



HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

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. JONATHAN R. QUAN
CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

PLENARY MEETING JULY 31, 2025

MEETING PACKET

**CLRC PLENARY MEETING JULY 31, 2025
AGENDA**

I. CALL TO ORDER

II. PROOF OF DUE NOTICE OF MEETING

III. DETERMINATION OF QUORUM

IV. DISPOSAL OF MINUTES MAY 29, 2025

V. OLD BUSINESS

A. Subcommittee Status Update and Report of the Executive Director

VI. NEW BUSINESS

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

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

C. Subcommittee on Criminal Procedure: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval

D. Ad Hoc Subcommittee on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

E. Notice of Next Meeting: **Thursday, SEPTEMBER 25, 2025, Noon** (Tentative)

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

IX. ADJOURNMENT



JUDICIARY OF GUAM
 Suite 300 Guam Judicial Center
 120 West O'Brien Drive, Hagåtña, Guam 96910-5174
 Tel: (671) 475-3300 Fax: (671) 475-3140
www.guamcourts.org

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
 PLENARY MEETING JULY 31, 2025
 NOTICE OF MEETING**

The Guam Criminal Law and Procedure Review Commission will conduct a plenary meeting on Thursday, July 31, 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>

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- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING:
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES: May 29, 2025
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- VI. A. Subcommittee Status Update and Report of the Executive Director
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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

MARK WILLIAMS, ESQ.
LAW OFFICES OF MARK E. WILLIAMS, P.C.
 166 West Marine Corps Drive
 Suite 102 BankPacific Building
 Dededo, Guam 96929
 Telephone: (671) 637-9620
 Facsimile: (671) 637-9660

**IN THE SUPERIOR COURT OF GUAM
 IN THE MATTER OF THE ESTATE OF
 KEIICHI NAKANISHI and MASAMI NAKANISHI,
 Deceased.**

Superior Court Case No. PR0079-25

NOTICE OF RESCHEDULED HEARING

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

1. NOTICE IS HEREBY GIVEN that **Kyoko Nakanishi** has filed a **Petition for Letters of Administration**, reference to such petition is hereby made for further particulars.

2. A hearing on the Petition will be heard on **Wednesday, July 30, 2025 at 9:00 a.m.** before Judge Dana A. Gutierrez in the Superior Court of Guam.

3. To attend or participate in the hearing, you may appear in person at the courtroom of Judge Dana A. Gutierrez, 120 West O'Brien Drive, Hagåtña, Guam or you may appear via Zoom by logging onto <https://guamcourts.org.zoom.us> and enter the **Meeting ID: 839 7874 0380** and **Passcode: 189701**. For technical assistance, please call (671) 475-3207 five (5) minutes prior to the designated hearing time.

Dated: June 23, 2025

Janice Camacho-Perez, Clerk of Court
 Superior Court of Guam
 By: *Is/ Pauline I. Untalan*
 Courtroom/Chamber Clerk



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APPLY NOW!!

- 40 - CARPENTER with min. 1 yr. exp. \$18.34 PER HR.***
 Performs carpenter duties for residential, commercial and government projects.
- 35 - CEMENT MASON with min 1 yr. exp \$17.51 PER HR.***
 Performs cement mason duties for residential, commercial and government projects.
- 35 - ELECTRICIAN with min. 2 yrs. exp. \$21.02 PER HR.***
 Performs electrician duties for residential, commercial and government projects.
- 10 - HEAVY EQUIPMENT MECHANIC with min. 2 yrs. exp. \$21.77 PER HR.***
 Performs heavy equipment mechanic duties for residential, commercial and government projects.
- 15 - HEAVY EQUIPMENT OPERATOR with min. 1 yr. exp. \$18.97 PER HR.***
 Performs heavy equipment operator duties for residential, commercial and government projects.
- 10 - HVAC & REFRIGERATION MECHANIC with min 2 yrs. exp. \$21.91 PER HR.***
 Performs HVAC & refrigeration mechanic duties for residential, commercial and government projects.
- 10 - PAINTER with min. 1 yr. exp. \$19.82 PER HR.***
 Performs painter duties for residential, commercial and government projects.
- 25 - PLUMBER with min. 2 yrs. exp. \$19.48 PER HR.***
 Performs plumber duties for residential, commercial and government projects.
- 15 - REINFORCING METAL WORKER with min. 1 yr. exp. \$16.98 PER HR.***
 Performs reinforcing metal worker duties for residential, commercial and government projects.
- 15 - SHEET METAL WORKER with min 1 yr. exp. \$20.44 PER HR.***
 Performs sheet metal worker duties for residential, commercial and government projects.
- 15 - WELDER with min. 1 yr. exp. \$20.30 PER HR.***
 Performs welder duties for residential, commercial and government projects.

Verification of qualifications required.

**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 and may require paid holidays and/or paid sick leave.*

Benefits: Round-trip airfare for off-island hire, food and lodging @ \$80.00/wk.; local transportation to/from jobsite from the employer's housing facility designated; and employer/employee-paid medical insurance provided.

Successful applicant must be able to obtain military base access upon hire. Off-island hires must complete a health screening prior to working in Guam. Employees are required to take and pass a substance abuse test after hire.

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.

The complete job duties may be viewed in person at American Job Center
 414 W. Soledad Avenue, Suite 300 GCIC Building, Hagatna, Guam
 Or apply online at www.hireguam.com; Enter Keyword: 2025-092

AVAILABLE JOBS FOR ELIGIBLE U.S. WORKERS

- 12 - CARPENTER with min. 1 yr. exp. \$18.34 PER HOUR***
 Performs carpentry duties for residential, commercial and government projects.
- 14 - CEMENT MASON with min. 1 yr. exp. \$17.51 PER HOUR***
 Performs cement mason duties for residential, commercial and government projects.
- 5 - ELECTRICIAN with min. 2 yrs. exp. \$21.02 PER HOUR***
 Performs electrician duties for residential, commercial and government projects.
- 4 - HEAVY EQUIPMENT MECHANIC with min. 2 yrs. exp. \$21.77 PER HOUR***
 Performs heavy equipment mechanic duties for residential, commercial and government projects.
- 10 - HEAVY EQUIPMENT OPERATOR with min. 1 yr. exp. \$18.97 PER HOUR***
 Performs heavy equipment operator duties for residential, commercial and government projects.
- 10 - PAINTER with min. 1 yr. exp. \$19.82 PER HOUR***
 Performs painter duties for residential, commercial and government projects.
- 6 - PLUMBER with min. 2 yrs. exp. \$19.48 PER HOUR***
 Performs plumber duties for residential, commercial and government projects.
- 24 - REINFORCING METAL WORKER with min. 1 yr. exp. \$16.98 PER HOUR***
 Performs reinforcing metal worker duties for residential, commercial and government projects.
- 12 - STRUCTURAL STEEL WORKER with min. 1 yr. exp. \$17.34 PER HOUR***
 Performs structural steel worker duties for residential, commercial and government projects.
- 10 - WELDER with min. 1 yr. exp. \$20.30 PER HOUR***
 Performs welder duties for residential, commercial and government projects.

Verification of qualifications required.

**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 and may require paid holidays and/or paid sick leave.*

Benefits: Round trip airfare for off-island hire; Lodging, shared cell phone, and shared high-speed home internet at \$65.55 per week; Local transportation to/from jobsite from the employer's designated housing facility; and Employer/employee-paid medical insurance provided.

