



HON. ROBERT J. TORRES  
CHIEF JUSTICE

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# Judiciary of Guam

Guam Criminal Law and Procedure Review Commission  
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ANDREW SERGE QUENGA  
EXECUTIVE DIRECTOR

## **GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION 2025 FIRST QUARTER REPORT SUBMITTED TO THE**

GOVERNOR OF GUAM,  
SPEAKER OF THE GUAM LEGISLATURE, AND  
CHIEF JUSTICE OF GUAM  
MAY 07, 2025

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION  
JUDICIARY OF GUAM  
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## PREFACE

The Guam Criminal Law and Procedure Review Commission (CLRC or Commission) submits its first quarter report for 2025 summarizing its activities as required by 1 GCA § 25.07(a). Because the CLRC began operations in January of 2023, quarterly reports align with the calendar year instead of the fiscal year. This first quarter report summarizes activities from January 1, 2025 through March 31, 2025.

## CLRC STATUTORY AUTHORITY

The CLRC was created by *I Liheslaturan Guåhan* in Public Law 36-119 (enacted Nov. 9, 2022) to conduct the first complete review of Guam's Criminal and Correctional Code and Criminal Procedure Code since their creation by the 13<sup>th</sup> Guam Legislature in 1976. The CLRC exists as a division of the Supreme Court of Guam and receives administrative support from the Judiciary of Guam under P.L. 36-119.

Under P.L. 36-119, the Commission is composed of 15 members representing the three branches of government, the Guam Bar Association (to include attorneys with prosecutorial and criminal defense experience), full-time and retired judicial officers, directors of government criminal justice and public safety agencies, and private individuals from community-based and public interest organizations relating to the criminal justice system. It is chaired by Superior Court Magistrate Judge Jonathan R. Quan and administered by a full-time Executive Director and one staffer.

## CLRC STAFF AND MEMBERS

During the first quarter of 2025, the Commission consisted of the following members and staff.

Governor's Appointees	Hon. Maria T. Cenzon, Hon. Anita A. Sukola, Ms. Valerie Reyes
Speaker's Appointees	Attorney Phillip Tydingco, Attorney Michael Phillips, Attorney Christine Tenorio
Chief Justice's Appointees	Hon. Jonathan R. Quan, Attorney F. Randall Cunliffe, Mr. Monty McDowell
Guam Bar President Appointees	Attorney Joseph B. McDonald, Attorney William B. Brennan
Statutory Members (or Designees)	Attorney General of Guam (Designee DAG Nathan Tennyson), Chief of Police (Designee Sgt Michael Elliott), Director of Corrections (Designee Maj. Antone F. Aguon), Executive Director of Public Defender Service Corp (Designee Deputy Director John Morrison)
Compiler of Laws	Attorney Geraldine Cepeda
Staff	Attorney Andrew Serge Quenga (Executive Director), Ms. Lisa Ibanez (Administrative Support) Attorney Gordon Anderson (Research Attorney)
Ex-officio (auxiliary)	Hon. Sean Brown, Hon. Elizabeth Barrett-Anderson, Attorney Kat Siguenza, Attorney Leonardo Rapadas, Attorney Kristine B. Borja, Attorney Zachary Taimanglo, Attorney Valerie Nuesa, Chief Probation Officer Rossanna Villagomez-Aguon, Chief Parole Officer Michael P. Quinata, Probation Officer Supervisor Jeremiah J.A. Cruz, Deputy Marshal III Kennedy G. Robinson, Deputy Marshall II Dodd Siegfred V. Mortera, Attorney Kristina Baird

## **SIGNIFICANT CLRC ACTIVITIES JANUARY – MARCH 2025**

The Commission held a Plenary Meeting on February 6, 2025. Members deliberated on a range of agenda items, including recommendations to amend sections and chapters of the Criminal Code of Guam. The agenda, meeting packet, and a YouTube video link for this meeting are available on the CLRC website. During this meeting, the following presentations were made:

- The Subcommittee on Drugs and Other Criminal Offenses presented its continuing review of Chapter 67 (Guam Uniformed Controlled Substances Act). All recommendations that were approved for moving to the final reading file or tabled for further discussion are memorialized in Attachment 1, which include proposed amendments with changes tracked.
- The Subcommittee on Crimes Relating to Property presented its review of Chapter 13. All recommendations that were approved for moving to the final reading file or tabled for further discussion are memorialized in Attachment 2, which include proposed amendments with changes tracked.
- The Subcommittee on Crimes Against Persons presented its review of Chapters 19, 22, 25, 25A, 31, 89 and 93. All recommendations that were approved for moving to the final reading file or tabled for further discussion are memorialized in Attachment 3, which include proposed amendments with changes tracked.


During the first quarter of 2025, the following member changes occurred:

- The CLRC welcomed a new Ad Hoc Subcommittee, comprised of Rossanna Villagomez-Aguon, Chief Probation Officer; Michael P. Quinata, Chief Parole Officer; Jeremiah J.A. Cruz, Probation Officer Supervisor; Kennedy G. Robinson, Deputy Marshal III; Dodd Siegfred V. Mortera, Deputy Marshal II; and Attorney Kristina Baird.

