



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 WEDNESDAY, OCTOBER 8, 2025, 12:00 PM
MEETING PACKET**

**CLRC PLENARY MEETING OCTOBER 08, 2025
AGENDA**

I. CALL TO ORDER

II. PROOF OF DUE NOTICE OF MEETING

III. DETERMINATION OF QUORUM

IV. DISPOSAL OF MINUTES JULY 31, 2025

V. OLD BUSINESS

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

VI. NEW BUSINESS

- A. Subcommittee on Criminal Procedure: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- B. Ad Hoc Subcommittee on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- C. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- D. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- E. Subcommittee on Drug & Other Criminal Offenses: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- F. Notice of Next Meeting: **TO BE DETERMINED.**

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

IX. ADJOURNMENT

DEDEDO MUNICIPAL PLANNING COUNCIL

FIRST NOTICE * PUBLIC HEARING

Wednesday, October 8, 2025 at 5:00pm

Dededo Senior Citizen Center • Live on Dededo Mayor's Office Youtube page
AGENDA

- I. Call to Order
- II. GLUC Zone Change Application No. 2025-29, the Applicant, Core Tech Development, LLC, represented by TG Engineers, PC, is requesting for a Zone Change from a split zone of "R2/M1" (Multiple Dwelling/Light Industrial) to a full "M1" (Light Industrial) zone for the proposed installation and operation of a photovoltaic solar and battery system energy storage facility on Lot 10184-6 in the Municipality of Dededo.
- III. Adjournment

For special accommodations email office@dededoguam.com
This AD is paid for by Applicant

DEDEDO MUNICIPAL PLANNING COUNCIL REGULAR MONTHLY MEETING

Wednesday, October 8, 2025 at 6:00pm

Dededo Senior Citizen Center • Live on Dededo Mayor's Office Youtube page
AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PUBLIC FORUM (3 Mins Per Person)
- IV. REVIEW & APPROVAL OF MINUTES OF SEPTEMBER 10, 2025
- V. REVIEW & APPROVAL OF FINANCIAL REPORT OF SEPTEMBER 2025
- VI. COMMITTEE REPORT A) 734TH AMS B) USMC C) Sports D) Youth Congress E) Vice Mayor
- VII. OLD BUSINESS
 - A) Summary Zone Change Application No. SZC 2025-31 for Lot 10111-11-4-R1, Zone Change from "A" (Agricultural) to "R-2" (Multi-Family Dwelling) Zone in order to construct a 6-unit apartment. Applicant: Top Builders, LLC. Representative: Ronald A. Ayuyu
- VIII. NEW BUSINESS
 - A) Summary Zone Change Application No. 2025-52 for Lot 13, Block 27 (Dededo Extension) Zone Change from "R-1" (Single Family Dwelling) to "R2" (Multi-Family Dwelling) Zone in order to allow (2) existing single-family dwellings on the subject lot for family and rentals. Applicant: Lourdes Paran Pedro and Mariah Anngeleene Corporal Paran. Representative: Frank C. Roberto.
 - B) GLUC Zone Change Application No. 2025-29, the Applicant, Core Tech Development, LLC, represented by TG Engineers, PC, is requesting for a Zone Change from a split zone of "R2/M1" (Multiple Dwelling/Light Industrial) to a full "M1" (Light Industrial) zone for the proposed installation and operation of a photovoltaic solar and battery system energy storage facility on Lot 10184-6 in the Municipality of Dededo.
 - C) Summary Zone Change Application No. 2025-63 for Lot 5-1-R2, Tract 538 (Machanao), Municipality of Dededo. Zone change from "R-1" (Single Family Dwelling) to "R2" (Multi-Family Dwelling) Zone in order to put into zoning compliance an existing residential Duplex for family and friends. Applicant: James S. Cruz. Representative: Frank C. Roberto.
 - D) Halloween Trunk or Treat
- IX. MEMBERS INPUT
- X. ANNOUNCEMENTS
- XI. ADJOURNMENTS

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This AD is paid for by Applicants



JUDICIARY OF GUAM

Guam Judicial Center
120 West O'Brien Drive, Hagåtña, Guam 96910-5174
Tel: (671) 475-3300 Fax: (671) 475-3140
www.guamcourts.gov

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
PLENARY MEETING OCTOBER 08, 2025

NOTICE OF MEETING

The Guam Criminal Law and Procedure Review Commission will conduct a plenary meeting on Wednesday, October 08, 2025, at 12:00pm 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/UCfnFCWwlp99fAeh9zi4Q4g>

AGENDA

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING:
- III. DETERMINATION OF QUORUM
- IV. READING AND DISPOSAL OF MINUTES: JULY 31, 2025
- V. OLD BUSINESS
- VI. NEW BUSINESS
 - A. Subcommission Status Update and Report of the Executive Director
 - B. Subcommission on Criminal Procedure: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - C. Subcommission on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - D. Subcommission on Crimes Relating to Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - E. Subcommission on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - F. Subcommission on Drug & Other Criminal Offenses: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - F. Notice of Next Meeting: TO BE DETERMINED.
- VII. COMMUNICATIONS
- VIII. PUBLIC COMMENT
- IX. ADJOURNMENT

Any person(s) needing special accommodations, auxiliary aids, or services, please contact the Executive Director Andrew Quenga at 671-475-3278.
This ad was paid for with Government of Guam funds.
Magistrate Judge Jonathan R. Quan, Chairman

Wanted for On-Call, part-time
Master Electrician, Certified,
2 years' Experience
Please contact USSI-Dianne
671-648-0038 / fredridm@ussicorp.com

FOR RENT

TAM APTS. 3BD/1BTH & 2BD/1BTH
SEC 8 OK \$1500/\$1000
CALL 671-646-0510/11

DEDEDO MUNICIPAL PLANNING COUNCIL

FIRST NOTICE * PUBLIC HEARING

Wednesday, October 8, 2025 at 5:30pm

Dededo Senior Citizen Center • Live on Dededo Mayor's Office Youtube page
AGENDA

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- III. Adjournment

For special accommodations email office@dededoguam.com
This AD is paid for by Applicant

Breaking News! Mortgage Is Money!