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

The complete job duties may be viewed in person at American Job Center
 414 W. Soledad Avenue, Suite 300 GCIC Building, Hagatna, Guam
 Or apply online at www.hireguam.com; Enter Keyword: 2025-091

Open lot for rent.

Advertise your Real Estate properties here in The Guam Daily Post.

CIVIL SERVICE COMMISSION

KUMISION ISETBISION SIBIT

Bell Tower, Suite 201, 710 W. Marine Corps Drive, Hagåtña, Guam 96910 • Tel: (671) 647-1855 • Fax: (671) 647-1867

NOTICE OF MEETING

IN-PERSON MEETING AT 9:00 A.M. ON TUESDAY, AUGUST 05, 2025.

A live broadcast of this meeting is available to the public on the CSC website at csc.guam.gov or on GovGuam.tv. The public can also access a live stream of this meeting via zoom by using the link or Meeting ID and Passcode provided below. <https://us06web.zoom.us/j/82329683526?pwd=OQWG7qNzKdDQpCEppA1dBal4jGgzM.1> (Meeting ID: 823 2968 3526 / Passcode: 870668)

AGENDA

- Quarantine Agency; 24-AA00S. Byron J. Duenas vs. Guam Police Department; 24-AA11S. Josette M. Guzman vs. Office of the Attorney General; 24-GRE09.
- (2) GRIEVANCE HEARING: Tommy Arcos vs. Department of Public Works (DPW); 23GRE06SP.
- V. GENERAL BUSINESS:
 - (1) Bills and Laws affecting CSC: None.
 - (2) Administrative Counsel Litigation Update.
 - (3) Administrative Matters: Board Training; Civil Service Commission Board Members.
- VI. ADJOURNMENT.

For special accommodations, please contact: Maria P. Masnagon, CSC ADA Coordinator at (671) 647-1872 / (671) 647-1855. /s/ Daniel D. Leon Guerrero, Executive Director
Paid by the Civil Service Commission

APPLY NOW!!

25 - CARPENTER with min.1 yr. exp. \$18.34 PER HR*
Constructs, erects, installs and repairs structures and fixtures of wood, wallboard and plywood, including framework. Uses carpenter's hand tools and power tools conforming to local building codes. Reads blueprints, sketches, or building plans to determine type of work required and materials needed. Prepares layout, using ruler, framing square, and calipers. Erects framework for structure and lay subfloor board.

15 - CEMENT MASON with min 1 yr. exp \$17.51 PER HR*
Position construction forms or molds. Fill roadways, driveways, sidewalks, bridges, buildings, and parking lots with concrete. Pour and spread concrete into forms. Prepare surface with hammer and chisel. Rub cement in with sponge-rubber float or burlap. Level it using special blades, making sure all lumps and bubbles are smoothed over. Smooth high spots and fill depressions. Make concrete beams, columns, and panels. Wash away excess concrete. Finish corners by hand. Apply latex and epoxy to floors. Use machines that vibrate concrete to fill air pockets. Use groovers and hand trowels to spread concrete. Prepare the base. Cut pavers. Install masonry materials according to specifications. Pour sand in as filler. Use chemical additives to speed up drying process if necessary. Mixing and applying coats of plaster, cement and render to structures using trowels, and leveling and smoothing coats to uniform thickness.

Verification of qualifications required.

**Special Wage Rate: Work to be performed on DPRP-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 and may require paid holidays and/or paid sick leave.*

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

Benefits: Round-trip airfare for off-island hire; Lodging provided @ \$40.00 per week; local transportation from employer's designated lodging facility to/from jobsite; and employer/employee-paid medical insurance provided.

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.

Apply in person at the American Job Center

414 W. Soledad Avenue, Suite 300 GCIC Building Hagåtña, Guam
Or apply online at www.hireguam.com; Enter Keyword: 2025-093



JUDICIARY OF GUAM

Guam Judicial Center
120 West O'Brien Drive Hagåtña Guam 96910
www.guamcourts.org

**REQUEST FOR PROPOSALS (RFP)
NO. 25-10
TRANSCRIPTION SERVICES**

The Judiciary of Guam is accepting proposals from qualified firms/individuals to provide **Transcription Services** for the Judiciary of Guam.

Interested and qualified firms/individuals may request for an electronic copy of the RFP package at the Procurement Office located in Guam Judicial Center, 1st Floor, 120 West O'Brien Drive in Hagåtña beginning **July 29, 2025 (Guam Standard Time)** from **8:00 am to 5:00 pm, Monday thru Friday, except Government of Guam holidays.**

All Proposals must be submitted to the Procurement Office **no later than 2pm, August 19, 2025 (Guam Standard Time)**. Late proposals will not be considered. For any periodic updates of the RFP please visit the Judiciary's website <http://guamcourts.org>.

For more information, and to request for electronic copy of the RFP, please contact the Procurement Office at (671) 475-3290/3175/3212/3141/300-7994 or email at mantonio@guamcourts.gov and ztandoc@guamcourts.gov.

/s/ DANIELLET, ROSETE
Administrator of the Courts

This notice is paid with Government of Guam funds by the Judiciary of Guam.
"The Judiciary of Guam is an equal opportunity provider and employer."

NOTICE TO SOLICIT INTEREST

WILDLIFE HAZARD MANAGEMENT SERVICES

The Antonio B. Won Pat International Airport Authority, Guam (GAA) is soliciting interest from all qualified and interested parties in providing Wildlife Hazard Management Services and related training to GAA staff. All interested parties shall submit a "Statement of Interest," no later than Monday, August 4, 2025, 5:00 p.m., to the attention of the Executive Manager, at the GAA Administration Office, 3rd Floor, Main Terminal, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, excluding holidays, or send via email to official@guamairport.net.

For additional information, contact GAA's Procurement Section at (671) 646-0300 or via email at procurement@guamairport.net.

JOHN "JOE" GUANABA, Executive Manager | ANIBERTO "BOCKY" HERNANDEZ, P.E. Deputy Executive Manager

P.O. Box 3770 Tamuning, Guam 96911
Telephone: (671) 646-5200 | www.guamairport.net

This notice is valid for 60 days unless otherwise stated.

Tam: 2bd, 2ba Apt., Furnished, Gated
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Call Ron: 727-8740/649-8746

NOTICE OF PUBLIC SALE OF PERSONAL PROPERTY

Facility: Guam Mini Storage
Address: 380 East Harmon Industrial Park Rd., Tamuning, GU 96913
Date of Sale: Saturday, August 9th 2025
Time: 10:00AM (registration begins at 9:00AM)

Tenant Name / Unit #

- Toyota, M. / Unit D7D46
- Baza, B. / Unit F21F42
- Dixon, B. / Unit C4
- Reotutar, J. / Unit C48
- Herbert, M. / Unit E25E42

All items will be sold "as is, where is," to the highest bidder. Sale is for cash only. \$100.00 dollar refundable cleaning deposit is required. Please bring an I.D to register and must be 18+ to bid. Contents must be removed within 24 hours after sale.

Right to Withdraw: Facility reserves the right to cancel or withdraw any unit from the sale at any time before or during the auction.

Contact: For more information, call (671) 647-5720 or visit www.guamministorage.net

**IN THE SUPERIOR COURT OF GUAM
IN THE MATTER OF THE ESTATE
OF
JOHN WILLIAM MUNA,
Decedent.
PROBATE CASE NO. PRO100-25
NOTICE OF HEARING**

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

1. NOTICE IS HEREBY GIVEN that Mercy V. Muna has filed a Petition for Letters of Administration and for Appointment of Administrator.

