete (a)(1)(B). Delete (d) and add back as a new section 25A106.
 - § 25A104. Electronic Enticement of a Child as a Second Degree Felony. Amend (a) as shown in Attachment 1, Slide 15.
 - Discussion: Delete (a)(1)(B).
 - § 25A105. Electronic Enticement of a Child as a First Degree Felony. Amend (a) as shown in Attachment 1, Slide 16.
 - Discussion: Delete (a)(1)(B).
 - § 25A106. Add as a new section as shown in Attachment 1, Slide 17.
 - Discussion: Same language deleted from § 25A102(c) and § 25A103(d). However, replace “Section” with “Chapter.”
- 9 GCA Chapter 26. Human Trafficking and Criminal Exploitation Act of 2009.
 - Chapter 26, Article 2 Prevention of Trafficking. Repeal Article 2 as shown in Attachment 1, Slide 19.
 - Discussion: Repeal Article 2 in its entirety. Provisions are not enforced or funded. Feds are very active in this. Attorney Tennyson requested more time to review this and asked to table this part. Attorney Tydingco noted this was AG generated legislation out of the “Blue House” case. Attorney Morrison noted that to his knowledge no crimes have been charged under this chapter. Judge Cenzone noted the Coalition Against Domestic Violence and Sexual Assault had federal funding and was to work with the AG’s Office on human trafficking. She agreed with Attorney Tennyson looking at this. Chairman Quan tabled this recommendation.
 - § 26.41. Protection of Trafficking and Domestic Violence Shelters. Amend (a) as shown in Attachment 1, Slide 20.
 - Discussion: Amend (a) to delete “maliciously.” Attorney McDonald noted maliciousness is not in the Model Penal Code. He noted that “knowingly” was initially proposed to be added, however, criminal negligence will encompass any higher mental state. Attorney Tennyson asked if we are conforming to the MPC. Chairman Quan responded “yes.”
- 9 GCA Chapter 31. Offenses Against the Family.
 - § 31.30. Child Abuse; Defined & Punished. Amend (a) as shown in Attachment 1, Slide 22.
 - Discussion: Amend (a) to add new (a)(2) and (3), “willfully causes or permits any child to suffer” and “inflicts upon a child unjustifiable

physical pain or mental suffering.” Amend (a)(2) to delete (B) “subjects that child to cruel mistreatment.” Amend (a)(2)(C) to add “unreasonably causes or permits that child to be placed in a situation where his or her person or health may be endangered.” Add a new subsection under (a)(2), “neglects that child.” Attorney Tenorio noted that the proposed additions are from the California Penal Code or from New Jersey. Attorney Tennyson asked if there is a definition of “suffer” or boundary between criminal suffer and a punishment that the child does not like. Chairman Quan noted the same concern and stated that the new (a)(2) as too broad and conflicts with 9 GCA § 7.94, which allows spanking. Chairman Quan also noted new (a)(2) allows for justifiable physical pain. Chairman Quan proposed striking proposed (a)(2). The Subcommittee agreed to strike the proposed (a)(2).

- § 31.30. Add a new (d) as shown in Attachment 1, Slide 23.
 - Discussion: Attorney Tenorio noted this new subsection (d) is from the New Jersey code. Compiler of Laws Cepeda suggested replacing “in” with “of” after “consist.” Chairman Quan asked if there is an issue involving Jehovah’s Witnesses. Attorney Tenorio noted she did see such issues but this language does not prevent them from putting forth such a defense.

Chairman Quan called for a motion to approve the recommendations on §§ 19.50(a), 19.81(c), 25.10, 25A102-25A106. Approved without objection.

Chairman Quan called for a motion to approve § 22.20. Approved over objections by Attorneys Cunliffe, Morrison and Brennan.

Chairman Quan tabled the recommendation to repeal Article 2 of Chapter 26.

Chairman Quan called for a motion to approve the recommendations on §§ 26.41 and 31.30, noting that the recommendation on § 31.30(a)(2) was stricken. Approved without objection.

B. Subcommittee on Drugs and Other Criminal Offenses: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommittee Chair, Judge Maria T. Cenzone presented DOCO’s continuing review of 9 GCA Chapter 67 - The Guam Uniform Controlled Substances Act. Judge Cenzone’s PowerPoint presentation is included here as Attachment 2.

- Adult Drug Court judges are making internal drug court revisions. DOCO is looking at statutory changes.
- Regarding Article I, Definitions, no changes are recommended.
- With respect to Article 2, Standards and Schedules, and Article 3, Regulation of Manufacture, Distributions and Dispensing of Controlled Substances, we require the expertise and assistance of DPHSS to review and will ask the Director to designate someone to assist.

- Article 4, Offenses and Penalties, will get assistance from defense bar and prosecution as offenses and penalties are most prominent at adult drug court hearings. We see a lot of individuals who go through drug court successfully but are unable to pay fines that are not convertible to community service.

Chairman Quan called for a motion to approve the recommendation for no changes to Article I. Approved without objection.

C. Subcommittee on Crimes Relating to Property: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

Subcommission Chair, Attorney Phil Tydingco presented his Subcommittee's recommendations on 9 GCA Chapter 69 and 10 GCA Chapter 60. Attorney Tydingco's PowerPoint presentation is included here as Attachment 3.

- 9 GCA Chapter 69. Antitrust Law.
 - § 69.40. Criminal Penalty. Amend as shown in Attachment 3, Slide 4.
 - Discussion: Delete the last sentence in (a) and delete (b) in its entirety. Attorney McDonald asked why the statute of limitations is being reduced. Attorney Tydingco noted the general statute of limitations of three years for felonies should cover this unless policy reasons justify a longer period. Attorney Tydingco noted that certain financial paper crimes have a longer statute of limitation because of the difficulty in uncovering it and finding evidence but the Subcommittee wanted consistency with felony statute of limitations. He noted the only exceptions of rape and murder. Chairman Quan added official misconduct. Attorney McDonald noted this was only for antitrust which has never been charged.

Regarding (b), Attorney McDonald noted deletion removes the double jeopardy provision. Attorney Brennan stated that removal of (b) is consistent with the *Puerto Rico v. Sanchez Valle* case. Attorney Cunliffe stated our law says if you are convicted in federal court, you can't be convicted in Superior Court and federal law says if you're convicted in Superior Court, you can't be convicted in federal court. It restates the law that already exists. It is redundant.

- §§ 69.45 (Civil Penalty and Injunctive Enforcement), 69.50 (Judgment in Favor of Territory if Prima Facie Evidence), 69.55 (Limitation of Actions), 69.60 (Remedies Cumulative). Recommend recodifying these sections outside of the criminal code. Sections are for injunctions and permit civil lawsuits. Executive Director Quenga stated he will work with the Compiler of Laws to find the appropriate place in the civil code for these sections and report back.
- 10 GCA Chapter 60. Firearms.
 - § 60108. Same: Restrictions. Amend (b)(2) as shown in Attachment 3, Slide 11.
 - Discussion: Attorney Tydingco noted the amendment adds Compact of Free Association migrants. Attorney McDonald noted the language references a specific form that may change. He suggested adding "or equivalent." Attorney Tydingco agreed with more general language.

Attorney Cunliffe noted the statute used to apply only to U.S. citizens, which violated Supreme Court decisions which found that people lawfully allowed to be in the U.S. could lawfully bear arms. The statute was amended to apply to persons admitted under the Immigration and Nationality Act, which does not apply to COFA citizens who are legally allowed in the U.S. This amendment clarifies that the statute also applies to COFA citizens in Guam.

Chairman Quan suggested this recommendation be tabled to allow the Subcommittee to come back with appropriate language regarding a more general form. Attorney Tydingco agreed.

Chairman Quan asked for a motion to approve the amendments to § 69.40 and to move §§ 69.45, 69.50, 69.55 and 69.60 out of the criminal code. Attorneys McDonald and Tennyson objected to the amendment in § 69.40 shortening the statute of limitations. Motion carried notwithstanding the two objections.