Wallace "The World" Roberto
Guam's First Freddie Mac Third Party Originator (TPO) IS BACK!
30 yr & 15 yr Fixed Rate Mortgage Loans
NOW Available for Refinancing or Purchase
671.687.5863
wroberto@1st2ndmortgage.com



GUAM BRANCH MANAGER
NMLS# 115981



1st 2nd Mortgage Co.
NMLS# 2099892



Disclosure: All information is deemed to be true and accurate subject to change w/o notice. Customer to do own due diligence.



ARE YOU IN A FINANCIAL CRUNCH?

I am a DIRECT BUYER of homes and condos. I am willing to take over mortgage payments.

Disclosure: All information is deemed to be true and accurate subject to change w/o notice. Customer to do own due diligence.



Call Wallace "The World" Roberto
Principal Broker

671.687.5863
pfgguam@gmail.com

RAY CRUZ HADDOCK, ESQ.
PACIFIC LAW PROFESSIONALS, PLLC

277 Chalan Santo Papa
Hagåtña, Guam 96910
Telephone: 671-477-0000
mail@paclawpro.com

Attorneys for Petitioner

IN THE SUPERIOR COURT OF GUAM

IN THE MATTER OF THE ESTATE OF

HENRY ARCEO TORRES,
DECEASED.

PROBATE CASE NO. PRO113-25
NOTICE TO CREDITORS

Notice is given by the undersigned, Henry Thomas Torres, Administrator of the Estate of Henry Arceo Torres, deceased, to the creditors of and all persons having claims against Guam or estate or against said decedent, that within (60) days after the first publication of this notice, they either file their claims in the office of the Clerk of the Superior Court of Guam, or exhibit them with the necessary vouchers to PACIFIC LAW PROFESSIONALS, PLLC 277 Chalan Santo Papa Hagåtña, Guam 96910, the same being the place for the transaction of the business of said Estate.

Dated: 09-23-25

/s/ Henry Thomas Torres
Administrator

MARK WILLIAMS, ESQ.
LAW OFFICES OF MARK E. WILLIAMS, P.C.

166 West Marine Corps Drive
Suite 102 Bank Pacific 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
FEDERICO QUINATA SANTIAGO
and DOLORES GUERRERO SANTIAGO,
Deceased.

PROBATE CASE NO. PRO121-24
NOTICE OF FIRST AND FINAL REPORT OF
EXECUTOR AND PETITION FOR ALLOWANCE OF
ATTORNEY'S FEES AND FOR FINAL DISTRIBUTION

NOTICE IS HEREBY GIVEN that Petitioner TARCISIA M. ESPINA f.k.a. TARCISIA MARIA GUERRERO SANTIAGO, Executor of the estate of FEDERICO QUINATA SANTIAGO and DOLORES GUERRERO SANTIAGO, decedents, has filed the First and Final Account and Report of Executor and Petition for Allowance of Attorney's Fees and for Final Distribution, in said court, and that on **OCT 07, 2025, at 11:00 a.m.**, of said day, at the Superior Court of Guam, Hagåtña, Guam, a hearing has been set for the settlement of said account for Final Distribution of said estate; All persons interested in attending said hearing are notified then and there to appear and show cause, if any they have, why said petition should not be granted.

Reference is hereby made to the said account and petition for further particulars.

Dated this 29th day of August, 2025.

LAW OFFICES OF MARK E. WILLIAMS, P.C.
By: /s/ Mark Williams
MARK WILLIAMS, Esq.



**SECOND NOTICE
YIGO MUNICIPAL PLANNING COUNCIL**

Regular Monthly Meeting • Wednesday, October 8, 2025, 6 pm
Yigo Senior Citizens Center Livestreaming on Yigo Mayor's Office YouTube channel
AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. APPROVAL OF MINUTES - September 24, 2025
- IV. TREASURER'S REPORT
- V. MAYOR'S REPORT
- VI. OLD BUSINESS
 - A. CLTC
 - 1. Lot 7055
- VII. NEW BUSINESS
 - A. Yigo Water Contamination
 - B. Halloween Trunk-a-Treat
- VIII. ANNOUNCEMENTS
- IX. ADJOURNMENT

In compliance with the American with Disabilities Act, individuals requiring special accommodations may contact the Yigo Mayor's Office at 671-653-9446/5248 or email yigomunicipaloffice@gmail.com.
This ad paid for by Yigo Mayor's Office funds.



CIVIL SERVICE COMMISSION

RUMSION / SEBISION 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 THURSDAY, OCTOBER 09, 2025.
A live broadcast of this meeting is available to the public on the CSC website at csc.guam.gov or on GuamTV. 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/87381015807?pwd=H0MEk1Ihpwr0b4wafP5zIK7zn1IMM.1>
(Meeting ID: 873 8101 5807 / Passcode: 915906)