2. A hearing on the petition will be heard on **Wednesday, August 6, 2025, at 11: 20 a.m., before the Hon. Judge Elyze M. Iriarte.**

3. To attend or to participate in the hearing, you may appear in person at the Guam Judicial Center, appear remotely at <https://guamcourts.org.zoom.us> and enter Meeting ID: 864 4387 2213 and Passcode: JEMJ; or call into the courtroom at 671-300-6703 at the designated hearing time. For connectivity issues, you may contact Jannette Samson at (671) 475-0141 or email jsamson@guamcourts.gov.

DATED: 24 JUNE 2025

JANICE M. CAMACHO-PEREZ,
Clerk of Court, Superior Court of Guam
/s/ Alice B. Mendoza
Courtroom/Chamber Clerk

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**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
PLenary MEETING JULY 31, 2025
NOTICE OF MEETING**

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- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING;
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES: May 29, 2025
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This ad was paid for with Government of Guam funds.
Magistrate Judge Jonathan R. Quan, Chairman

MINUTES
CLRC PLENARY MEETING OF
JULY 31, 2025



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, MAY 29, 2025 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chairman Jonathan Quan at 12:38 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 on Zoom, Florida

Hon. Anita A. Sukola, Presence on Zoom noted by Chairman

Atty. William Bucky Brennan, Present on Zoom, Hagåtña

DOC Director Fred Bordallo, Present, Judiciary of Guam

Chief of Police Designee Sgt. Michael Elliott, Present on Zoom, Tamuning

Atty Joseph B McDonald, Present on Zoom, Anaheim CA

Atty. F. Randall Cunliffe, (No response during roll call)

Mr. Monty McDowell, Present, Judiciary of Guam

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

Attorney General Designee AAG Emily Rees, Present, Judiciary of Guam

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

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

Atty. Christine Tenorio, Present on Zoom, Hagåtña

Atty. Phillip Tydingco, (No response during roll call)

Ex-Officio, (Non-Voting Members)

Executive Director Andrew S. Quenga, Present, Judiciary of Guam

Compiler of Laws Geraldine Cepeda, Present, Judiciary of Guam

Chairman Quan acknowledged a quorum present.

IV. DISPOSAL OF MINUTES: February 6, 2025, and April 10, 2025

The minutes from the previous Plenary Meetings of February 6 and April 10, 2025, were approved without objection.

V. OLD BUSINESS

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

Executive Director Quenga provided an informational report.

- The 2025 First Quarter Report of the CLRC was recently released and is available on the CLRC webpage.
- Out of forty-six (46) chapters in Title 9, twenty-four (24) have been fully reviewed and included in the Interim Report. Fourteen (14) chapters are under review, and eight (8) are pending
- Title 8 review will commence following the completion of Title 9.

B. Subcommittee on Criminal Procedure Subcommittee Continued Presentation on 9 GCA § 52.10.

Executive Director Quenga presented a clarification on § 52.10(e), which was inadvertently omitted from the April 2025 meeting presentation. His PowerPoint presentation is included here as Attachment 1.

- § 52.10(e). [Definition of statement]. Amend as shown in as shown in Attachment 1, Slides 3-4.

Discussion: Recommend deleting the term “non-trivial,” adding the term “includes,” and deleting the phrase “is a statement” for consistency with source Model Penal Code § 241.0(2). The term “non-trivial” is not in the MPC and potentially conflicts with materiality of a “statement” as the term used in §§ 52.15 and 52.20.

Chairman Quan called for a motion to approve this recommendation. Approved without objection.

VI. NEW BUSINESS

A. Presentation, Consideration and Vote of Interim Report Final Recommendations.

The Executive Director read background information on the Interim Report into the record:

- The report, along with related materials, was distributed to all members of the Commission on May 15 and posted on the CLRC webpage to provide sufficient time for review prior to this Plenary Meeting.
- The Draft Interim Report presents the Commission’s recommendations that were approved through the first phase of the Commission’s review process. These

recommendations are now presented to the plenary Commission for its final review and approval. Only those chapters that have been fully reviewed and approved will be included in the Final Interim Report. Chapters that are still under review or require further deliberation will be brought forward in a future report.

- The Interim Report consists of a narrative describing the process of review undertaken by the subcommissions, which conduct detailed analyses of the statutes. The report also attaches the Commission's enabling legislation (1 GCA Chapter 25), a table that tracks all Commission recommendations by chapter and section; and a blackline version of the approved recommendations, which uses underlining and strikethroughs to indicate changes to the statutory language. Each blackline entry is accompanied by Commission comments to explain the rationale for the recommended changes.
- The primary work of the Commission takes place within its subcommissions, where members participate in working sessions to review and discuss proposed changes. Guam is a Model Penal Code (MPC) jurisdiction. The Review was based on the MPC and other MPC jurisdictions, as well as on recently updated criminal codes in Hawaii and the District of Columbia. The subcommissions identify provisions that are archaic, unused, unconstitutional, inorganic, or otherwise outdated, and they develop recommendations to amend, repeal, or retain the affected language as appropriate.
- The Commission membership includes current and former prosecutors, public defenders, judges, former judges, and experienced lay members who bring decades of practical expertise with Guam's criminal laws.
- Under the Commission's enabling legislation, final approval of the Interim Report requires at least eight affirmative votes. If approved at this meeting, the Final Interim Report will be formally submitted to the Guam Legislature in accordance with Public Law 36-119.

Chairman Quan called for a motion to approve the Interim Report for discussion purposes. The motion was approved without objection. Chairman Quan called for discussion.

Member, Mr. Monty McDowell, expressed his hope that the current legislature will support and enact the Commission's recommendations. As a non-attorney member, he commended the attorneys on the Commission for their contributions and dedication, highlighting the quality of the work produced. He stated that legislative approval of the current recommendations would inspire confidence to complete the remaining work of the Commission.

Member, Attorney William Brennan, in anticipation of legislative hearings concerning the Commission's work-product, questioned if it would be prudent to have the Executive Director and non-judicial officer subcommission chairs appear at legislative hearings on behalf of judicial officer members to avoid advocacy issues.

Chairman Quan acknowledged the importance of Attorney Brennan's comment and stated it would be addressed at a later point. Chairman Quan called any further comments.

With no further comments offered, Chairman Quan called for a motion to approve the Interim Report. A motion to approve was made by member Mr. Monty McDowell, and seconded by member, DOC Director, Fred Bordallo. Chairman Quan requested a roll-call vote by CLRC Administrative Assistant, Ms. Lisa Ibanez.

Ms. Lisa Ibanez called for the vote of each member present. Voting to approve the Interim Report were members:

- Hon. Anita Sukola,
- Attorney William Brennan,
- DOC Chief Fred Bordallo,
- GPD Sgt. Michael Elliott,
- Attorney Joseph McDonald,
- Mr. Monty McDowell,
- Attorney John Morrison,
- Assistant Attorney General Emily Rees,
- Attorney Christine Tenorio, and
- Chairman Hon. Jonathan Quan.

The Hon. Maria Cenzone abstained from voting, noting the potential advocacy issues raised by Attorney William Brennan and concerns of her own.

There were no votes in opposition to the Interim Report.

Ms. Lisa Ibanez confirmed ten (10) yes votes and one (1) abstention.

Chairman Quan stated a written resolution memorializing the approval of the Interim Report will be issued and that the Interim Report will be finalized and transmitted within two weeks. He thanked all members and non-voting members as well as CLRC staff and his chamber staff.