D. Notice of next meeting: Thursday, February 6, 2025, Noon (Tentative)

Chairman Quan informed Members that the next Plenary meeting is tentatively scheduled for Thursday, February 6, 2025, at 12:00.

VII. Communications

None.


VIII. Public Comment

None.

IX. Adjournment


Chairman Quan adjourned the meeting without objection.

Respectfully submitted this 6th day of February, 2025.



Andrew S. Quenga, Executive Director


As set out above, the minutes of the December 3, 2024, meeting were approved by the CLRC at the February 6, 2025 meeting.



Magistrate Judge Jonathan R. Quan, Chairman
Date: 2/10/25

ATTACHMENT 1

SUBCOMMISSION ON CRIMES AGAINST PERSONS PRESENTATION




Crimes Against Persons Subcommittee
Criminal Law & Procedure Review Commission

Members and ex officio members
GPD Chief Steve Ignacio
GPD Lt. Ron Taitano
Public Defender Steve Hattori
Dep. Public Defender John Morrison
Assistant Attorney General Christine Tenorio
Magistrate Sean E. Brown
Attorney Joseph B. McDonald

PRESENTATION OF STATUTES FOR AMENDMENT OR REPEAL

PRESENTATION BY J. MCDONALD
PLENARY MEETING
DEC. 3, 2024


Slide 1



RECOMMENDATIONS FOR AMENDMENT OR REPEAL AFTER FIRST PASS
TABLED SECTIONS FOR SECOND PASS

8TH PLENARY MEETING


Slide 2



CHAPTER 19: ASSAULT, RECKLESS ENDANGERING, TERRORIZING

**RECOMMENDED SECTIONS FOR
AMENDMENT AND REPEAL**

Slide 3



9 GCA § 19.50(a)

Recommendation:
Amend for punctuation clarification. Remove the semicolon and replace with a comma.

Note:
Compiler stated that this should be a formal amendment to avoid any interpretation issues.

Amendment:
§ 19.50. Terroristic Conduct; Defined & Punished.
(a) A person is guilty of terroristic conduct if he threatens to commit any crime of violence with intent to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such inconvenience.

Slide 4



9 GCA § 19.81(c)

Recommendation:

Amend to reduce offense level for interference to a misdemeanor.

Amendment:

§ 19.81. Interfering with the Reporting of Family Violence; Defined & Punished.

...

(c) Interference with the reporting of family violence is a ~~felony of the third degree~~ misdemeanor.

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CHAPTER 30: FAMILY VIOLENCE (PARALLEL EDIT TO 9 GCA § 19.81)

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 6



9 GCA § 19.81(c)

continued

Chairman Quan noted that 9 GCA § 30.300(c) (Interfering with the Reporting of Family Violence) has the same provision "interference with the report of family violence is a felony of the third degree". Needs to be consistent.

Recommendation:

Because 9 GCA § 30.300 covers the same offense, amend it accordingly:

§ 30.300. Interfering with the Reporting of Family Violence.

(a) Any person commits the crime of interfering with the reporting of family violence if the person:

- (1) commits an act of family violence, as defined in § 30.10 of this Chapter; and
- (2) intentionally, knowingly, or recklessly prevents or attempts to prevent the victim of or a witness to that act of family violence from calling a 911 emergency communication system, obtaining medical assistance, or making a report to any law enforcement official.

(b) Commission of a crime of family violence under Subsection (a) of this Section is a necessary element of the crime of interfering with the reporting of family violence.

(c) Interference with the reporting of family violence is a ~~felony of the third degree~~ misdemeanor.

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CHAPTER 22: KIDNAPPING AND RELATED OFFENSES

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 8



9 GCA § 22.20

Recommendation:

Amend to replace “felony” with “crime” in subsection (a)(2).

Proposed Amendment:

§ 22.20. Kidnapping; Defined & Punished.

- (a) A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

...

- (2) to facilitate commission of any ~~felony~~ crime or flight thereafter;

...

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CHAPTER 25: SEXUAL OFFENSES

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 10



9 GCA § 25.10

Amendment:

§ 25.10. Definitions.

- (a) As used in this Chapter:

...

(12) Affinity means family members related by marriage. The method of computing degrees of affinity is the same method as computing degrees of consanguinity.

(13) Consanguinity, or relationship by blood (“related by blood”) means relationship between persons arising by descent from a common ancestor” or a relationship “by birth rather than by marriage. The degree of consanguinity is determined by counting upward from one of the persons in question to the nearest common ancestor, and then down to the other person, calling it one degree for each generation in the ascending as well as the descending line, such that, from a person, first degree consanguinity includes the person’s Parents and Children; second degree consanguinity includes the person’s Brothers, Sisters, Grand Children and Grandparents; third degree consanguinity includes the person’s Great Grandchildren, Great Grandparents, Uncles, Aunts, Nieces and Nephews; and fourth degree consanguinity includes the person’s Great Grandparents, Great Grandchildren, Great Uncles, Great Aunts, First Cousins, Grand Nephews, and Grand Nieces.


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CHAPTER 25A: SOLICITATION OF CHILDREN AND CHILD PORNOGRAPHY

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 12



9 GCA § 25A102


Recommendation:
Amend by striking § 25A102(c).

Amendment:
§ 25A102(c) Indecent Electronic Display to a Child.

...

~~(c) It shall not constitute a defense against any charge or violation of this Section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this Section.~~

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9 GCA § 25A103

Recommendation:
Amend by striking subsection (a)(1)(B) and subsection (d).

Amendment:
§ 25A103. Electronic Enticement of a Child as a Third Degree Felony.

(a) Any person who, using a computer online service, internet service, or any other device capable of electronic data storage or transmission to solicit, lure, or entice, or attempt to solicit, lure, or entice:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen (18) years;


~~(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or~~

~~(C) with another person who represents him or herself to be under the age of eighteen (18) years,~~

...

~~(d) It shall not constitute a defense against any charge or violation of this Section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this Section.~~

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9 GCA § 25A104

Recommendation:
Amend by striking subsection (a)(1)(B).

Amendment:
§ 25A104. Electronic Enticement of a Child as a Second Degree Felony.

(a) Any person who, using a computer online service, internet service, or any other device capable of electronic data storage or transmission:


(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen (18) years;

~~(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or~~

...

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9 GCA § 25A105

Recommendation:
Amend by striking subsection (a)(1)(B).

Amendment:
§ 25A105. Electronic Enticement of a Child as a First Degree Felony.

(a) Any person who, using a computer online service, internet service, or any other device capable of electronic data storage or transmission:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen (18) years;

~~(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or~~

...

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9 GCA § 25A106

Recommendation:

Add this as a new section.

Note:

Compiler suggested adding a title to this new section.

New section:

§ 25A106. Electronic Enticement; No Defense.

It shall not constitute a defense against any charge or violation of this Section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this Chapter.

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CHAPTER 26: HUMAN TRAFFICKING AND CRIMINAL EXPLOITATION ACT

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 18



9 GCA §§ 26.20-26.24

Recommendation:

Repeal Article 2 in its entirety.

Repeal:

~~Chapter 26. Human Trafficking and Criminal Exploitation.~~

- ~~▲ Article 2. Prevention of Trafficking.~~
- ~~▲ § 26.20. Territorial Task Force for Prevention of Trafficking.~~
- ~~▲ § 26.21. Data Collection and Dissemination.~~
- ~~▲ § 26.22. Training.~~
- ~~▲ § 26.23. Public Awareness.~~
- ~~▲ § 26.24. Role on Non-Governmental Organizations.~~

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9 GCA § 26.41(a)

Recommendation: amend statute for MPC mental state.

§ 26.41 (a) Any person who ~~maliciously or~~ with criminal negligence publishes, disseminates, or otherwise discloses the location of any trafficking victim, any trafficking shelter or domestic violence shelter or any place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.


Slide 20



CHAPTER 31: OFFENSES AGAINST THE FAMILY

RECOMMENDED SECTIONS FOR AMENDMENT AND REPEAL

Slide 21



Chapter 9 GCA § 31.30


Recommendation:
Amend by adding new provisions.