## **CONCLUSION**

During the first quarter of 2025, the Commission continued to make progress in the review of the Criminal Code of Guam. The work of the CLRC continues to the best of the ability of each member. Our subcommittees face a daunting task—reviewing thousands of criminal statutes throughout the Guam Code Annotated. Apart from the very small full-time staff of the CLRC, each member dedicates significant time to reviewing their assigned chapters and sections of the Criminal Code and discussing any proposed changes in working sessions with their respective subcommittees. Our appointed and ex-officio volunteer members include full-time attorneys with active caseloads, high-ranking government law enforcement officials, and private citizens with full-time work obligations.

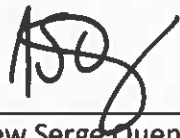
Chairman Quan and I thank all members for their commitment and diligence to the work of the Commission.



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Magistrate Judge Jonathan H. Quan  
Chairman

5/6/25-



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Andrew Serge Quenga  
Executive Director

**ATTACHMENT 1**  
**RECOMMENDATIONS OF THE SUBCOMMISSION ON DRUGS AND OTHER CRIMINAL OFFENSES**  
**PRESENTED AT THE PLENARY MEETING OF FEBRUARY 6, 2025**

**TITLE 9 GUAM CODE ANNOTATED**

**§ 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.

**CLRC COMMENT:** Tabled for further discussion.

**§ 67.401.2. Illegal Possession; Defined and Punishment.**

**CLRC COMMENT:** No change

**§ 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.

(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).

**CLRC COMMENT:** Recommend removing this section from this chapter as substances used as inhalants often are not controlled substances. Defer to Compiler of Laws.

#### **§ 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.

**CLRC COMMENT:** Recommend removing this section from this chapter as substances used as inhalants often are not controlled substances. Defer to Compiler of Laws.

**§ 67.401.2.3. Pseudoephedrine: Retail Sale.**

**CLRC COMMENT:** No change.

**§ 67.401.3. Penalties in Addition to any Civil Penalties.**

**CLRC COMMENT:** No change.

**§ 67.401.4. Prison Terms for Drug Offenders.**

**CLRC COMMENT:** Tabled for further research and discussion.

**§ 67.401.5. Fines for Drug Offenses.**

**CLRC COMMENT:** Tabled for further research and discussion.

**§ 67.401.6. Additional Fines in Drug Offenses.**

**CLRC COMMENT:** Tabled for further research and discussion.

**§ 67.401.9. Importation and Exportation Penalties.**

**CLRC COMMENT:** Tabled for further research and discussion.

**§ 67.401.7. Information for Sentencing.**

**CLRC COMMENT:** No Change.

**§ 67.401.8. Establishing Previous Convictions.**

**CLRC COMMENT:** No Change.

**§ 67.401.9. Importation and Exportation Penalties.**

**CLRC COMMENT:** Tabled for further research and discussion.

**ATTACHMENT 2**  
**RECOMMENDATIONS OF THE SUBCOMMISSION ON CRIMES RELATING TO PROPERTY**  
**PRESENTED AT THE PLENARY MEETING OF FEBRUARY 6, 2025**

**TITLE 9 GUAM CODE ANNOTATED**

**§ 13.10. Attempt: Defined.**

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.

**CLRC COMMENT:** Tabled. Recommend an annotation reflecting *People v. Tedtaotao*, 2015 Guam 31 (“[S]ince criminal attempt requires an intent to complete the commission of the underlying crime and reckless murder results in an unintentional death, attempted reckless murder is not a cognizable offense.”).

**§ 13.20. Solicitation.**

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.

**CLRC COMMENT:** Recommend to replace “felony” with “crime” to be more comprehensive and for consistency with source MPC § 5.02 (Criminal Solicitation). Reference also N.J.S.A. § 2C:5-2 (Conspiracy).

**§ 13.35 Same: Multiple Criminal Objectives.**

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.

**CLRC COMMENT:** Tabled. Recommend an annotation reflecting conflicting Superior Court decisions: *People v. Topasna*, CF0311-20, (Dec. & Order, Jan. 26, 2022) (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 *People v. Santos*, CF0330-17, (Dec. & Order, Jan. 2, 2018) (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).

**§ 13.60. Attempt, Solicitation, Conspiracy: Degree of Offense Stated.**

(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.~~



(eb) 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.

**CLRC COMMENT:** Recommendation to delete Subsection (b), which is covered by (a).

### ATTACHMENT 3

#### RECOMMENDATIONS OF THE SUBCOMMISSION ON CRIMES AGAINST PERSONS PRESENTED AT THE PLENARY MEETING OF FEBRUARY 6, 2025

#### TITLE 9 GUAM CODE ANNOTATED

##### § 19.70. Stalking.

(a) 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.

...

**CLRC COMMENT:** Subsection (a) grammatical correction.

##### § 22.20. Kidnapping; Defined and Punished.

**CLRC COMMENT:** No change.

##### § 25.10. Definitions.

(a) As used in this Chapter:

...