D. Notice of next meeting: Thursday, July 31, 2025, Noon (Tentative)

Chairman Quan informed Members that the next Plenary meeting is tentatively scheduled for Thursday, July 31, 2025, at 12:00 noon.

VII. Communications

None.

VIII. Public Comment

None.

IX. Adjournment

Chairman Quan adjourned the meeting without objection.

Respectfully submitted this 31st day of July, 2025.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the May 29, 2025, meeting were approved by the CLRC at the July 31st, 2025 plenary meeting.

Magistrate Judge Jonathan R. Quan, Chairman

Date: _____

ATTACHMENT 1

SUBCOMMISSION ON CRIMINAL
PROCEDURE

PRESENTATION

MAY 29, 2025



Presented Today

9 GCA Chapter § 52.10(e)

Chapter 52. Perjury and Offense Against the Integrity of Official Proceedings.

Section 52.10. Definitions.

Subsection (e) Inadvertently Omitted in Previous Presentation

1



§ 52.10. Definitions.

As used in this Chapter:

~~(a) official function and public servant have the meanings provided for those terms by § 49.10. [Cmt. Definitions added directly below.]~~

~~(ba) material statement~~ means a statement which affected or could have affected the course or outcome of a proceeding, regardless of its admissibility under rules of evidence.

~~(b) official function means the decision, opinion, recommendation, vote or other exercise of discretion or performance of duty of a public servant in a lawful or unlawful manner. [Cmt. From § 49.10]~~

~~(c) official proceeding~~ means a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer an oath or cause it to be administered, including any referee, hearing officer, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

~~(d) public record means any record, document, thing belonging to, or received or kept by the Government of Guam or any governmental instrumentality within the Territory. [Cmt. Term "public record" is not used in this chapter]~~

~~(d) public servant means any officer, member, or employee of the legislative, executive, or judicial branches of Guam or of any governmental instrumentality within Guam, any juror, any persons exercising the functions of any such position, or any referee, arbitrator, hearing officer, or other person authorized by law to hear or determine any question or controversy. It includes a person who has been elected, appointed or designated to become a public servant, and, in the case of a juror, a person who has been drawn, empaneled, or designated to attend as a prospective grand or petit juror. [Cmt. From § 49.10]~~

(e) inadvertently omitted in previous presentation

(f) *statement under oath* means

(1) a statement made pursuant to a swearing, an affirmation, or any other mode authorized by law of attesting to the truth of that which is stated; and

(2) a statement made on a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.

~~(3) testimony means oral or written statements, documents or any other material which may be offered by a witness in an official proceeding. [Cmt. Moved to (g)]~~

~~(g) testimony~~ means oral or written statements, documents or any other material which may be offered by a witness in an official proceeding.

2



§ 52.10. Definitions.

(e) statement means any ~~non-trivial~~ representation, but includes a representation of opinion, belief or other state of mind ~~is a statement~~ only if it clearly relates to a state of mind apart from or in addition to the facts which it otherwise represents.

Cmt:

- Amendments return this section closer to the language in source MPC § 241.0(2), which states:
"statement" means any representation, but includes a representation of opinion, belief or other state of mind only if the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation."



§ 52.10. Definitions.

(e) statement means any ~~non-trivial~~ representation, but includes a representation of opinion, belief or other state of mind ~~is a statement~~ only if it clearly relates to a state of mind apart from or in addition to the facts which it otherwise represents.

Cmt continued:

- The term "non-trivial" is not in MPC § 241.0(2) and creates a potential conflict with "statement" as used in sections 52.15 (Perjury) and 52.20 (False Statement Under Oath).

§ 52.15. Perjury; Defined & Punished.

(a) A person is guilty of perjury if, under oath in an official proceeding, he makes a false statement which is material and which he does not believe to be true.

(b) Whether a statement is material is a question of law.

(c) Perjury is a felony of the third degree.

§ 52.20. False Statement Under Oath; Defined & Punished.

A person is guilty of a misdemeanor if he makes a false statement under oath which he does not believe to be true and:

(a) the falsification occurs in an official proceeding; or

(b) the falsification is intended to mislead a public servant in performing his official function.

CLRC PLENARY MEETING

JULY 31, 2025

POWERPOINT PRESENTATION



GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

PLENARY MEETING
JULY 31, 2025
12:00 NOON



AGENDA

- I. CALL TO ORDER
 - II. PROOF OF DUE NOTICE OF MEETING
 - III. DETERMINATION OF QUORUM
 - IV. DISPOSAL OF MINUTES - MAY 29, 2025
 - V. OLD BUSINESS
 - A. Subcommittee Status Update and Report of the Executive Director
 - VI. NEW BUSINESS
 - A. Subcommittee on Drug & Other Criminal Offenses: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - B. Subcommittee on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - C. Subcommittee on Criminal Procedure: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - D. Ad Hoc Subcommittee on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- Notice of Next Meeting: **Thursday, SEPTEMBER 25, 2025, Noon** (Tentative)
- VII. COMMUNICATIONS
 - VIII. PUBLIC COMMENT
 - IX. ADJOURNMENT



SUBCOMMISSION STATUS UPDATE REPORT OF EXECUTIVE DIRECTOR



Report of the Subcommittee on Criminal Procedure

July 31, 2025

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

**Members: Hon. Anita A. Sukola (Chair); AAG Emily Rees; Executive Director
Serge Quenga (ex-officio)**



Presented Today

9 Guam Code Annotated

Chapter 7 – Exemptions and Defenses



**ARTICLE 1
EXEMPTIONS**

§ 7.10. Exemption from Criminal Liability Due to Juvenile Minor Status.

No person may be tried for or convicted of an offense if:

(a) his age at the time he is charged with an offense places him within the exclusive jurisdiction of the Family Division of the Superior Court;

(b) he was made the subject of a petition to commence proceedings in the ~~juvenile court~~ Family Court because of having committed the offense and the ~~juvenile court~~ Family Court has not made an order that he be prosecuted under general law; or

(c) he was certified to the ~~juvenile court~~ Family Court and the ~~juvenile court~~ Family Court has not made an order directing that he be prosecuted under general law.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendments for consistency with the Family Court Act (19 GCA § 5102).



ARTICLE 2 MENTAL RESPONSIBILITY

§ 7.19. ~~Same:~~ Mental Disease or Defect: Admissibility of Evidence Showing.

Evidence that the defendant suffered from mental illness, disease or defect is admissible whenever it is relevant to prove the defendant's state of mind.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title.



§ 7.22. ~~Same:~~ Mental Disease or Defect: Procedure for Assertion of.

(a) Mental illness, disease or defect, precluding responsibility, is an affirmative defense which the defendant must prove by a preponderance of the evidence.

(b) The defendant may not introduce evidence that he is not criminally responsible, as defined in § 7.16, unless he has entered a plea of not guilty by reason of mental illness, disease or defect.

(c) The defendant may not, except upon good cause shown, introduce in his case in chief expert testimony regarding his state of mind pursuant to § 7.19 unless he has given notice as provided in Subsection (d).

(d) The defendant shall plead not guilty by reason of mental illness, disease or defect, or shall give notice, in open court or in writing, that his mental condition will or may be in issue not later than ten days after his arraignment or at such later time as the court for good cause may allow. If such notice is given prior to or at the time of arraignment, the court shall defer the entry of a plea until the filing of the reports provided in § 7.25. Upon the giving of such notice or upon a plea of not guilty by reason of mental illness, disease or defect, the court shall order an examination to be conducted, as provided in § 7.25.