Amend § 31.30(a)

(a) A person is guilty of *child abuse* when:

- (1) he subjects a child to cruel mistreatment; or
- (2) willfully causes or permits any child to suffer;
- (3) inflicts upon a child unjustifiable physical pain or mental suffering; or
- (2)(4) having a child in his care or custody or under his control, he:
 - (A) deserts that child with intent to abandon him;
 - (B) subjects that child to cruel mistreatment; or
 - (C)(B) unreasonably causes or permits the physical or, emotional health of that child to be endangered or unreasonably causes or permits that child to be placed in a situation where his or her person or health may be endangered; or
 - (C) neglects that child.

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Chapter 9 GCA § 31.30


continued

Add a new § 31.30(d):

(d) As used in this Section, neglect of a child shall consist in any of the following acts by anyone having the custody or control of the child:

- (1) willfully failing to provide proper and sufficient food, clothing, maintenance, regular school education as required by law, medical attendance or surgical treatment, and a clean and proper home; or
- (2) failure to do or permit to be done any act necessary for the child's physical or moral well-being.

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SECTIONS UNDER SECOND PASS

CH 93 CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT
§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure
§ 93.30 Assessment Required for Convicted Felons and Criminal Sexual Conduct Offenders
93.35 Sentencing and Parole of Felons: Parole of Felons: Treatment and Testing Based Upon Assessment Required
93.50 Report to the Legislature

CH 89 CRIMES AGAINST MINORS AND SEX OFFENDER REGISTRY
§ 89.06 Failure to Appear for Registration, Absconding and Failure to Register
§ 89.08 Duties of the Guam Police Department
§ 89.03 Registration; Duty to Register

CH 31 OFFENSES AGAINST THE FAMILY
§ 31.65 Curfew Hours for Minors.
§ 31.70 Leaving Children Unattended or Unsupervised in Motor Vehicles

CH 25A SOLICITATION OF CHILDREN AND CHILD PORNOGRAPHY
§ 25A202 Possession of Child Pornography
§ 25A203 Dissemination of Child Pornography
§ 25A204 Production of Child Pornography
[New 25A definition of anus]

CH 22 KIDNAPPING AND RELATED OFFENSES
§ 22.20 Kidnapping: Defined and Punished

CH 19 ASSAULT, RECKLESS ENDANGERING
§ 19.70 Stalking

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ATTACHMENT 2

SUBCOMMISSION ON DRUGS & OTHER CRIMINAL OFFENSES PRESENTATION



REPORT OF THE SUBCOMMISSION ON DRUGS & OTHER CRIMINAL OFFENSES

December 3 , 2024

Members: Hon. Maria T. Cenzone (Chair), DOC Director Fred Bordallo; Atty Mike Phillips; Ms. Valerie Reyes; Geraldine A. Cepeda, Compiler of Laws; Hon. Elizabeth Barrett-Anderson (ex-officio);
Atty Kat Siguenza (ex-officio); Atty Kristine Borja (ex-officio)
Atty Zach Tamainglo (ex-officio); Atty Valerie Nuesa (ex-officio)

Slide 1



Review of 9 GCA Chapter 67 The Guam Uniform Controlled Substances Act

- Article I, Definitions: no changes recommended.
- Article 2, Standards and Schedules, and Article 3, Regulation of Manufacture, Distributions and Dispensing of Controlled Substances: will request the assistance of DPHSS to review.
- Article 4, Offenses and Penalties: will request assistance from the AG's and PD's CLRC Designees, or ex-officio members with prosecution and defense experience. Will also request representatives from the Probation and Parole divisions.

Slide 2

ATTACHMENT 3

SUBCOMMISSION ON CRIMES RELATING TO PROPERTY PRESENTATION



Report of the Subcommittee on Crimes Relating to Property

December 3, 2024

Members: Atty Phillip J. Tydingco (Chair),
Atty F. Randall Cunliffe, Mr. Monty McDowell,
Atty William B. Brennan

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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)
- 9 GCA Chapter 70 (Miscellaneous Crimes)
- 10 GCA Chapter 60 (Firearms)
- 9 GCA Chapter 69 (Antitrust Law)

Slide 2



Items for Today

- 9 GCA Chapter 69 - Recommendations
- 10 GCA Chapter 60 - Additional Recommendations

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9 GCA § 69.40 Criminal Penalty

~~(a) Any person in violation of §§ 69.15 or 69.20 of this chapter is guilty of a felony of the second degree. An indictment must be found or information or complaint filed within five (5) years from the date of the violation or from the date of the last overt act committed pursuant a conspiratorial plan.~~

~~(b) No criminal action may be brought against any person for the same violation for which such person has been convicted in a criminal proceeding for a violation of the Federal antitrust laws.~~

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9 GCA §§ 69.45, 69.50, 69.55, 69.60

- Civil cause of action for injunctive and other relief and civil penalty
- Recommend recodifying outside of Crimes and Corrections Title
- This civil action is for violation of the anti-trust provisions of Title 9 GCA Chapter 69

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9 GCA § 69.45.

Civil Penalty and Injunctive Enforcement.

(a) The Attorney General may bring an action for appropriate injunctive relief and civil penalties in the name of the people of Guam for a violation of this chapter. The trier of fact may assess for the benefit of the territory a civil penalty of not more than One Million Dollars (\$1,000,000) for each violation of this chapter when the violation is by an individual. If the violation is committed by a person other than an individual, then the trier of fact may assess for the benefit of the territory a civil penalty of not more than Fifty-Million Dollars (\$50,000,000) for each violation of this chapter.

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9 GCA § 69.50

Judgment in Favor of Territory if Prima Facie Evidence

A final judgment or decree determining that a person has violated §§ 69.15 or 69.20 of this chapter in an action brought by the Attorney General under this chapter, other than a consent judgment or decree entered before any testimony has been taken, is prima facie evidence against that person in any other action against that person under the provisions of § 69.30 as to all matters with respect to which the judgment or decree would be an estoppel between the parties thereto. This section does not affect the application of collateral estoppel or issue preclusion.

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9 GCA § 69.55.

Limitation of Actions.

(a) An action under this chapter to recover a civil penalty is barred if it is not commenced within four (4) years after the claim for relief accrues.

(b) An action under this chapter to recover damages is barred if it is not commenced with four (4) years after the claim for relief accrues, or than one (1) year after the conclusion of any timely action brought by the Attorney General in whole or in part on any matter complained of in the action for damages, whichever is later.

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9 GCA § Section 69.60. Remedies Cumulative.

The provisions of this chapter are not exclusive. The remedies specified in this chapter for violation of any section of this chapter or for conduct proscribed by any section of this chapter are cumulative and shall be in violation or conduct provided for in any other law. Nothing in this chapter shall limit any other statutory or any common law rights of the Attorney General, or any other person. If any act or practice proscribed by this chapter is also the basis for a cause of action in common law or a violation of another statute, the person may assert the common law or statutory cause of action under the procedures and with the remedies applicable thereto.