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

**CLRC COMMENT:** Recommend addition of new subsection (a)(12) to define “cunnilingus” as this chapter does not define this term. Reference *People vs. Legg*, 494 N.W.2d 797, 798 (Mich. Ct. App. 1992) (noting references to dictionaries for a definition of “cunnilingus”).

##### § 25A202. Possession of Child Pornography.

**CLRC COMMENT:** No change.

##### § 25A203. Dissemination of Child Pornography.

**CLRC COMMENT:** No change.

##### § 25A204. Production of Child Pornography.

**CLRC COMMENT:** No change.

**~~§ 31.65. Curfew Hours for Minors.~~**

~~(a) Definitions. As used in this Section:~~

~~(1) *Curfew Hours* means:~~

~~(A) 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and~~

~~(B) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday.~~

~~(2) *Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, *but is not limited to*, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.~~

~~(3) *Establishment* means any privately-owned place of business operated for a profit to which the public is invited, including, *but not limited to*, any place of amusement or entertainment.~~

~~(4) *Guardian* means:~~

~~(A) a person who, under court order, is the guardian of the person of a minor; or~~

~~(B) a public or private agency with whom a minor has been placed by a court.~~

~~(5) *Minor* means any person under seventeen (17) years of age.~~

~~(6) *Operator* means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.~~

~~(7) *Parent* means a person who is:~~

~~(A) a natural parent, adoptive parent, or step parent of another person; or~~

~~(B) at least eighteen (18) years of age and authorized by a parent or guardian to have the care and custody of a minor.~~

~~(8) *Public Place* means any place to which the public or a substantial group of the public has access and includes, *but is not limited to*, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.~~

~~(9) *Remain* means to:~~

~~(A) linger or stay; or~~

~~(B) fail to leave premises when requested to do so by a peace officer or the owner, operator, or other person in control of the premises.~~

~~(10) *Serious Bodily Injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.~~

~~(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.~~

~~(c) Defenses.~~

~~(1) It is a defense to prosecution under Subsection (b) that the minor was:~~

~~(A) accompanied by the minor's parent or guardian;~~

~~(B) on an errand at the direction of the minor's parent or guardian, without any detour or stop;~~

~~(C) engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;~~

~~(D) involved in an emergency;~~

~~(E) on the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;~~

~~(F) attending or traveling to or returning home without detour from an official school, religious, or other recreational activity supervised by adults and sponsored by the government of Guam, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the government of Guam, a civic organization, or another similar entity that takes responsibility for the minor;~~

~~(G) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or~~

~~(H) married or had been married, enlisted in a branch of the United States Armed Forces or the National Guard or had disabilities of minority removed in accordance with Article 3 of Chapter 4 of Title 19 GCA.~~

~~(2) It is a defense to prosecution under Subsection (b)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.~~

~~(d) Enforcement. Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation, take into custody or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Subsection (c) is present.~~

~~(e) Penalties.~~

~~(1) A person who violates a provision of this Chapter is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine not to exceed Five Hundred Dollars (\$500).~~

~~(2) When required by §5104 of Title 19 GCA, as amended, the Superior Court shall waive original jurisdiction over a minor who violates Subsection (b)(1) of this Section and shall refer the minor to~~

~~juvenile court.~~

**CLRC COMMENT:** Recommendation to repeal this section. This recommendation was based on questionable constitutionality of this section and was vigorously debated by the Commission. Attorney members of the Commission noted that the constitutionality of curfew laws has been widely challenged across the United States and believe this law would be struck down if were to be challenged in Guam. Some members conceded that this curfew law may be unconstitutional but because of Guam's problems with minors out past curfew they would prefer to leave it until it is challenged and struck down by the courts. This recommendation was opposed by the GPD member and a community member of the Commission.

**§ 31.70. Leaving Children Unattended or Unsupervised in Motor Vehicles; Penalty; Authority of Law Enforcement Officer.**

...

(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.

...

**CLRC COMMENT:** Amend subsection (d) to include "knowingly" as the required mental state. Reference MPC § 2.02 (General Requirements of Culpability) and 9 GCA § 4.25 (Culpability).

**§ 89.03. Registration; Duty to Register.**

**§ 89.06. Failure to Appear for Registration, Absconding and Failure to Register.**

**§ 89.08. Duties of the Guam Police Department.**

**CLRC COMMENT:** Recommend repeal of unfunded and unimplemented mandates. This Chapter 89 (Crimes Against Minors and Sex Offender Registry) is now with the Ad Hoc Subcommittee on Corrections-Related Chapters for review.

**§ 93.20. Criminal Sexual Conduct Assessment: Standardized Procedure.**

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

**§ 93.35. Sentencing of Felons: Parole of Felons: Treatment and Testing Based Upon Assessment Required.**

**§ 93.50. Report to the Legislature.**

**CLRC COMMENT:** Recommend repeal of unfunded and unimplemented mandates. This Chapter 93 (Criminal Sexual Conduct Assessment and Rehabilitation Act) is now with the Ad Hoc Subcommittee on Corrections-Related Chapters for review.