(e) Upon the filing of the reports provided in § 7.25, the defendant shall plead if he has not previously done so and the court shall set a date for trial. The trial shall not be held earlier than ten days after the filing of the reports.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title.



§ 7.25. Psychiatric or Psychological Examination and Procedure. [Tabled 6/13/24]

§ 7.28. Acquittal: Order for Civil Commitment.

In any case in which evidence of mental illness, disease or defect has been introduced pursuant to the provisions of § 7.19 and in which the defendant is acquitted, the court may order an evaluation of his condition and initiation of proceedings pursuant to the provisions of 10 GCA Chapter 82.

CRIM PRO COMMENT: Reviewed 6/13/24. No change.

§ 7.31. Acquittal: Verdict Must State Reason as Mental Illness, Disease or Defect.

Whenever a plea of not guilty by reason of mental illness, disease or defect is entered and the defendant is acquitted on the plea, the verdict or, if trial by jury has been waived, the finding of the court and the judgment shall so state.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title.

§ 7.34. Acquittal: Court Order of Commitment or Release; Petition for Discharge. [Tabled 6/13/24]



§ 7.37. Mental Disease: a Bar to Proceeding or Sentence.

A person can neither be proceeded against nor sentenced after conviction while he is incompetent as defined in this Section:

(a) A defendant is incompetent to be proceeded against in a criminal action if, as a result of mental illness, disease or defect, he is unable

- (1) to understand the nature of the proceedings,
- (2) to assist and cooperate with his counsel,
- (3) to follow the evidence, or
- (4) to participate in his defense.

(b) A defendant is incompetent to be sentenced~~d~~ if, as a result of mental illness, disease or defect, he is unable

- (1) to understand the nature of the proceedings,
- (2) to understand the charge of which he has been convicted,
- (3) to understand the nature and extent of the sentence imposed upon him or
- (4) to assist and cooperate with his

CRIM PRO COMMENT: Typo correction.



§ 7.40. ~~Same:~~ Mental Disease: Hearing to Determine.

(a) At any time before the commencement of the trial either party may make a motion for a hearing on the defendant's competency to be proceeded against, or the court on its own motion may order such a hearing. Thereupon, the court shall suspend all proceedings in the criminal prosecution and proceed as provided in § 7.25.

(b) At any time after the commencement of the trial, but before sentence, if it appears on the motion of either party or the court's own motion that there is reasonable cause to believe the defendant is incompetent to be proceeded against or sentenced, the court shall suspend all proceedings in the criminal prosecution and proceed as provided in § 7.25. The trial jury in the criminal prosecution may be discharged or retained at the discretion of the court until the defendant's competency is determined. The dismissal of the trial jury shall not be a bar to further prosecution.

(c) If the court for any reason once proceeds under § 7.25, then upon a second or subsequent notice or plea under § 7.22, or upon a second or subsequent motion under this Section, the court does not have to suspend the proceedings in the criminal prosecution and again proceed as provided in § 7.25, except upon a showing of good cause of changed conditions.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title.



§ 7.43. ~~Same:~~ Mental Disease: Hearing Procedure for Commitment and Release.

(a) If at least one qualified psychiatrist, licensed psychologist or other qualified person concludes in his report filed pursuant to § 7.25 that the defendant may be incompetent to be proceeded against or to be sentenced, the court shall order the issue of his competency to be determined within ten days after the filing of the reports pursuant to § 7.25, unless the court, for good cause, orders the issue tried at a later date.

....

(e) Whenever, in the opinion of the Administrator or any officer designated in writing by him, the defendant regains his competency, the Administrator or such officer shall, in writing, certify that fact to the clerk of the court in which the proceedings are pending. Such certification, unless contested by the defendant or the people, shall be sufficient to authorize the court to find the defendant competent and to order the criminal prosecution to continue. If the certification is contested, a hearing before the court shall be held, after notice to the parties, and the party so contesting shall have the burden of proving by a preponderance of the evidence that the defendant remains incompetent.

Upon a finding of competency, the defendant may apply for his release pending trial in the manner provided by § GCA § 40.10 et seq. Chapter 40 (commencing with § 40.10 et seq) of the Criminal Procedure Code.

....

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title. Subsection (a) amendments for consistency with amendments to § 7.25. Subsection (e) amendments for clarification.



§ 7.46. ~~Same:~~ Mental Disease: Commitment as Exonerating Bail.

The commitment of the defendant pursuant to § 7.43 exonerates any depositor or surety who has provided security pursuant to ~~8 GCA § 40.10 et seq. Chapter 40 (commencing with 40.10 of the Criminal Procedure Code~~ and entitles such person to the return of any money or property he may have deposited.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title. Other amendments for clarification.

§ 7.49. ~~Same:~~ Mental Disease: Hearing and Procedure When Mental Disease or Defect Occurs After Sentence.

If at any time after the imposition of sentence and during the period a person is in the custody of the Director of Corrections or is subject to a sentence of probation or parole the Director of Correction has reasonable cause to believe that the person may as a result of mental illness, disease or defect, present a substantial danger to himself or the person or property of others, the directors shall so report to the Attorney General who shall file a motion for a judicial determination whether such person should be committed to the Administrator of the Guam Memorial Hospital for custody, care and treatment. A similar motion may be and upon behalf of such person. The motion and the determination shall be made in the manner provided by § 7.25, 7.40 and 7.43. If the court finds that the person as a result of mental illness, disease or defect, presents a substantial danger to himself or the person or property of others, the court shall order him to be committed to the custody of the Administrator of the Guam Memorial Hospital. Time spent in such detention shall be counted towards any sentence of confinement previously imposed. Either the Administrator or the person committed may apply for discharge in the manner provided by ~~Subsections (c) and (d) of § 7.34(c) and (d).~~ The court shall conduct a hearing on such application in the manner provided by ~~Subsection (e) of § 7.34(c)~~ and make such order releasing the person or returning him to probation, parole or custody of the Director of Corrections as may be required.

CRIM PRO COMMENT: Reviewed 6/13/24. Non-substantive amendment to title. Other amendments for clarification.



§ 7.52. Transfer of Committed Person Off-Island: Hearing and Notice to Attorney General Required.

Nothing in this Article shall be construed to hinder or to prevent the transfer of any person committed pursuant to this article to any hospital outside of Guam, for care and treatment. An application for transfer may be made by either the Administrator of the Guam Memorial Hospital or by or on behalf of the person committed. The application shall be made to the court which committed such person. A transfer may be made only upon court order after such notice to the Attorney General as the court shall require.

CRIM PRO COMMENT: Reviewed 6/13/24. No change.



ARTICLE 3 DEFENSES

§ 7.55. ~~Specific Defenses Defined and Allowed~~ Ignorance or Mistake.

(a) A person's ignorance or mistake as to a matter of fact or law is a defense if it negatives the culpable mental state required for the offense or establishes a mental state sufficient under the law to constitute a defense.

(b) A person's belief that his conduct does not constitute a crime is a defense only if it is reasonable and,

(1) if the person's mistaken belief is due to his ignorance of the existence of the law defining the crime, he exercised all the care which, in the circumstances, a law-abiding and prudent person would exercise to ascertain the law; or

(2) if the person's mistaken belief is due to his misconception of the meaning or application of the law defining the crime to his conduct,

(A) he acts in reasonable reliance upon an official statement of the law, afterward determined to be invalid or erroneous, contained in a statute, judicial decision, administrative order or grant of permission, or an official interpretation of the public officer or body charged by law with the responsibility for interpreting, administering or enforcing the law defining the crime; or

...