AGENDA

- I. CALL TO ORDER.
 - II. APPROVAL OF MINUTES: September 25, 2025 and September 30, 2025.
 - III. NEW BUSINESS:
 - (1) POST AUDIT STAFF INVESTIGATION HEARING. Michael D. Ordonez vs. Department of Revenue & Taxation (DRT): CSC Case No.: 25-PA05.
 - IV. OLD BUSINESS:
 - (1) SIGNING: ORDER AFTER HEARING. Jesse James McCarrel vs. Customs and Quarantine Agency (COA): CSC Case No.: 25-AA055.
 - (2) POST AUDIT INVESTIGATION HEARING (Continuation).
 - VI. ADJOURNMENT.
- For special accommodations, please contact Maria P. Masnyon, CSC ADA Coordinator at (671) 647-1872 / (671) 647-1855.
/s/ Daniel D. Leon Guerrero, Executive Director
Paid by the Civil Service Commission

- Vivian C. Leon & Glenn B. Nelson vs. Port Authority of Guam (PAG); CSC Case No.: 25-PA02.
- (3) POST AUDIT INVESTIGATION HEARING. Vivian C. Leon & Glenn B. Nelson vs. Port Authority of Guam (PAG); CSC Case No.: 25-PA04.
- V. GENERAL BUSINESS:
 - 1) Bills and Laws affecting CSC.
 - 2) Administrative Counsel Litigation Update.
 - 3) Administrative Matters:
 - a) Board Training: Civil Service Commission Board Members.

LAW OFFICES OF WILLIAM L. GAVRAS
William L. Gavras, Esq.
101 SALISBURY ST. DEDEDO, GUAM 96929
Telephone: (671) 632-4357 EMAIL: williamgavras@yahoo.com
Attorney for Plaintiff

LAW OFFICES OF WILLIAM L. GAVRAS
William L. Gavras, Esq.
101 SALISBURY ST. DEDEDO, GUAM 96929
Telephone: (671) 632-4357 EMAIL: williamgavras@yahoo.com
Attorney for Plaintiff

IN THE SUPERIOR COURT OF GUAM
JONATHAN HURCHHANIK,
Plaintiff(s),
vs.
DOLORES S. CABRERA, ET. AL.,
Defendant(s).
SUPERIOR COURT CASE NO. CV0454-25
SUMMONS

IN THE SUPERIOR COURT OF GUAM
JONATHAN HURCHHANIK,
Plaintiff(s),
vs.
DOLORES S. CABRERA, ET. AL.,
Defendant(s).
SUPERIOR COURT CASE NO. CV0454-25
SUMMONS

WARNING: This is an official document from the court that affects your rights. Read this carefully. If you do not understand it, contact a lawyer for help.

WARNING: This is an official document from the court that affects your rights. Read this carefully. If you do not understand it, contact a lawyer for help.

To: Defendant Dolores S. Cabrera

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".

2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send the "Answer" or "Response" to the:

- Office of the Clerk of the Superior Court of Guam 120 West O'Brien Drive, Hagatna, Guam 96910-5174
- OR by electronic filing by sending to: efilecivil@guamcourts.org (or as modified by the Clerk of Court)

3. Deliver or mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.

4. If this "Summons" and the other court papers were served on you by a registered process server or a Marshal within Guam or other Jurisdictions of the United States, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served, except when different time is prescribed by the order of the court. Service by registered process server or a Marshal is complete when made.

5. You can get a copy of the court papers filed in this case from the Plaintiff/Petitioner at the address listed at the top of the preceding page, from the Clerk of the Superior Court's Record Section.

6. Requests for reasonable accommodation for persons with disabilities must be made to the Judiciary's ADA Coordinator at least ten (10) calendar days in advance of a scheduled proceeding.

ADA Coordinator
Phone: (671) 475-3375
E-mail: ada@guamcourts.gov
(or as modified by the Clerk of Court)

7. Requests for an interpreter for persons with limited English proficiency must be made to the Language Access Manager by the party needing the interpreter and/or translator or his/her counsel at least ten (10) calendar days in advance of a scheduled court proceeding.

Language Access Manager
Phone: (671) 475-3299
E-mail: dwelle@guamcourts.gov
(or as modified by the Clerk of Court)

To: Defendant Carmenlyn S. Taimanglo

1. A lawsuit has been filed against you. A copy of the lawsuit and other court papers are served on you with this "Summons".

2. If you do not want a judgment or order taken against you without your input, you must file an "Answer" or a "Response" in writing with the court, and pay the filing fee. If you do not file an "Answer" or "Response" the other party may be given the relief requested in his/her Petition or Complaint. To file your "Answer" or "Response" take, or send the "Answer" or "Response" to the:

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Language Access Manager
Phone: (671) 475-3299
E-mail: dwelle@guamcourts.gov
(or as modified by the Clerk of Court)

DATED: JUN 27 2025

JANICE M. CAMACHO-PEREZ
Clerk of Court
By: /s/ Nikole L.B. McDonald
Deputy Clerk

DATED: JUN 27 2025

JANICE M. CAMACHO-PEREZ
Clerk of Court
By: /s/ Nikole L.B. McDonald
Deputy Clerk

McDONALD LAW OFFICE, LLC
173 Aspinall Avenue, Suite 207A
Hagåtña, Guam 96910
Telephone: (671) 588-8866
Facsimile: (671) 472-9616
Email: guam@mcdonaldlaw.com
Attorney for Petitioner
Charles H. McDonald II

IN THE SUPERIOR COURT OF GUAM
IN THE MATTER OF THE ESTATE OF
AURELIA MAEKAWA CRUZ,
Deceased,
by
CHARLES H. McDONALD II,
Petitioner.
PROBATE CASE NO. PRO148-24
NOTICE TO CREDITORS

McDONALD LAW OFFICE, LLC
173 Aspinall Avenue, Suite 207A
Hagåtña, Guam 96910
Telephone: (671) 588-8866
Facsimile: (671) 472-9616
Email: guam@mcdonaldlaw.com
Attorneys for Petitioner
Roderick R. Meno