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9 GCA § 69.70 Severability

If any of the provisions of this chapter or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Slide 10



10 GCA Chapter 60. Firearms. § 60108. Same: Restrictions. Subsection (b)(2)

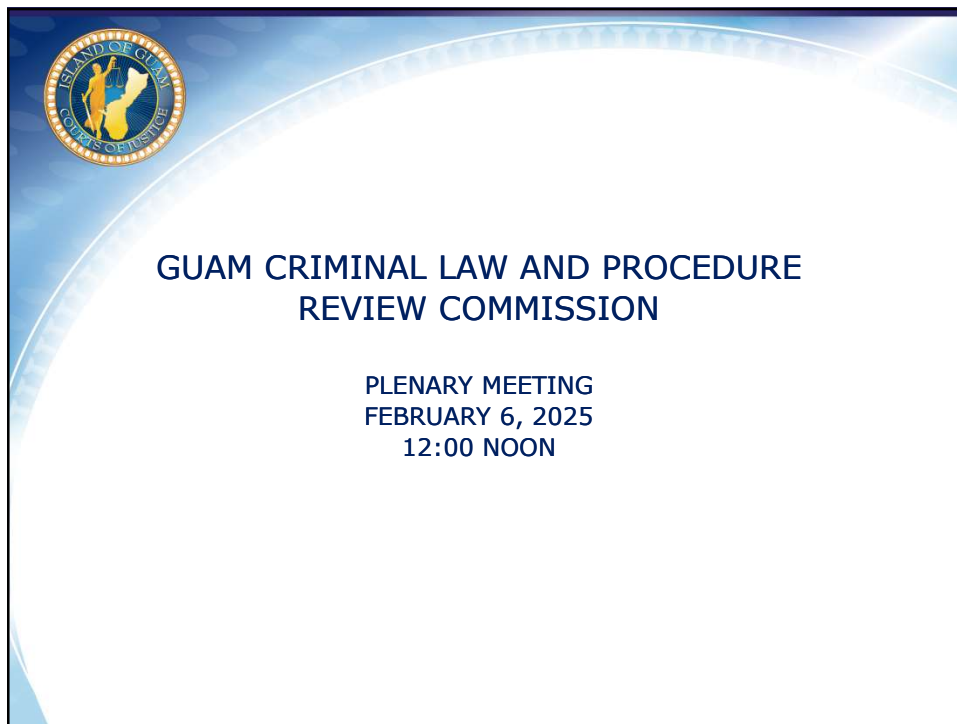
(b) No person shall be issued an identification card:

...

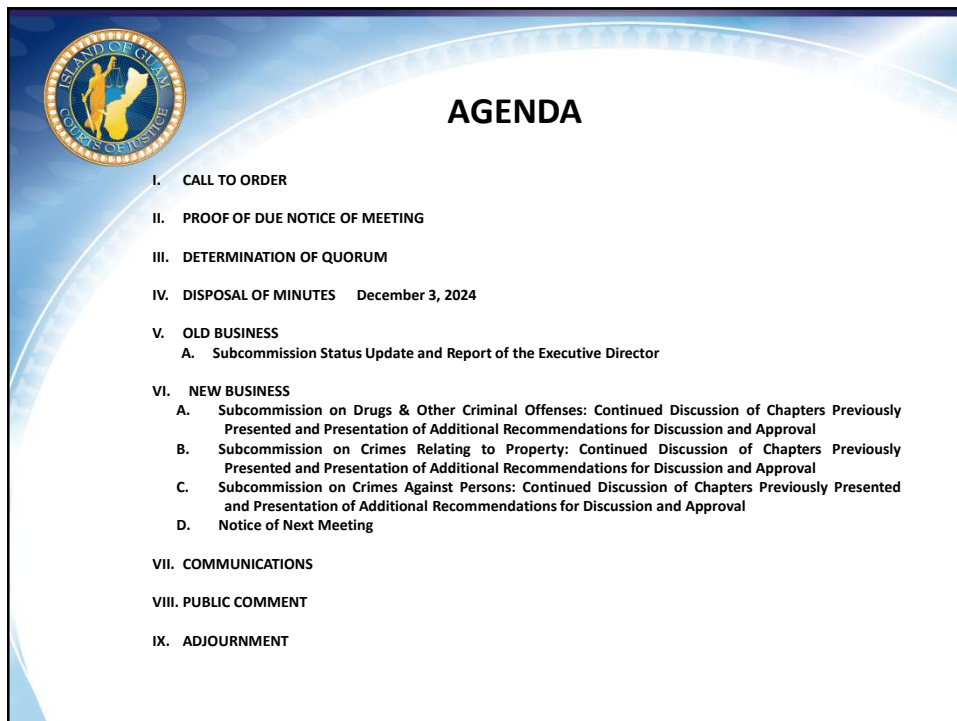
(2) Who is an alien, except temporary permits may be issued to aliens for use only at target ranges operated by persons possessing permits therefore and who are citizens, or only for use at authorized sporting events, and except for official representatives of foreign governments in their official capacities, and except for aliens "lawfully admitted for permanent residence," which shall mean the status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed, as defined by the Immigration and Nationality Act § 101(a)(20), 8 U.S.C. § 1101(a)(20) or who enter the United States pursuant to an applicable Compact of Free Association ("COFA") between their country of citizenship and the United States. Proof of permanent residence shall be evidenced by presentation of an Alien Registration Card (also known as alien registration certificate, Form I-551 or Green Card). Proof of entrance under a COFA shall be evidenced by either (1) a completed CBP I-94 form related to their admission or (2) a copy of notation made in the Migrant's passport on admission under the applicable COFA; or

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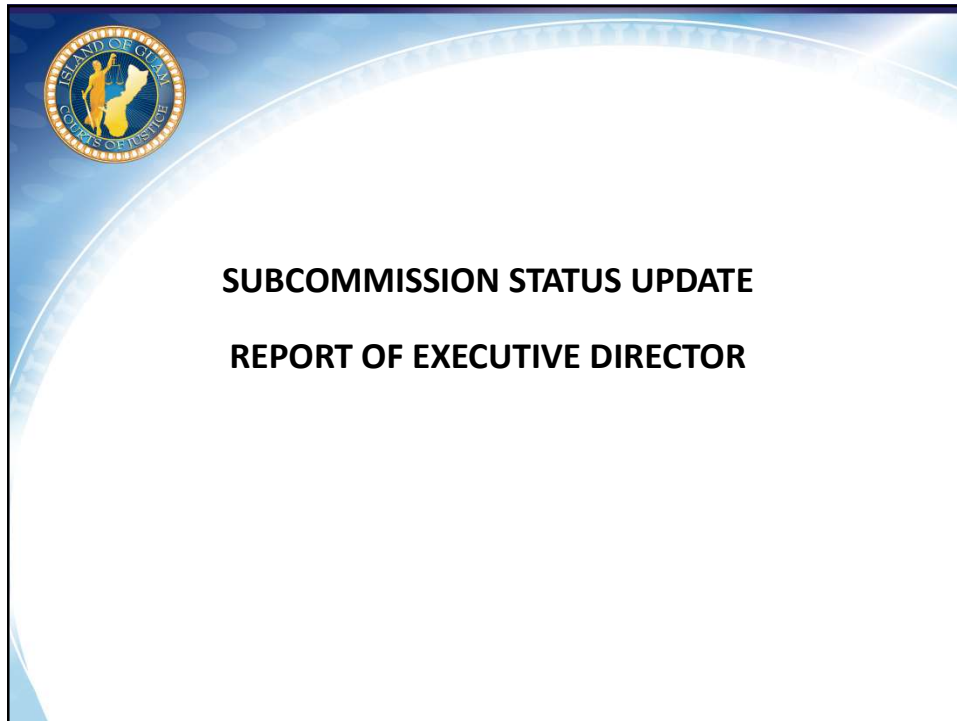
CLRC PLENARY MEETING
FEBRUARY 6, 2025
PRESENTATION