CRIM PRO COMMENT: Amendment to title for clarification and consistency with source MPC § 2.04. Subsection (b)(2)(A) typo correction.



§ 7.58. Intoxication.

(a) As used in this Section:

(1) *intoxication* means an impairment of mental or physical capacities resulting from the introduction of alcohol, drugs or other substances into the body.

(2) *self-induced intoxication* means intoxication caused by substances which the person knowingly introduces into his body, the tendency of which to cause intoxication he knows or ought to know, unless he introduces them pursuant to medical advice or under such circumstances as would otherwise afford a defense to a charge of crime.

(b) Except as provided in Subsection (d), intoxication is not a defense to a criminal charge. Evidence of intoxication is admissible whenever it is relevant to negate or to establish an element of the offense charged.

(c) A person is reckless with respect to an element of the offense, even though his disregard thereof is not conscious, if his not being conscious thereof is due to self-induced intoxication.

(d) Intoxication which is not self-induced is an affirmative defense if, by reason of such intoxication, the person at the time of his conduct lacks substantial capacity either to appreciate its wrongfulness or to conform his conduct to the requirements of the law.

CRIM PRO COMMENT: No change.



§ 7.61. Duress or Necessity.

(a) In a prosecution for any offense it is an affirmative defense that the defendant engaged in the conduct otherwise constituting the offense:

(1) because he was coerced into doing so by the threatened use of unlawful force against his person or the person of another in circumstances where a person of reasonable firmness in his situation would not have done otherwise; or

(2) in order to avoid death or ~~great~~ serious bodily ~~harm~~ injury to himself or another in circumstances where a person of reasonable firmness in his situation would not have done otherwise.

(b) The defenses defined in this Section are not available if the offense is murder nor to a person who placed himself intentionally, knowingly or recklessly in a situation in which it was probably that he would be subjected to duress or compulsion.

CRIM PRO COMMENT: Subsection (b) amendments for consistency with “serious bodily injury” in § 7.76.



§ 7.64. ~~Other Defenses~~ Consent.

(a) The consent of the victim to conduct charged to constitute an offense or to the result thereof is a defense if such consent precludes the infliction of the harm or evil sought to be prevented by the law defining the offense.

(b) When conduct is an offense because it causes or threatens bodily injury, consent to such conduct or to the infliction of such injury is a defense if:

(1) neither the injury inflicted nor the injury threatened is such as to jeopardize life or seriously impair health;

(2) the conduct and the injury are reasonably foreseeable hazards of joint participation in a lawful athletic contest or competitive sport; or

(3) the conduct and the injury are reasonably foreseeable hazards of an occupation or profession or of medical or scientific experimentation conducted by recognized methods, and the persons subjected to such conduct or injury have been made aware of the risks involved prior to giving consent.

(c) Assent does not constitute consent, within the meaning of this Section, if:

(1) it is given by a person who is legally incompetent to authorize the conduct charged to constitute the offense and such incompetence is manifested or known to the defendant;

(2) it is given by a person who by reason of intoxication as defined in § 7.58, mental illness or defect, or youth, is manifestly unable or known by the defendant to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct charged to constitute the offense; or

(3) it is induced by force, duress or deception.

CRIM PRO COMMENT: Amendment to title for clarification and consistency with source MPC § 2.11.



§ 7.67. Appropriateness of Prosecution. ~~De Minimis Infractions.~~

The court shall dismiss a prosecution if, having regard to the nature of the conduct charged to constitute an offense and the nature of the attendant circumstances, it finds that the defendant's conduct:

- (a) Was within a customary license or tolerance, neither expressly negated by the person whose interest was infringed nor inconsistent with the purpose of the law defining the offense;
- (b) Did not actually cause or threaten the harm or evil sought to be prevented by the law defining the offense or did so only to an extent too trivial to warrant the condemnation of conviction; or
- (c) Presents such other extenuations that it cannot reasonably be regarded as envisaged by the Legislature in forbidding the offense. The court shall not dismiss a prosecution under this Subsection without filing a written statement of its reasons.

CRIM PRO COMMENT: Amendment to title for clarification and consistency with source MPC § 2.12.



§ 7.70. Entrapment ~~as Affirmative Defense.~~

(a) It is an affirmative defense that the defendant committed the offense in response to an entrapment, except as provided in Subsection (c).

(b) Entrapment occurs when a law enforcement agent, for the purpose of obtaining evidence of the commission of an offense, induces or encourages a person to engage in proscribed conduct, using such methods of inducement as to create a substantial risk that the offense would be committed by persons other than those who are ready to commit it. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

(c) The defense afforded by this Section is unavailable when causing or threatening serious bodily injury is an element of the offense charged and the prosecution is based on conduct causing or threatening such injury to a person other than the person perpetrating the entrapment.

(d) As used in this Section, law enforcement agent includes personnel of federal and territorial law enforcement agencies, and any person cooperating with such an agency.

(e) The issue of entrapment shall be tried by the trier of fact.

CRIM PRO COMMENT: Amendment to title for clarification and consistency with source MPC § 2.13.



§ 7.73. ~~Specific Defenses Defined and Allowed; Ignorance or Mistake; Intoxication; Duress, Compulsion; Consent; De Minimis Infractions; Entrapment; and Renunciation.~~

(a) In a prosecution for an attempt, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant avoided the commission of the crime attempted by abandoning his criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof.

(b) In a prosecution for criminal facilitation, it is an affirmative defense that, prior to the commission of the crime which he facilitated, the defendant made a reasonable effort to prevent the commission of such crime.

(c) In a prosecution for criminal solicitation, or for conspiracy, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal intent, the defendant prevented the commission of the crime solicited or of the criminal or otherwise unlawful conduct contemplated by the conspiracy, as the case may be.

(d) A renunciation is not “voluntary and complete” within the meaning of this Section if it is motivated in whole or in part by:

(1) a belief that a circumstance exists which increases the probability of detection or apprehension of the defendant or another participant in the criminal operation, or which makes more difficult the consummation of the crime; or

(2) a decision to postpone the criminal conduct until another time or to substitute another victim or another but similar objective.

CRIM PRO COMMENT: Non-substantive amendment to section title. Section only addresses renunciation. For consistency with source MPC § 5.01(g)(4).



Crim Pro Table of Amendments

Subcommission on Criminal Procedure							
Chapter number, name	Section/Article	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
9 GCA Chapter 7. Exemptions and Defenses	7.10		Amend				
Article 2. Mental Responsibility	7.16	No change					
	7.19		Amend				
	7.22		Amend				
	7.25						Tabled
	7.28	No change					
	7.31		Amend				
	7.34						Tabled
	7.37			Amend			
	7.40			Amend			
	7.43			Amend			
	7.46		Amend				
	7.49		Amend				
	7.52	No change					
Article 3. Defenses	7.55		Amend				
	7.58	No change					
	7.61		Amend				
	7.64		Amend				
	7.67		Amend				
	7.70		Amend				
	7.73		Amend				



Report of the Ad Hoc Subcommittee on Corrections-related Chapters

July 31, 2025

Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

Members: Atty Kristina Baird; Atty Mary Hill; Chief Parole Officer Michael P. Quinata;
Chief Probation Officer Rossanna Villagomez-Aguon; Probation Officer Supervisor
Jeremiah J.A. Cruz; Marshal Kennedy G. Robinson;
Marshal Dodd Siegfred V. Mortera, Jr.