IN THE SUPERIOR COURT OF GUAM
IN THE MATTER OF THE ESTATE OF
FRANCISCO CHARGUALAF MENO,
Deceased,
BY
RODERICK R. MENO,
Petitioner.
Probate Case No. PRO140-25
NOTICE OF HEARING ON PETITION FOR LETTERS OF ADMINISTRATION AND PROBATE

NOTICE IS HEREBY GIVEN by the undersigned, Le Roi T. Enriquez, Esq., on behalf of Administrator, CHARLES H. McDONALD II of the ESTATE OF AURELIA MAEKAWA CRUZ, deceased, to the creditors of, and all persons having claims against said Estate or against said deceased, that within sixty (60) days after the first publication of this notice, they either file them with the necessary vouchers in the office of the Clerk of the Superior Court of Guam, Hagåtña, Guam or exhibit them with the necessary vouchers to said administrator, or his attorneys McDonald Law Office, LLC, 173 Aspinall Avenue, Suite 207A Hagåtña, Guam 96910, the same being the place for such transaction.

Dated this 25th day of September, 2025.

McDONALD LAW OFFICE, LLC
Attorney of Administrator
By: /s/ LE ROI T. ENRIQUEZ

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

1. NOTICE IS HEREBY GIVEN that RODERICK R. MENO has filed a Petition for Letters of Administration and for Probate of Estate.

2. A hearing on this Petition is set for **OCTOBER 15, 2025 at 9:00 a.m.** of the said date, in the courtroom at the Superior Court of Guam, Hagåtña, Guam.

Dated: SEP 09, 2025.

JANICE M. CAMACHO-PEREZ
Clerk of Court, Superior Court of Guam
By: /s/ Pauline I. Untalan
Chamber/ Courtroom Clerk

You may appear in person at the Courtroom of Judge Dana A. Gutierrez, 120W O'Brien Drive, Hagåtña, GU or you may participate 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 the designated hearing time.

JUDICIARY OF GUAM
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**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
PLENARY MEETING OCTOBER 08, 2025**

NOTICE OF MEETING

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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, JULY 31, 2025 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chair Jonathan Quan at 12:07 PM.

II. PROOF OF DUE NOTICE OF MEETING

The Chair confirmed due notice of the meeting and established quorum. The meeting was held in person and via Zoom and livestreamed on the Judiciary of Guam's YouTube channel.

III. DETERMINATION OF QUORUM

Roll call was conducted by Administrative Assistant Lisa Ibanez. Nine members were confirmed present, establishing a quorum.

Hon. Jonathan R. Quan, Present, Judiciary of Guam
Hon. Maria T. Cenzone, (No response during roll call)
Hon. Anita A. Sukola, (No response during roll call)
Atty. William Bucky Brennan, Present on Zoom, Hagåtña
DOC Director Designee Maj. Antone Aguon, (later logged on via Zoom)
Chief of Police Designee Sgt. Michael Elliott, Present on Zoom, Tiyan
Atty Joseph B McDonald, Present on Zoom, Sinajaña
Atty. F. Randall Cunliffe, Present on Zoom, Hagåtña
Mr. Monty McDowell, Present, Judiciary of Guam
Public Defender Designee Dep. Dir. John Morrison, Present on Zoom, Sinajaña
Attorney General Designee AAG Emily Rees, Present on Zoom, Tamuning
Atty. Mike Phillips, (No response during roll call)
Ms. Valerie Reyes, (No response during roll call)
Atty. Christine Tenorio, (No response during roll call)
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: May 29, 2025

The minutes of the May 29, 2025, plenary meeting were approved without objection.

V. OLD BUSINESS

Subcommission Status Update and Report of the Executive Director.

Director Quenga provided an informational report.

- The CLRC's Interim Report to *I Liheslaturan Guðhan*, approved at the plenary meeting of May 29, 2025, was transmitted to the Legislature, Governor, Chief Justice, and other stakeholders on June 13, 2025.
- The Commission's second quarterly report was issued on July 11, 2025, and posted online on the CLRC website.
- Research Attorney Andrew Strege was introduced and welcomed.

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.

Tabled by Chairman.

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

Tabled by Chairman.

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

Executive Director Quenga presented on behalf of Subcommission Chair Judge Sukola. His PowerPoint presentation is included as Attachment 1.

- 9 GCA Chapter 7. Exemptions and Defenses.
 - § 7.10. Exemption from Criminal Liability Due to Juvenile Status. Amend as shown in Attachment 1, Slide 3.
 - Discussion: Non-substantive amendments for consistency with the Family Court Act (19 GCA § 5102).
 - § 7.16. Defense Mental Disease or Defect. No change as shown in Attachment 1, Slide 4.
 - § 7.19. Same: Admissibility of Evidence Showing. Amend as shown in Attachment 1, Slide 4.
 - Discussion: Non-substantive amendment to title.
 - § 7.22. Same: Procedure for Assertion of. Amend as shown in Attachment 1, Slide 5.
 - Discussion: Non-substantive amendment to title. Amend as shown in Attachment 1, Slide 6.
 - § 7.25. Psychiatric or Psychological Examination and Procedure.