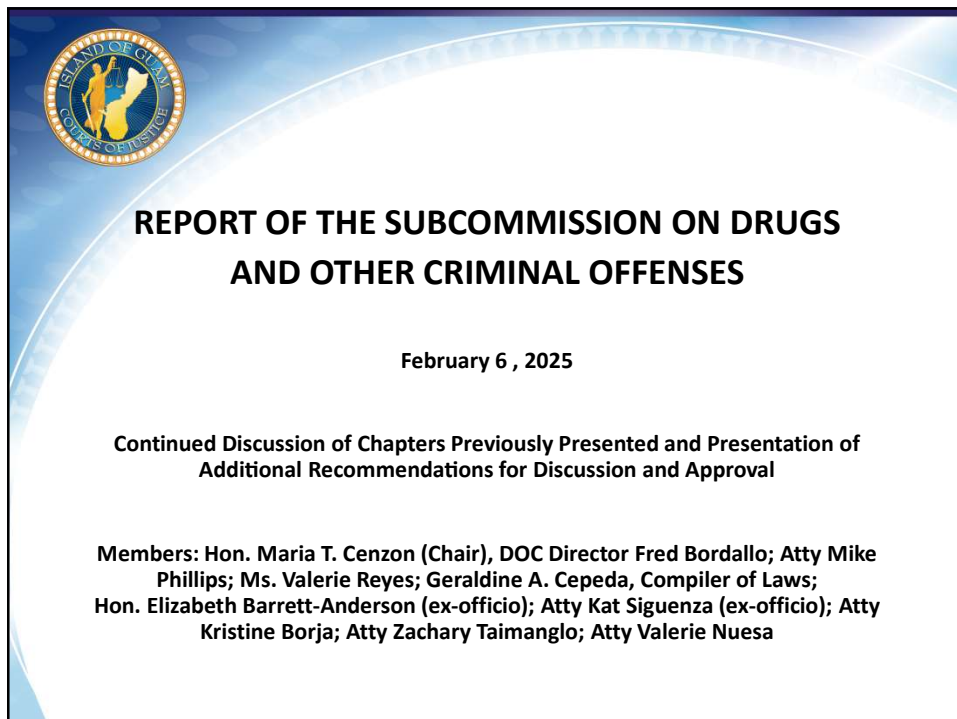
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2



3



4



§ 67.401.1. Possession, Etc. for Illegal Delivery, Dispensing or Manufacturing; Defined; Punishments Classified According to Drug Class Involved. – NO CHANGE

§ 67.401.1. Possession, Etc. for Illegal Delivery, Dispensing or Manufacturing; Defined; Punishments Classified According to Drug Class Involved.

- (a) Except as authorized by this Act, it shall be unlawful for any person knowingly or intentionally:
 - (1) to manufacture, deliver or possess with intent to manufacture, deliver or dispense a controlled substance; or
 - (2) to manufacture, or deliver, or possess with intent to manufacture or deliver, a controlled substance that, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or a likeness thereof, of a manufacturer, distributor, or dispenser, other than the person who manufactured, distributed or dispensed the substance.
- (b) Any person who violates Subsection (a) with respect to:
 - (1) a substance classified in Schedule I, II or III shall be guilty of a felony of the first degree and shall not be eligible for work release or educational programs outside the confines of prison.
 - (2) a substance classified in Schedule IV or V shall be guilty of a felony of the second degree, provided that any person convicted under this Subsection receiving a term of imprisonment shall not be eligible for work release or educational programs outside the confines of prison.

5



§ 67.401.2. Illegal Possession; Defined and Punishment. – NO CHANGE

§ 67.401.2. Illegal Possession; Defined and Punishment.

- (a) It is unlawful for any person knowingly or intentionally to possess a controlled substance, unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Act.
- (b) Any person who violates Subsection (a) with respect to any controlled substance shall be guilty of a felony of the third degree.
- (c) A person who commits a crime under 9 GCA §§ 67.401.2(b)(2) or (3) within the Drug-Free School Zone shall be guilty of a misdemeanor.
- (d) A person who commits a crime under §§ 67.401.1 or 67.401.2(b)(1) within the Drug-Free School Zone shall be guilty of the same class of felony had the offense been committed outside the Drug-Free School Zone.
- (e) A person who knowingly fails to report any violation of this Chapter within the Drug Free-School Zone is guilty of a misdemeanor.

6



Recommendation: Move to Chapter 61 or 70

- § 67.401.2.1. Inhalants.
- § 67.401.2.2. List of Known Inhalants with Potential for Abuse.
- Rationale: Substances used as inhalants often are not controlled substances, so should not be codified in Chapter 67
- Recommendation: Move to Chapter 67 (§ 61.25. Public Drunkenness) or Chapter 70 (Miscellaneous Crimes)
- Note: Offenses have not been prosecuted; List of Inhalants mandated by § 67.401.2.2 is outdated

7



§ 67.401.2.1. Inhalants.

(a) Use of Inhalants. It is **unlawful for a person to inhale, ingest, apply or smell the gases, vapors or fumes of an aerosol spray product, volatile chemical, substance or other inhalant, that is not used pursuant to the instructions or prescription** of a licensed health care provider, or that is not used pursuant to the manufacturer's label instructions, for the purpose of becoming under the influence of such substance, causing intoxication, euphoria, inebriation, stupefaction or the dulling of that person's brain or nervous system.

(b) It is **unlawful for a person to possess** any gas, hazardous inhalant, aerosol spray product, substance containing a volatile chemical or substance containing a chemical material capable of releasing toxic vapors **with the intent to violate the above.**

(c) Nothing in this Section applies to the inhalation of a prescription or over-the-counter product for medical or dental purposes, or the inhalation of the vapors or fumes of an alcoholic beverage, the sale and consumption of which is authorized by law.

(d) Proof that a person intentionally or knowingly inhaled, ingested, applied or used a substance in a manner contrary to the directions for use, cautions or warnings on a label of a container of the substance gives rise to a presumption that the person violated Subsection (a).

(e) For purposes of this Section, it is presumed that the ingredients in a container are, in fact, the ingredients listed on the label of the container or the ingredients listed for that substance in databases maintained or relied upon by a poison control center certified by a national association of poison control centers.

8



§ 67.401.2.1. Inhalants.

(f) A person who violates this Section commits a petty misdemeanor. A person who violates Subsections (h), (i) or (j) of this Section commits a petty misdemeanor for the first offense and a misdemeanor for subsequent offenses.

(g) A juvenile court may require a minor found in violation of this Section be provided with treatment and counseling.

(h) It is a petty misdemeanor for any person or business to sell, or transfer butane gas or butane lighters or butane in any other form to any person under the age of eighteen (18).

(i) It is a petty misdemeanor for any person or business to sell or transfer propane gas to any person under the age of eighteen (18).

(j) It is a petty misdemeanor for any person or business to sell or transfer substances on the List of Known Inhalants with Potential for Abuse, as defined in § 67.401.2.2 (a) and (b) of this Chapter, to any person under the age of eighteen (18). This Subsection shall not apply to prescription or over-the-counter medication.

(k) It is not unlawful to transfer inhalants to persons under the age of eighteen (18) provided that the minor's use of such inhalants is consistent with the product's labeling and is supervised by an adult over the age of eighteen (18).

9



§ 67.401.2.2. List of Known Inhalants with Potential for Abuse.

(a) The Guam Behavioral Health and Wellness Center shall maintain a "List of Known Inhalants with Potential for Abuse." Such list shall contain all known substances with the potential for abuse as defined in § 67.401.2.1 of this Chapter. The list shall be:

- (1) reviewed and updated at least once annually;
- (2) maintained on the Internet; and
- (3) distributed to island retailers and all public and private schools as the list is updated.



(b) Butane and propane shall be on the "List of Known Inhalants with Potential for Abuse."

(c) The Department shall, by Administrative Rules and Regulations, develop the procedures by which Inhalants are added to the List of Known Inhalants with Potential for Abuse.

(d) All additions to the "List of Known Inhalants with Potential for Abuse" shall require the approval of *I Maga'håga/Maga'låhi*.

(e) Penalties contained in § 67.401.2.1(j) shall not apply until such substance has been on the "List of Known Inhalants with Potential for Abuse" for a period of not less than six (6) months.

10

Official List of Known Inhalants with Potential Abuse

In accordance with Public Law 28-25, *Relative to Regulating the Sale of Butane, Propane and Other Inhalants to Minors*, the Department of Mental Health and Substance Abuse shall maintain a *List of Known Inhalants with Potential for Abuse*. Furthermore, Public Law 28-25 states that it is a petty misdemeanor for any person or business to sell or transfer substances on the *List of Known Inhalants with Potential for Abuse* to any person under the age of eighteen (18).

The following is the **Official List of Known Inhalants with Potential Abuse** as required by Public Law 28-25 Section 67.401.2.1 of Chapter 67 of Title 9 Guam Code Annotated.