Presented Today

9 GCA Chapter 80 Disposition of Offenders

- Article 1. General Provisions (Recommendations for approval)
- Article 7. Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders (Recommendations for approval)
- Article 2. Imprisonment (Discussion)



Article 1 – General Provisions

No Changes to

- § 80.00. Terms of Imprisonment are Fixed Terms.
- § 80.16. Sentence of Corporation.
- § 80.22. Reduction by Court of Degree of Offense.



Article 1 General Provisions

§ 80.10. Types of Sentences Allowed.

(a) Unless otherwise provided by law, the court may suspend the imposition of sentence of a person who has been convicted of a crime in accordance with § 80.60, may order him to be civilly committed in lieu of sentence in accordance with § 80.20, or may sentence him as follows:

(1) to imprisonment for a term required by law;

...

(5) to be placed on probation as authorized by law; ~~or~~

(6) to pay a fine, to make restitution and to be placed on probation;

~~(7) to make restitution and imprisonment; or~~

~~(8) to pay a fine and imprisonment.~~

(b) Where the judgment of conviction included ~~s~~ more than one crime, the sentences imposed may run concurrently or consecutively except that if such sentences run consecutively, the provisions of §§ 80.38, 80.40 and 80.42 shall not be applicable.

...

(d) Nothing in this Code deprives the court of any authority otherwise conferred by law to decree ~~f~~ forfeiture of property, suspend or cancel the license, remove a person from office or impose any other civil penalty, such a judgment or order may be included in the sentence.

AD HOC COMMENT: Subsection (a) “civilly” added to reflect § 80.20 (Civil Commitments in Lieu of Prosecution in Certain Cases), Oxford comma added for clarity. Subsection (a)(6) separated for clarity. Subsection (b) grammatical correction; §§ 80.38, 80.40 and 80.42 (highlighted) were found to be unconstitutional under *Muritok* and may have to be stricken (pending more research). Subsection (d) deletion of unnecessary brackets.



§ 80.12. Presentence Report: Psychiatric Exam: Temporary Imprisonment for Classification.

(a) The ~~p~~Probation sServices Division of the court shall make a presentence investigation and report to the court before the imposition of sentence unless the court otherwise directs for reasons stated on the record.

(b) The presentence report shall not be submitted to the court or its contents disclosed to anyone unless the defendant has pleaded guilty or nolo contendere or has been found guilty, except that a judge may, with the written consent of the defendant, inspect a presentence report at any time.

(c) The presentence report of such investigation shall be in writing and so far as practicable shall include

- (1) an analysis of the circumstances attending the commission of the crime~~;~~;
- (2) the offender's history of delinquency or criminality~~;~~;
- (3) physical and mental condition~~;~~;
- (4) family situation and background~~;~~;
- (5) social, economic and educational background~~;~~;
- (6) job experience and occupational skills and aptitude and personal habits~~;~~; and
- (7) any other matters that the probation officer deems relevant or the court directs to be included.



§ 80.12. [Continued]

(d) Before making disposition in the case of person convicted of a felony or misdemeanor, the court may order the offender to submit to psychiatric observation or examination.

(1) The offender may be committed for this purpose for a period not exceeding twenty (20) days

(A) to a facility within or licensed by the Guam Behavioral Health and Wellness Center,
or

(B) the court may appoint a qualified psychiatrist to make the examination.

(2) The report of the psychiatric observation or examination shall be submitted to the court in writing at such time as the court directs.

(e) If, after presentence investigation, the court desires additional information concerning an offender, it may order that he be committed, for a period not exceeding ninety (90) days, to the custody of the Department of Corrections, for observation and study at an appropriate reception or classification center before making a final disposition in the case.

(1) The department shall ~~advise~~ advise the court of its findings and recommendations on or before the expiration of such ninety-day period.

(2) If the offender is thereafter sentenced to imprisonment, the period of such commitment for observation shall be deducted from the maximum term of such sentence.



§ 80.12. [Continued]

AD HOC COMMENT: Subsection (a) clarification of Probation’s official name. Subsection (b) “presentence” added for consistency. Subsection (c) “presentence” added for consistency; semicolons added for consistency. Subsection (d) “psychiatric observation” added for consistency. Subsection (e)(1) grammatical correction.

Submitted to Crim Pro for consideration whether §§ 80.12 and 80.14 are procedural in form and substance and should be moved to Title 8 (Criminal Procedure Code) Chapter 120 (Judgment and Sentence). Recommend consideration of §§ 120.24 and 120.25, respectively.



§ 80.14. Presentence Report: Use Regulated.

- (a) ~~No text (1)~~ The presentence report shall not be a public record. ~~(2)~~ It may be made available only:
- ~~(A1)~~ to the sentencing court;
 - ~~(B2)~~ to any reviewing court where relevant to an issue on which an appeal has been taken;
 - ~~(C3)~~ to any examining facility, correctional institution, probation or parole department or board for use in the treatment or supervision of the offender; and
 - ~~(4)~~ to the parties as provided in this Section.

(b) At least ~~two (2)~~ five (5) days before imposing sentence the court shall furnish the offender, or his counsel if he is so represented, a copy of the presentence report ~~of the presentence investigation~~ exclusive of any recommendations as to sentence, unless in the opinion of the court the report contains diagnostic opinion which might seriously disrupt a program of rehabilitation, sources of information obtained upon a promise of confidentiality, or any other information which, if disclosed, might result in harm, physical or otherwise, to the defendant or other persons; and the court shall afford the offender or his counsel an opportunity to comment thereon.

...

- (e) ~~No text (1)~~ Any copies of the presentence investigation report made available to the offender or his counsel and the attorney for the Government shall be returned to the court immediately following the imposition of sentence.
- ~~(2)(f)~~ Copies of the presentence investigation report shall not be made by the offender, his counsel or the attorney for the Government.

AD HOC COMMENT: Subsection (a): amendments and renumbering for clarification. Subsection (b): amendment on presentence report for consistency between sections; recommend increasing disclosure from 2 to 5 days. Subsection (e): amendments and renumbering for consistency and clarification. Crim Pro to consider moving this section to Title 8.



Should the disclosure time be increased from two to five days?

- **Federal Rules of Criminal Procedure - Rule 32(e)(2)**: 35d unless defendant waives; Rule 32(f)(1): 14d to object after receiving report.
- **CNMI Rules of Criminal Procedure – Rule 32(c)(1)**: report to be made before imposition of sentence; (c)(3): disclosure to defendant at a reasonable time before imposing sentence.
- **Cal Penal Code § 1203(b)(2)(E)**: [for person convicted of a felony and eligible for probation] report to be made available at least 5d (or 9d upon request by defendant or prosecutor) prior to time fixed by the court for hearing and determination of the report.
- **N.J. Court Rules of Court Rule 3:21-2**: presentence investigation and report to court before imposition of sentence or grant of probation.
- **N.Y. CPL § 390.50(2)**: not less than one court day before sentencing.



§ 80.18. Chapter Not Applicable to Youth Offenders.

Nothing in this Chapter shall affect the power of the court to deal with a youth offender, as defined by § 83.15(d) in the manner provided by § 83.35.

AD HOC COMMENT: Amendment for clarification.

§ 80.20. Civil Commitments in Lieu of Prosecution in Certain Cases.