- Discussion: Tabled.
- § 7.28. Acquittal: Order for Civil Commitment. No change.
- § 7.31. Acquittal: Verdict Must State Reason as Mental Disease Defect. Amend as shown in Attachment 1, Slide 6.
 - Discussion: Discussion: Non-substantive amendment to title.
- § 7.34. Acquittal: Court Order of Commitment or Release; Petition for Discharge.
 - Discussion: Tabled.
- § 7.37. Mental Disease: a Bar to Proceeding or Sentence. Amend as shown in Attachment 1, Slide 7.
 - Discussion: Recommendation to correct typographical error.
- § 7.40. Same: Hearing to Determine. Amend as shown in Attachment 1, Slide 8.
 - Discussion: Non-substantive amendment to title.
- § 7.43. Same: Hearing Procedure for Commitment and Release. Amend as shown in Attachment 1, Slide 9.
 - Discussion: Non-substantive amendment to title. Recommendation to Subsection (a) amendments for consistency with amendments to § 7.25. and subsection (e) amendments for clarification.
- § 7.46. Same: Mental Disease: Commitment as Exonerating Bail. Amend as shown in Attachment 1, Slide 10.
 - Discussion: 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. Amend as shown in Attachment 1, Slide 10.
 - Discussion: Non-substantive amendment to title. Other amendments for clarification.
- § 7.52. Transfer of Committed Person Off-Island: Hearing and Notice to Attorney General Required. No change.
- § 7.55. Specific Defenses Defined and Allowed. Amend as shown in Attachment 1, Slide 12.
 - Discussion: Recommendation to Amend title for clarification and consistency with source MPC § 2.04. Subsection (b)(2)(A) typo correction.
- § 7.58. Intoxication. No change.
- § 7.61. Duress or Necessity. Amend as shown in Attachment 1, Slide 14.
 - Discussion: Recommendation to subsection (b) amend for consistency with “serious bodily injury” in § 7.76.
- § 7.64. Other Defenses. Amend as shown in Attachment 1, Slide 15.
 - Discussion: Recommendation to amend title for clarification and consistency with source MPC § 2.11.

- § 7.67. Appropriateness of Prosecution. Amend as shown in Attachment 1, Slide 16.
 - Discussion: Recommendation to amend title for clarification and consistency with source MPC § 2.12.
- § 7.70. Entrapment as Affirmative Defense. Amend as shown in Attachment 1, Slide 17.
 - Discussion: Recommendation to amend 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 Minimus Infractions; Entrapment; and Renunciation. Amend as shown in Attachment 1, Slide 18.
 - Discussion: Non-substantive amendment to section title. Section only addresses renunciation. For consistency with source MPC § 5.01(g)(4).

Chairman Quan called for a motion to accept the Subcommittee Crim Pro's submission proposal concerning Chapter 7. Approved without objection.

Sections §§ 7.25 and 7.34 were tabled.

C. Ad Hoc Subcommittee on Corrections-related Chapters: Continued Discussion of Chapters Previously Presented and Presentation of Additional Recommendations for Discussion and Approval.

Executive Director Quenga presented on behalf of the Ad Hoc Subcommittee. His PowerPoint presentation is included as Attachment 2.

- 9 GCA Chapter 80 (Disposition of Offenders) Article 1 (General Provisions)
 - § 80.00. Terms of Imprisonment are Fixed Terms. No change.
 - § 80.10. Types of Sentences Allowed. Amend as shown in Attachment 2, Slide 4.
 - Discussion: Amendments clarify that "civil" commitment may be ordered, separate (a)(6) into different subsections for added clarity, and correct a grammatical error.
 - § 80.12. Presentence Report: Psychiatric Exam: Temporary Imprisonment for Classification. Amend as shown in Attachment 2, Slides 5-7.
 - Discussion: Amendment in subsection (a) clarifies Probation's official name, adds "presentence to subsections (b) and (c) for consistency, adds "psychiatric observation" in subsection (d) for consistency, and correct punctuation and grammatical errors. Possible relocation to Title 8 as this is primarily procedural.
 - § 80.14. Presentence Report: Use Regulated. Amend as shown in Attachment 2, Slide 8.
 - Discussion: Substantive amendment to increase disclosure of the presentence report from 2 to 5 days. For comparison, the subcommittee reviewed similar requirements in other jurisdictions (Attachment 2, Slide 9). Chairman Quan noted the report is normally provided more than 5 days before sentencing, and it is often waived, so it is not a significant issue. Other amendments are for consistency

and clarification. Possible relocation to Title 8 as this is primarily procedural.

- § 80.16. Sentence of Corporation. No change.
- § 80.18. Chapter Not Applicable to Youth Offenders. Amend as shown in Attachment 2, Slide 10.
 - Discussion: Amendment for clarification.
- § 80.20. Civil Commitments in Lieu of Prosecution in Certain Cases. Amend as shown in Attachment 2, Slide 10.
 - Discussion: Amendment in subsection (a) for clarification.
- § 80.22. Reduction by Court of Degree of Offense. No change.
- 9 GCA Chapter 80. Article 7 (Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders). Repeal Article 7 in its entirety as shown in Attachment 2, Slide 11.
 - Discussion: Recommendation by the Parole Services Division of the Department of Corrections to repeal this Article 7 in its entirety. This pilot program was created by the Legislature in 2015 with a trial period of 48 months after implementation. No rules were ever promulgated for this program and it was never implemented.

Chairman Quan called for a motion to approve Ad Hoc Subcommissions recommendations for Chapter 80, Article 1 and Article 7. Approved without objection.

- Discussion of 9 GCA § 80.38 (informational).

Research Attorney Gordon Anderson presented research on the unconstitutionality of § 80.38. His PowerPoint presentation is included in Attachment 3, Slides 1-12.

Extended-term sentencing statute § 80.38 (and by implication §§ 80.40 and 80.42) was ruled unconstitutional by the Guam Supreme Court in *People v. Muritok* (2003 Guam 21) for violating the U.S. Supreme Court's *Apprendi* rule that only juries—not judges—may make factual findings that increase a sentence beyond the statutory maximum. Ad Hoc is considering whether the statute can be fixed. He outlined possible legislative fixes: (1) substituting “jury” for “court” in the statutes; (2) adopting the Hawaii extended-term law requiring facts to be proven by a jury; or (3) restructuring along Oregon’s model, with bifurcated trials and explicit waiver options. He also noted comparative approaches in other jurisdictions and emphasized further research before recommendations are finalized. Input from other subcommissions was invited in discussions to continue on this issue.