Butane

- Butane lighters
- Butane Refills

Propane

- Propane Refills
- Propane Torch

The products listed are considered harmful and may cause severe, long term damages to the brain, liver and kidneys or Sudden Sniffing Death Syndrome.

Public Law 28-25 Section 67.401.2.1, Paragraph (H and I). It is a petty misdemeanor for any person or business to sell, or transfer propane gas, butane gas or butane lighters or butane in any other form to any person under the age of eighteen (18).

WARNING:


IT IS ILLEGAL TO SELL BUTANE AND PROPANE,

IN ANY FORM,

TO ANY PERSON UNDER THE AGE OF EIGHTEEN (18)

Additional information about Inhalants and this List can be found on the Department of Mental Health & Substance Abuse Websites:
www.peaceguam.org and www.healthychoicesguam.org.

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§ 67.401.2.3. Pseudoephedrine: Retail Sale. – NO CHANGE

§ 67.401.2.3. Pseudoephedrine: Retail Sale.

The dispensing, sale, or distribution at retail of pseudoephedrine, or any derivative of pseudoephedrine, shall be subject to the following requirements:

(a) Any medication containing pseudoephedrine, or any derivative of pseudoephedrine, shall be placed behind the sales counter, stored or displayed in a locked cabinet or locked area in such a manner that the product is accessible to the public only with the assistance of a pharmacist, retailer or employee of the retailer;

(b) The dispensing, sale, or distribution at retail outlets of pseudoephedrine, or any derivative of pseudoephedrine, shall be made only by a practitioner, retailer, or employee of a retailer who shall at all times act to prevent the theft or diversion of the product;

(c) A pharmacy or retail distributor shall provide notification in a clear and conspicuous manner in a location where a pseudoephedrine product is offered for sale stating the following: Guam law prohibits the over-the-counter purchase of more than two (2) packages of a product containing pseudoephedrine in a single transaction;

(d) It is unlawful for a practitioner, retailer, or employee of a retailer to sell in a single transaction medicines containing pseudoephedrine in excess of two packages;

(e) It is unlawful for any person to purchase package(s) containing pseudoephedrine with knowledge, intention, or with reckless disregard of the likely use of such package or packages to manufacture methamphetamine;


(f) Any practitioner, retailer, or employee with knowledge of a purchase or sale of package(s) containing pseudoephedrine in violation of this section shall report said transaction to the Guam Police Department or the Department of Public Health and Social Services.

(g) Any practitioner, retailer, employee of a retailer or purchaser who violates items (a), (b), (c), (d), (e) or (f) of this Section commits a violation; and

(h) This section shall not apply to the following:

- (1) Any product in liquid, liquid capsule, or dissolvable strip form in which pseudoephedrine, or any derivative of pseudoephedrine, is the active ingredient; or
- (2) If possession is by a person authorized by law to dispense, prescribe, manufacture, or possess pseudoephedrine.

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§ 67.401.3. Penalties in Addition to Any Civil Penalties. – **NO CHANGE**

§ 67.401.3. Penalties in Addition to Any Civil Penalties.

Penalties imposed for violation of this Act and civil remedies provided under this Act are in addition to, and not in lieu of, any civil remedy, administrative penalty or sanction otherwise authorized by law.


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Additional research needed to determine changes/trends in federal and other state law

- § 67.401.4. Prison Terms for Drug Offenders.
- § 67.401.5. Fines for Drug Offenses.
- § 67.401.6. Additional Fines in Drug Offenses.
- § 67.401.9. Importation and Exportation Penalties.
- Rationale: Uniform Controlled Substances Act enacted in 1998; consider progress in treatment and changes in laws
- Recommendation: Conduct additional research and seek input from partners

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§ 67.401.7. Information for Sentencing. – **NO CHANGE**

§ 67.401.7. Information for Sentencing.

Except as otherwise provided in Chapter 80 of Title 9 of the Guam Code Annotated, no limitation shall be placed in the information concerning the background, character and conduct of a person convicted of an offense which the Superior Court of Guam may receive and consider for the purpose of imposing an appropriate sentence under this Act.

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§ 67.401.8. Establishing Previous Convictions. – **NO CHANGE**

§ 67.401.8. Establishing Previous Convictions.

(a) [No text]

(1) No person who stands convicted of an offense under §§ 67.401.1 - 67.401.3 or §§ 67.402 - 67.408 or §§ 67.410 - 67.412 of this Act shall be sentenced to increased punishment by reason of one (1) or more prior convictions unless, before trial or before entry of a plea of guilty, the Attorney General files an information with the Court, and serves a copy of such information on the person or counsel for the person, stating the previous conviction to be relied upon. Upon a showing by the Attorney General that facts regarding prior convictions could not by due diligence be obtained prior to trial or before entry of a plea of guilty, the Court may postpone the trial or the taking of the plea of guilty for a reasonable period for the purpose of obtaining such facts. Clerical mistakes in the information may be amended at any time prior to the pronouncement of sentence.

(2) An information may not be filed under this Section if the increased punishment which may be imposed is imprisonment for a term of excess of three (3) years, unless the person either waived or was afforded prosecution by indictment for the offense for which such increased punishment may be imposed.

(b) If the Attorney General files an information under this Section, the Court shall after conviction, but before pronouncement of sentence inquire of the person with respect to whom the information was filed whether he affirms or denies that he has been previously convicted as alleged in the information, and shall inform him that any challenge to a prior conviction which is not made before sentence is imposed may not thereafter be raised to the sentence.

(c) [No text]

(1) If the person denies any allegation of the information of prior conviction or claims that any conviction alleged is invalid, he shall file a written response to the information. A copy of the response shall be served upon the Attorney General. The Court shall hold a hearing to determine any issues raised by the response which would except the person from increased punishment. The failure of the Attorney General to include in the information the complete criminal record of the person or any facts in addition to the convictions to be relied upon shall not constitute grounds for invalidating the notice given in the information required by § 67.401.8(a)(1). The hearing shall be before the Court without a jury and either party may introduce evidence. Except as otherwise provided in § 67.401.8(c)(2), the Attorney General shall have the burden of proof beyond a reasonable doubt on any issue of fact. At the request of either party, the Court shall enter findings of fact and conclusions of law.

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§ 67.401.8. Establishing Previous Convictions.

– **NO CHANGE**

(2) A person claiming that a conviction alleged in the information was obtained in violation of applicable provisions of the Constitution of the United States or the Organic Act of Guam shall set forth his claim and the factual basis therefore with particularity in his response to the information. The person shall have the burden of proof by a preponderance of the evidence on any issue of fact raised by the response. Any challenge to a prior conviction not raised by response to the information before an increased sentence is imposed in reliance thereon shall be waived, unless good cause be shown for failure to make a timely challenge.

(d) [No text]

(1) If the person files no response to the information or if the court determines, after hearing, that the person is subject to increased punishment by reason of prior convictions, the Court shall proceed to impose sentence.

(2) If the Court determines that the person has not been convicted as alleged in the information, that a conviction alleged in the information is invalid, or that the person is otherwise not subject to an increased sentence as matter of law, the Court shall, at the request of the Attorney General, postpone sentence to allow an appeal from that determination. If no such request is made, the Court shall impose sentence. The person may appeal from an order postponing sentence as if sentence had been pronounced and a final judgment of conviction entered.

(e) No person who stands convicted of an offense under §§ 67.401.1 - 67.401.3 or §§ 67.402 - 67.408 or §§ 67.410 - 67.412 of this Act may challenge the validity of any prior conviction alleged under this Section which occurred more than five (5) years before the date of the information alleging such prior conviction.

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Additional research needed to determine changes/trends in federal and other state law

§ 67.401.9. Importation and Exportation Penalties.

(a) Any person who:

(1) contrary to §§ 67.601 or 67.602 of this Act, knowingly or intentionally imports or exports a controlled substance; or

(2) contrary to § 67.604 of this Act, knowingly or intentionally brings or possesses on board a vessel or aircraft a controlled substance; or

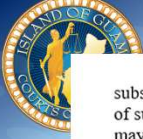
(3) contrary to § 67.608 of this Act, manufacturers who distribute a controlled substance shall be punished as provided in § 67.401.9(b).