(a) When a person prosecuted for a felony of the third degree, misdemeanor or petty misdemeanor is **found by the court to be** a chronic alcoholic, narcotic addict or person suffering from mental abnormality, the court may:

...

AD HOC COMMENT: Subsection (a) amendment for clarification.



**Article 7
Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders**

~~§ 80.101. Definitions.~~

~~§ 80.102. Hormone or Anti-Androgen Pilot Treatment Program—Establishment, Eligibility.~~

~~§ 80.103. Rules.~~

~~§ 80.104. Costs.~~

~~§ 80.105. Use of Hormone or Anti-Androgen Treatment Program with Persons not Included in
Pilot Program; Referrals to the Program.~~

~~§ 80.106. Sunset Provision.~~

AD HOC COMMENT: Parole Services recommends repeal of this Article in its entirety. This pilot program was created by the Legislature in 2015 with a trial period of 48 months after implementation. This program has never implemented.



Subcommission on Criminal Procedure							
Chapter number, name	Section/Article	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
Chapter 80. Disposition of Offenders							
Article 1. General Provisions.	80.00	No Change					
	80.10		Amend				
	80.12		Amend				
	80.14		Amend				
	80.16	No change					
	80.18		Amend				
	80.20		Amend				
	80.22	No change					
Article 7. Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders	80.101				Repeal		
	80.102				Repeal		
	80.103				Repeal		
	80.104				Repeal		
	80.105				Repeal		
	80.106				Repeal		



**9 GCA Chapter 80
Article 2 – Imprisonment**

Discussion of 9 GCA § 80.38

By
Gordon Anderson



***People v. Muritok* and the Extended
Term Sentencing Statutes**

**Ad Hoc Subcommittee
July 31, 2025**



Overview

- Title 9 GCA § 80.38 was held unconstitutional by the Guam Supreme Court in *People v. Muritok*, 2003 Guam 21.
- Title 9 GCA §§ 80.40 and 80.42 appear to have the same defect: the court, rather than the jury, finds certain facts that increase the sentence.
- **Question:** Can these statutes be made constitutional?



9 GCA § 80.38

§ 80.38. Extended Terms for Felonies: When Allowed: Repeat Offenders.

“The court may sentence a person who has been convicted of a felony to an extended term of imprisonment **if it finds** one or more of the grounds specified in this Section. . . .”

Extended terms may be imposed if *the court* makes the finding.



MPC § 7.03

§ 7.03. Criteria for Sentence of Extended Term of Imprisonment; Felonies

“The Court may sentence a person who has been convicted of a felony to an extended term of imprisonment **if it finds** one or more of the grounds specified in this Section.

The Model Penal Code uses the same language.



Similar Sections

§ 80.40. Extended Terms for Felonies: When Allowed: Repeat or Multiple Offenders.

“The court may sentence a person who has been convicted of a misdemeanor to an extended term of imprisonment **if it finds** one or more of the grounds specified in this Section. . . .”

§ 80.42. Extended Terms by Petition of Department of Corrections.

“On petition of the Director of Corrections . . . the court may extend his sentence . . . **if it finds** that such extension is necessary for protection of the public.”



Apprendi v. N.J. (U.S. Supreme Court, 2000)

“Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt. . . . [I]t is unconstitutional for a legislature to remove from the jury the assessment of facts that increase the prescribed range of penalties to which a criminal defendant is exposed. It is equally clear that such facts must be established by proof beyond a reasonable doubt.”

530 U.S. 466, 490 (2000) (emphasis added)



People v. Muritok (Guam Supreme Court, 2003)

“Applying the *Apprendi* doctrine to section 80.38, an examination of the statutory language reveals that the court is authorized to sentence a defendant to an extended term, after the court itself makes various findings specified in the statute. . . . Title 9 GCA § 80.38 is unconstitutional and a violation of the rule expressed in *Apprendi* because it impliedly removes from the jury and prescribes to the court the duty to assess [the] facts that increase the prescribed range of penalties to which a criminal defendant is exposed.”

2003 Guam 21 ¶¶ 46-47 (emphases added).



Idea 1: The Court → “The Jury”

Could we just replace “the court” with “the jury”?

“The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if ~~it~~ **the jury** finds one or more of the grounds specified in this Section.”

Potential downsides:

1. No similar statute in other jurisdictions.
2. Would this foreclose a *Blakely* waiver?



Idea 2: “if it finds” → “if it is proven”

Hawaii model:

“The court may sentence a person who has been convicted of a felony to an extended term of imprisonment if ~~it finds~~ **it is proven beyond a reasonable doubt . . .**”

Compare Haw. Rev. Stat. § 706-662:

A defendant who has been convicted of a felony may be subject to an extended term of imprisonment under section 706-661 **if it is proven beyond a reasonable doubt** that an extended term of imprisonment is necessary for the protection of the public and that the convicted defendant satisfies one or more of the following criteria . . .



Idea 3: Full Overhaul

Example: Oregon (O.R.S. § 136.770)

(1) When an enhancement fact relates to an offense charged in the accusatory instrument, the court shall submit the enhancement fact to the jury during the trial phase of the criminal proceeding unless the defendant:

- (a) Defers trial of the enhancement fact under subsection (4) of this section; or
- (b) Makes a written waiver of the right to a jury trial on the enhancement fact and:
 - (A) Admits to the enhancement fact; or
 - (B) Elects to have the enhancement fact tried to the court.

(2) If the defendant makes the election under subsection (1)(b)(B) of this section and is found guilty during the trial phase of the criminal proceeding, the enhancement fact shall be tried during the sentencing phase of the proceeding.

(3) If there is more than one enhancement fact relating to the offense and the defendant does not admit to all of them, the defendant shall elect to try to the jury or to the court all enhancement facts relating to the offense to which the defendant does not admit.

...



Further Research

Jurisdictions retaining “if the court finds . . .” language:

- **Florida:** F.S.A. § 775.084
- **Missouri:** V.A.M.S. § 558.016
- **New Jersey:** N.J. § 2C:44-3

Jurisdictions that have changed their statutes after *Apprendi*

- **Illinois:** 730 ILCS 5/5-8-2, revised after *People v. Swift*, 781 N.E.2d 292 (Ill. 2002)
- **Kansas:** K.S.A. § 21-4716(a), revised after *State v. Gould*, 23 P.3d 801 (Kan. 2001).
- **Minnesota:** M.S.A. § 609.1095, revised after *State v. Henderson*, 706 N.W.2d 758 (Minn. 2005)
- **Oregon:** O.R.S. § 136.770, revised after *State v. Sawatzky*, 96 P.3d 1288 (Or. Ct. App. 2004).



Notice of Next Meeting

Thursday, September 25, 2025, Noon

(Tentative)



Agenda

- I. **CALL TO ORDER**
- II. **PROOF OF DUE NOTICE OF MEETING**
- III. **DETERMINATION OF QUORUM**
- IV. **DISPOSAL OF MINUTES MAY 29, 2025**
- V. **OLD BUSINESS**
 - A. Subcommission Status Update and Report of the Executive Director
- VI. **NEW BUSINESS**
 - A. Subcommission on Drug & Other Criminal Offenses: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - B. Subcommission on Crimes Against Persons: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - C. Subcommission on Criminal Procedure: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval
 - D. Ad Hoc Subcommission on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

Notice of Next Meeting: **Thursday, SEPTEMBER 25, 2025, Noon** (Tentative)

- VII. **COMMUNICATIONS**
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**