E. Notice of next meeting: Thursday, September 25, 2025, Noon (Tentative)

VII. Communications

None.

VIII. Public Comment

Associate Justice F. Philip Carbullido thanked the Chairman, Executive Director and all Commission members for their efforts and expressed confidence that the project will bring significant benefits to Guam's legal community, the courts, and the broader island community.

IX. Adjournment

Chairman Quan adjourned the meeting without objection.

Respectfully submitted this 8th day of October, 2025.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the July 31, 2025 plenary meeting were approved by the CLRC at the October 8, 2025 plenary meeting.

Magistrate Judge Jonathan R. Quan, Chairman

Date: _____

ATTACHMENT 1

SUBCOMMISSION ON CRIMINAL
PROCEDURE

PRESENTATION

JULY 31, 2025



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)

Slide 1



Presented Today

9 Guam Code Annotated

Chapter 7 – Exemptions and Defenses

Slide 2



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).

Slide 3



ARTICLE 2 MENTAL RESPONSIBILITY

§ 7.16. Defense: Mental Disease or Defect.

A person is not criminally responsible for conduct if at the time of such conduct, as a result of mental illness, disease or defect, he lacked substantial capacity to know or understand what he was doing, or to know or understand that his conduct was wrongful, or to control his actions.

CRIM PRO COMMENT: No change.

§ 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.

Slide 4



§ 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.

Slide 5



§ 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]

Slide 6



§ 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 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.

Slide 7



§ 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.

Slide 8



§ 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 8 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.

Slide 9



§ 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 (c) 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.

Slide 10



§ 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.

Slide 11



**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 negates 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.

Slide 12



§ 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.

Slide 13



§ 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.

Slide 14



§ 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.

Slide 15



§ 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.

Slide 16



§ 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.

Slide 17



§ 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(4).

Slide 18

ATTACHMENT 2

AD HOC SUBCOMMISSION ON
CORRECTIONS-RELATED CHAPTERS

PRESENTATION

JULY 31, 2025



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.

Slide 1



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)

Slide 2



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.

Slide 3



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 civily 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; ~~or~~
- (7) to make restitution and imprisonment; ~~or~~
- (8) to pay a fine and imprisonment.

(b) Where the judgment of conviction included ~~ed~~ 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 ~~for~~ 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) "civily" 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 *Muriok* and may have to be stricken (pending more research). Subsection (d) deletion of unnecessary brackets.

Slide 4



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

- (a) The ~~p~~Probation ~~s~~Services ~~D~~ivision 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]~~ ~~(+)~~ The presentence report shall not be a public record. ~~(-)~~ It may be made available only:
 - ~~(A)~~ to the sentencing court;
 - ~~(B)~~ to any reviewing court where relevant to an issue on which an appeal has been taken;
 - ~~(C)~~ to any examining facility, correctional institution, probation or parole department or board for use in the treatment or supervision of the offender, ~~and~~
 - ~~(D)~~ 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.

...
- (c) ~~[No text]~~ ~~(+)~~ 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.

~~(-)~~ 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 (c): 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(c)(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.

Slide 9



§ 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.

Slide 10



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.

Slide 11

ATTACHMENT 3

DISCUSSION OF 9 GCA § 80.38

PRESENTATION

JULY 31, 2025



9 GCA Chapter 80 Article 2 – Imprisonment

Discussion of 9 GCA § 80.38

By
Gordon Anderson

Slide 1



People v. Muritok and the Extended Term Sentencing Statutes

Ad Hoc Subcommittee
July 31, 2025

Slide 2



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?

Slide 3



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.

Slide 4



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.

Slide 5



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.”

Slide 6



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)

Slide 7



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).

Slide 8



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?

Slide 9



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 . . .

Slide 10



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. Slide 11

...



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).

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CLRC PLENARY MEETING

OCTOBER 8, 2025

POWERPOINT PRESENTATION



GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

PLENARY MEETING
OCTOBER 8, 2025
12:00 NOON



AGENDA

- I. **CALL TO ORDER**
- II. **PROOF OF DUE NOTICE OF MEETING**
- III. **DETERMINATION OF QUORUM**
- IV. **DISPOSAL OF MINUTES JULY 31, 2025**
- V. **OLD BUSINESS**
 - A. Status Update and Report of the Executive Director
- VI. **NEW BUSINESS**
 - A. Subcommittee on Criminal Procedure: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - B. Ad Hoc Subcommittee on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - C. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - D. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - E. Subcommittee on Drug & Other Criminal Offenses: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - F. Notice of Next Meeting: TO BE DETERMINED.
- VII. **COMMUNICATIONS**
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**



STATUS UPDATE AND REPORT OF EXECUTIVE DIRECTOR



Report of the Ad Hoc Subcommittee on Corrections-Related Chapters

October 8, 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 2 - Imprisonment.

§§ 80.30, 80.34, 80.38



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. The finding of the court shall be incorporated in the record: ...

Unconstitutional under *People v. Muritok*, 2003 Guam 21:

"we hold that Title 9 GCA § 80.38 is unconstitutional and a violation of the rule expressed in Appendi 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."



Questions Considered

- Should § 80.38 be repealed consistent with *Muritok*?
- Should it be amended to cure the infirmity?

Example based on Hawaii Revised Statutes § 706-662:

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



Reasons for Repeal

- Since 2003, *Muritok* has controlled. Nothing has happened in 22 years.
- Adopted from the Model Penal Code § 7.03 which was essentially repealed by the ALI in 2017, when comprehensive changes were made to model sentencing and correctional provisions.
- Ad Hoc and Property members are inclined to repeal.