(b) [No text]

(1) In the case of an offense under Subsection (a) of this Section involving a controlled substance listed in Schedules I, II, III, IV or V of this Act which is a narcotic, the person guilty of such an offense shall be imprisoned not less than twenty (20) years nor more than thirty (30) years, and may, in addition, be fined not more than Fifty Thousand Dollars (\$50,000). The sentence shall include a special parole term of not less than three (3) years, in addition to such terms of imprisonment.

(2) If he is guilty of an offense under Subsection (a) of this Section, and if he has been convicted on one (1) or more felonies under any provision of this Act, any law of the United States relating to controlled substances, or for any offense under state or foreign law relating to narcotic drugs listed in Schedule I as per Appendix A of this Act, or Schedule II as per Appendix B of this Act, which offense would be a felony under this Act, and one (1) or more of the convictions are final, he shall be sentenced to a term of life imprisonment without the possibility of parole, and may, in addition, be fined not more than One Hundred Thousand Dollars (\$100,000).

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(3) In the case of an offense under Subsection (a) of this Section with respect to a controlled substance other than a narcotic drug listed in Schedules I, II, III, IV or V of this Act, the person guilty of such offense shall be imprisoned for not less than three (3) years nor more than ten (10) years, and may, in addition, be fined not more than Fifteen Thousand Dollars (\$15,000). The sentence shall, in addition to such term of imprisonment, include:

(A) a special parole term of not less than two (2) years if such controlled substance is listed in Schedules I, II or III of this Act; or

(B) a special parole term of not less than one (1) year if such controlled substance is listed in Schedule IV of this Act.


(c) The minimum term of imprisonment prescribed by Subsection (b)(1) of this Section shall not apply in the case of a person whom the Court determines violated Subsection (a)(1) of this Section for the primary purpose of enabling him to obtain a narcotic drug which he requires for his personal use because of his addiction to such drug. The Court shall take into consideration the amount of the controlled substance imported in determining if the offender's primary purpose is importation or exportation for his own use.

(d) In the case of any sentence under this Section, imposition or execution of such sentence shall not be suspended and probation shall not be granted nor shall parole or work release be granted until the person has served the minimum term of imprisonment.

➔ (e) Sentences in these cases shall also include mandatory participation in a drug rehabilitation program at the Department of Corrections.


(f) A special parole term imposed under this Section or § 67.411 of this Act may be revoked if its terms and conditions are violated. In such circumstances, the original term of imprisonment shall be increased by the period of the special parole term and the resulting new term of imprisonment shall not be diminished by the time which was spent on special parole. A person whose special parole term has been revoked may be required to serve all or part of the remainder of the new term of imprisonment. The special term provided for in this Section and in § 67.411 of this Act is in addition to and not in lieu of any other parole provided for by law.

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Thank you!


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DOCO TABLE OF AMENDMENTS

Chapter number, name	Section/Article	No- Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
9 GCA Chapter 67. Controlled Substances.	67.401.1	No- Change					
	67.401.2	No- Change					
	67.401.2.1				Repeal & Re-enact (move)		
	67.401.2.2				Repeal & Re-enact (move)		
	67.401.2.3	No- Change					
	67.401.4						Table
	67.401.5						Table
	67.401.6						Table
	67.401.7	No- Change					
	67.401.8	No- Change					
	67.401.9						Table

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Report of the Subcommittee on Crimes Relating to Property

February 6, 2025

Continued Discussion of Chapters Previously Presented and Presentation of
Additional Recommendations for Discussion and Approval

Members: Atty Phillip J. Tydingco (Chair),
Atty F. Randall Cunliffe, Mr. Monty McDowell, Atty William B. Brennan

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**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)
- 9 GCA Chapter 70 (Miscellaneous Crimes)
- 10 GCA Chapter 60 (Firearms)
- 9 GCA Chapter 69 (Antitrust Law)
- 9 GCA Chapter 13 (Attempt, Solicitation, Conspiracy)

Chapters Remaining

- None

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Items for Today

- 9 GCA Chapter 13

****The Subcommittee thanks Attorney Gordon Anderson for his work and comprehensive review of Guam Supreme and Superior Court cases concerning this Chapter.***

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9 GCA § 13.10

“A person is guilty of an attempt to commit a crime when, with intent to engage in conduct which would constitute such crime were the circumstances as he believes them to be, he performs or omits to perform an act which constitutes a substantial step toward commission of the crime.”

In *People v. Tedtaotao*, 2015 Guam 31, the Guam Supreme Court held that “attempted *reckless murder*” is not a cognizable offense because one cannot attempt (with intent) to commit a reckless act.

The Subcommittee was split on whether a note should be added to the statute referring to Tedtaotao.

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9 GCA § 13.35

“If a person conspires to commit a number of crimes, he may be convicted of only one conspiracy so long as those multiple crimes are the object of the same agreement or continuous conspiratorial relationship.”

Superior Court decisions currently conflict, with CF0311-20 *People v. Topasna*, Dec. & Order (Jan. 26, 2022) (J. Barcinas) (granting defendant’s pretrial motion to dismiss conspiracy counts because the court found “it difficult to see how [the facts highlighted] would support the commission of two separate conspiracies”) and CF0330-17 *People v. Santos*, Dec. & Order (Jan. 2, 2018) (J. Bordallo) (denying pretrial motion to dismiss and declining to order the Government to elect which conspiracy to bring to trial, finding Government may *charge* multiple lesser included conspiracies in an Indictment).

The Subcommittee was undecided on whether to address any change in the statute given the conflict, or allow parties to continue to litigate this issue until the Guam Supreme Court decides whether a pre trial election by the Government is required.

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9 GCA § 13.20

A person is guilty of solicitation to commit a felony crime when with intent to promote or facilitate its commission he commands, encourages or requests another person to perform or omit to perform an act which constitutes such crime or an attempt to commit such crime or would establish his complicity in its commission or attempted commission.

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9 GCA § 13.60

(a) Except as otherwise provided in this Section attempt, solicitation and conspiracy are crimes of the same grade and degree as the most serious crime which is attempted or solicited or is an object of the conspiracy.

~~(b) Attempted murder, and solicitation and conspiracy to commit murder are felonies of the first degree.~~

~~(c)~~(b) A conspiracy to commit a misdemeanor involving danger to the person or to commit a series or number of misdemeanors pursuant to a common scheme or plan is a felony of the third degree.

28

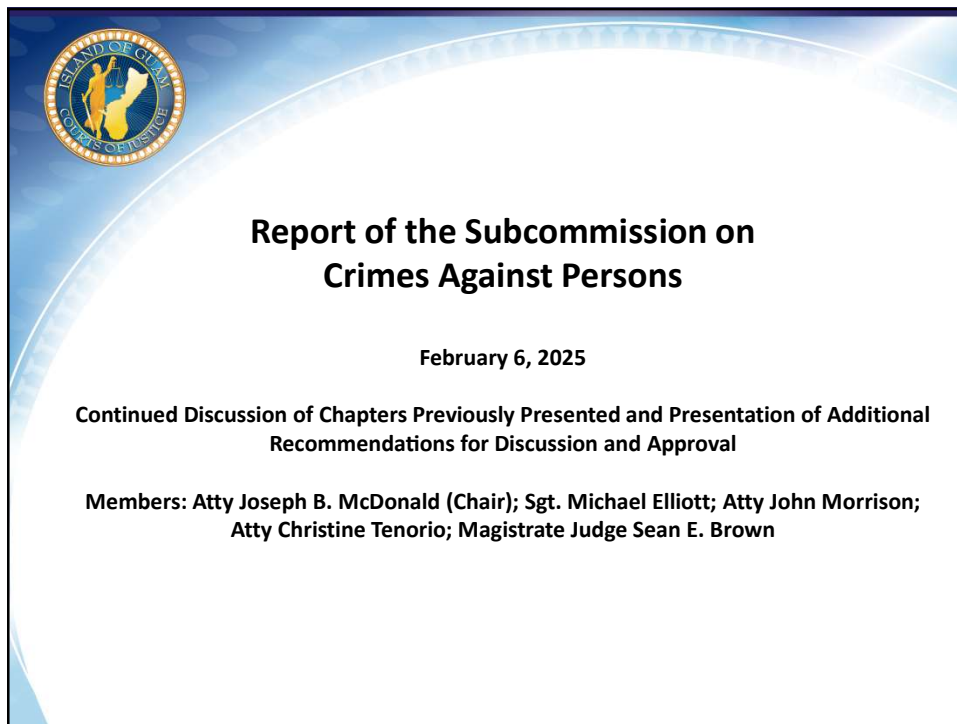


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PROPERTY TABLE OF AMENDMENTS