Other Statutes Affected by *Muritok*

§ 80.40. Extended Terms for Misdemeanor: 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. The findings of the court shall be incorporated in the record:

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

On petition of the Director of Corrections to the court in which the person was originally sentenced to imprisonment the court may extend his sentence to the terms prescribed by §§ 80.32 and 80.36 if it finds that such extension is necessary for protection of the public. In the case of a person originally sentenced to imprisonment for a petty misdemeanor, the court may extend his sentence to a term not to exceed two (2) years. Such a finding, which must be incorporated in the record, shall be based on the grounds that:



Other Statutes Affected

§ 80.32. Extended Terms Allowed.

In the cases designated in §§ 80.38 and 80.42, a person who has been convicted of a felony may be sentenced to an extended term of imprisonment as follows: ...

§ 80.36. Same.

In the cases designated in §§ 80.40 and 80.42, a person who has been convicted of a misdemeanor may be sentenced to an extended maximum term of imprisonment not to exceed three (3) years.

§ 80.44. Previous Convictions Defined.

(a) For purposes of Subsection (a) of § 80.38 or § 80.40, a conviction of the commission of a crime in another jurisdiction shall constitute a previous conviction. Such conviction shall be deemed to have been a felony if sentence of death or of imprisonment in excess of one (1) year was authorized under the law of such other jurisdiction, of a misdemeanor if sentence of imprisonment in excess of sixty (60) days but not in excess of a year was authorized and of a petty misdemeanor if sentence of imprisonment for not more than sixty (60) days was authorized.

(b) An adjudication by a court of competent jurisdiction that the defendant committed a crime constitutes a conviction for purposes of §§ 80.38, 80.40 or 80.44, although sentence or the execution thereof was suspended, provided that the time to appeal has expired and that the defendant was not pardoned on the ground of innocence. When the defendant has asked that other crimes admitted in open court be taken into account when he is sentenced and the court has not rejected such request, the sentence shall bar the prosecution or conviction of the defendant in Guam for any such admitted crime.



Recommendation is to Repeal

The Guam Supreme Court ruled on § 80.38 in 2003 and the statute has not been amended since. Although the “fix” might seem simple, we are not compelled to feel that it is necessary. We invite discussion and debate on this from all members of the CLRC.

Repeal of § 80.38 encompasses:

- §§ 80.40 and 80.42, which are implicitly unconstitutional under *Muritok*, and
- §§ 80.32, 80.36 and 80.44, which expressly reference §§ 80.38, 80.40 and/or 80.42.
- We will sweep through the GCA for any affected statutes.



Article 2 Sentencing Defaults

§ 80.30. Duration of Imprisonment.

Except as otherwise provided by law, a person who has been convicted of a **felony** may be sentenced to imprisonment as follows:

- (a) felony of the first degree - **not less than five (5) years and not more than twenty (20) years;**
- (b) felony of the second degree **not less than three (3) years and not more than ten (10) years;** and
- (c) felony of the third degree - **not more than five (5) years.**

Ad Hoc Comment: No change.

§ 80.34. Misdemeanor and Petty Misdemeanor Sentences.

~~Except as otherwise provided by § 80.36, a~~ **A** person who has been convicted of a **misdemeanor or a petty misdemeanor** may be sentenced to imprisonment, as follows:

- (a) in the case of a misdemeanor - **maximum term not to exceed one (1) year;**
- (b) in the case of a petty misdemeanor - **definite term not to exceed sixty (60) days.**

Ad Hoc Comment: Amend for consistency with repeal of § 80.36. No change to imprisonment terms.



Article 1 and 2 Default Departures

§ 80.22. Reduction by Court of Degree of Offense.

If, when a person has been convicted of an offense, the court, having regard to the nature and circumstances of the offense and to the history and character of the offender, is of the view that it would be unduly harsh to sentence the offender in accordance with the code, the court may enter judgment for a lesser included offense and impose sentence accordingly.

§ 80.31. Prison Terms for First Offenders.

- (a) felony first degree, not less than three (3) years and not more than fifteen (15) years;
- (b) felony second degree, not less than one (1) year and not more than eight (8) years; and
- (c) felony of the third degree, not more than three (3) years

§§ 80.39-80.39.3. Justice Safety Valve Act.

Notwithstanding any other provision of law, the court may depart from the applicable mandatory minimum sentence if the court finds substantial and compelling reasons on the record that, in giving due regard to the nature of the crime, the history and character of the defendant, and his or her chances of successful rehabilitation, that:

- (a) imposition of the mandatory minimum sentence would result in substantial injustice to the defendant; and
- (b) the mandatory minimum sentence is not necessary for the protection of the public.



Mandatory Minimums Outside Default Examples

Offense	Statute	Mandatory Minimum Term
1st Degree CSC (1st Offense)	9 GCA § 25.15(b)	10 or 15 years (depending on age of victim)
Family Violence (3rd Offense)	9 GCA § 30.20(h)	1 year
Criminal Mischief	9 GCA § 34.60(c)	48 hours
Home Invasion	9 GCA § 37.240(a)	10 years
1st Degree Robbery	9 GCA § 40.10(b)	10 years
Manufacturing a Schedule II Substance	9 GCA § 67.401.4	20 years
Importation of Narcotics	9 GCA § 67.401.9(b)	20 years (1 st Offense)
DWI (1st Conviction)	9 GCA § 92104(a)	48 hours
DWI (4th Conviction)	9 GCA § 92107(a)	1 year