Chapter number, name	Section/Article	No- Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
9 GCA Chapter 13. Attempt, Solicitation, Conspiracy	13.10						
	13.20		Amend				
	13.35						
	13.60		Amend				

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9 GCA § 19.70 Stalking

A person is guilty of simple stalking if he or she willfully, maliciously, and repeatedly, follows or harasses another person or ~~who~~ makes a credible threat with intent to place that person or a member of his or her immediate family in fear of death or bodily injury.

- Use of common law *mens rea* upheld in P v. Manglona, 2024 Guam 8.
- Corrective amendment for proper grammar.

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9 GCA § 25.10 Definitions

New subparagraph (a) (12)

“Cunnilingus” is the touching of the urethral opening, vaginal opening, or labia with the actor’s mouth.

People v. Legg, 494 N.W.2d 797, 798 (Mich. Ct. App. 1992).

34



9 GCA § 31.70 (d)

Any person who knowingly violates Subsection (a) and in so doing causes serious bodily injury, permanent disability, or permanent disfigurement to a child commits a felony of the third degree.

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CRIMES AGAINST PERSONS

SUBCOMMISSION RECOMMENDATION ON DEFERRED SECTIONS

RECOMMENDED REPEAL

36



9 GCA § 31.65 Curfew Hours for Minors

(b) Offenses.

- (1) A minor commits an offense *if* he remains in any public place *or* on the premises of any establishment on Guam during curfew hours.
- (2) A parent *or* guardian of a minor commits an offense if he knowingly permits, *or* by insufficient control allows, the minor to remain in any public place *or* on the premises of any establishment on Guam during curfew hours.
- (3) The owner, operator, *or* any employee of an establishment commits an offense *if* he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

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UNIMPLEMENTED SECTIONS

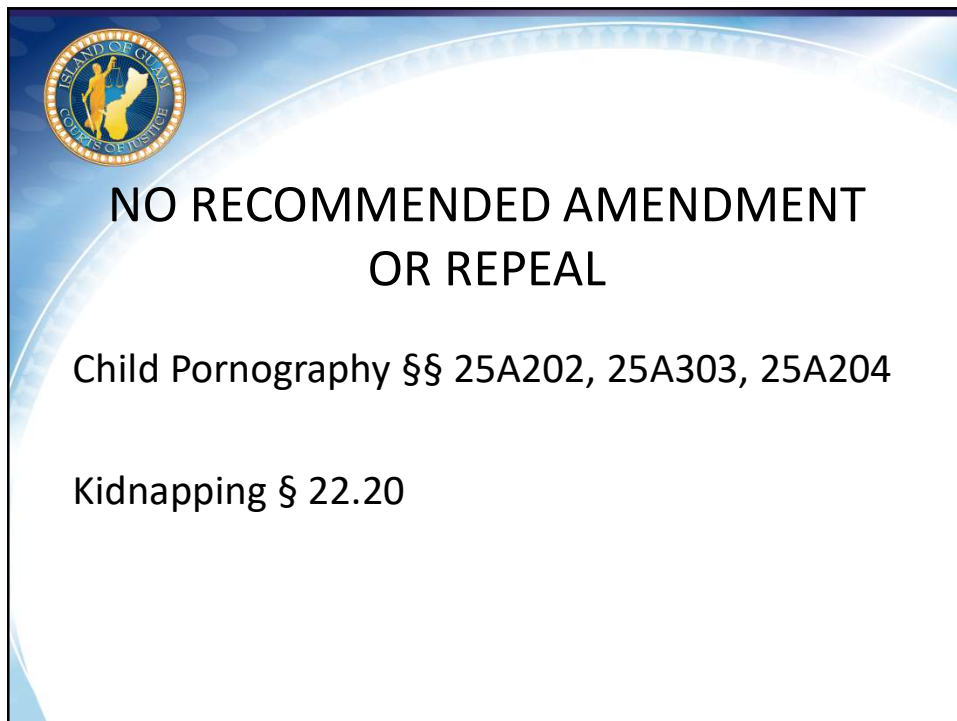
Ch. 89 Crimes Against Minors and Sex Offender
Registry §§ 89.03, 89.06, 89.08

Ch. 93 Criminal Sexual Conduct Assessment and
Rehabilitation Act §§ 93.20, 93.30, 93.35, 93.50

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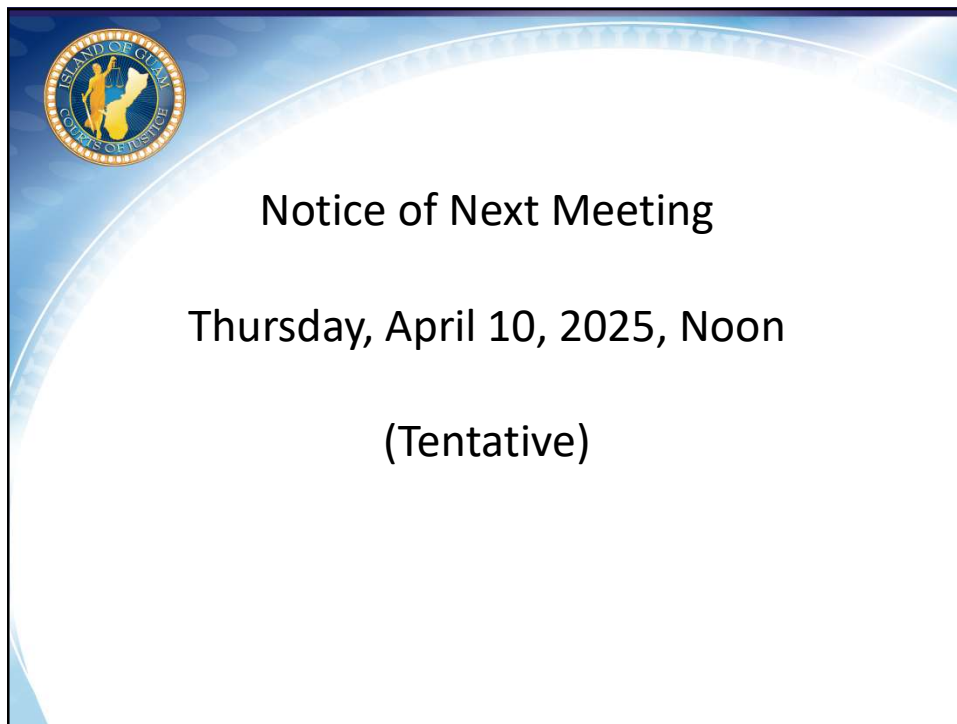
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Chapter number, name	Section/Article	No- Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
9 GCA Chapter 19. Assault, Reckless Endangering...	19.70		Amend	-	-	-	-
Chapter 22. Kidnapping...	22.20	No- Change		-	-	-	-
Chapter 25. Sexual Offenses.	25.10(a)(12)					Add	
Chapter 25A. Solicitation of Children...	25A202	No- Change					
	25A203	No- Change					
	25A204	No- Change					
Chapter 31. Offenses Against the Family.	31.65						
	31.70(d)		Amend				
Chapter 89. Crimes Against Minors...	89.03						
	89.06						
	89.08						
Chapter 93. Criminal Sexual Conduct Assessment	93.20						
	93.30						
	93.35						
	93.50						

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