Specific Range Offenses Outside Default Examples Above Default

Offense	Statute	Extended Range
1st Degree Kidnapping	9 GCA § 22.20(b)	10 – 25 years for 1 st Degree Felony
1 st Degree Robbery	9 GCA § 40.10(b)	10 – 25 years for 1 st Degree Felony
Manufacturing a Schedule I-III Substance.	9 GCA § 67.401.4	20 – 30 years (or more) for 1 st Deg Felony
Use of Minor to Sell Drugs	9 GCA § 67.A06	10 – 20 years, or 20 – Life, for 2 nd Deg Felony
Driving While Intoxicated – 4th Offense	9 GCA § 92107	1 - 6 years for 3 rd Deg Felony
Vehicular Homicide While DWI	9 GCA § 92111	8 – 15 years for 2 nd Deg Felony



Specific Range Offenses Outside Default Examples Below Default

Offense	Statute	Lower Range
Graffiti	9 GCA § 34.70(f)	Max 120 days for Misdemeanor
Theft (as a Second Degree Felony) (1 st Offense)	9 GCA § 43.20(a)	Max 5 years for 2 nd Deg Felony
Unlawful Use of Telephone Records (as 3 rd Deg Felony)	9 GCA § 46.92(a)	Max 3 years for 3 rd Deg Felony
Possession of Meth (1 st Offense)	9 GCA § 67.401.12	Max 3 years for 3 rd Deg Felony
Possessing Firearm in School Zone	9 GCA § 71.60	Max of 3 years for 3 rd Deg Felony
Vehicular Homicide (non-DWI)	9 GCA § 92110	Max of 8 years for 2 nd Deg Felony



Directed Sentences

Offense	Statute	Directed Sentence
Aggravated Murder	9 GCA § 16.30(b)	LWOP
Murder	9 GCA § 16.40(b)	Life
Third Degree CSC (2 nd Offense)	9 GCA § 25.25(c)	Exactly 10 years
Assisting Escape by Public Servant	9 GCA § 58.25	Exactly 5 years
Manufacturing a Schedule I-III Substance (2 nd Offense)	9 GCA § 67.401.4	LWOP
Importation of Narcotics (2 nd Offense)	9 GCA § 67.401.9(b)	LWOP
Exportation of Narcotics (2 nd Offense)	9 GCA § 67.401.9(b)	LWOP



Discussion

- CLRC enabling law: “adjust penalties, fines, and the gradation of offenses to provide for proportionate penalties.”
- Amending the default ranges in Chapter 80 might affect the specific prison terms across all other chapters in Title 9.
- The CLRC will do this to the best of our ability given time and resource limitations.
- Sentencing reform.



State and Federal Sentencing Commissions

- National Association of Sentencing Commissions
- Alabama Sentencing Commission
- Alaska Judicial Council
- Arkansas Sentencing Commission
- Connecticut Sentencing Commission
- Delaware Sentencing Accountability Commission
- District of Columbia Sentencing Commission
- Illinois Sentencing Policy Advisory Council
- Kansas Sentencing Commission
- Massachusetts Sentencing Commission
- Minnesota Sentencing Guidelines Commission
- Missouri Sentencing Advisory Commission
- Nevada Sentencing Commission
- New Mexico Sentencing Commission
- North Carolina Sentencing and Policy Advisory Commission
- Ohio Criminal Sentencing Commission
- Oregon Criminal Justice Commission
- Pennsylvania Commission on Sentencing
- Utah Sentencing Commission
- Virginia Criminal Sentencing Commission
- Washington State Sentencing Guidelines Commission
- West Virginia Sentencing Commission
- United States Sentencing Commission



Ad Hoc Recommendations

Ad Hoc Subcommittee on Corrections-Related Chapters							
Chapter number, name	Section/Article	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
9 GCA Chapter 80. Disposition of Offenders.				-	-	-	-
Article 2. Imprisonment.	80.32			Repeal			
	80.36			Repeal			
	80.38			Repeal			
	80.40			Repeal			
	80.42			Repeal			
	80.44			Repeal			
	80.30	No-Change					
	80.34		Amend				



Report of the Subcommittee on Criminal Procedure

October 8, 2025

**Continued Discussion of Chapters and Presentation of Recommendations for
Discussion and Approval**

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



Presented Today

9 Guam Code Annotated

Chapter 7 – Exemptions and Defenses

§§ 7.86, 7.96, Articles 4 and 5 Duty to Retreat



9 GCA § 7.86

§ 7.86. Self-Defense Limited.

...

(b) The use of deadly force is not justifiable under § 7.84 unless the defendant believes that such force is necessary to protect himself against death, serious bodily ~~harm~~ injury, kidnapping or ~~rape or sodomy~~ criminal sexual conduct compelled by force or threat; nor is it justifiable if;

...

Crim Pro Comment: Amendments for consistency with the terms “serious bodily injury” and “criminal sexual conduct” which are specifically defined in Title 9.



9 GCA § 7.96

§ 7.96. When Force Allowed ~~by §§ 7.94 & 7.96~~ is Unavailable.

...

(c) When the defendant is justified under §§ ~~7.84~~ 7.82 to 7.94 in using force upon or toward the person of another but he recklessly or negligently injures or creates a risk or injury to innocent persons, the justification afforded by those Sections is unavailable in a prosecution for such recklessness or negligence towards innocent persons.

Crim Pro Comment: Amendment in title for clarification. Correction to scrivener’s error in subsection (c). Compare 1977 Guam Criminal & Correctional Code § 7.96(c): “When the defendant is justified under Sections 7.82 to 7.94 in using force upon or toward the person of another but he recklessly or negligently injures or creates a risk or injury to innocent persons, the justification afforded by those sections is unavailable in a prosecution for such recklessness or negligence towards innocent persons.” Confirmed with Compiler of Laws.



No Duty to Retreat

Article 4. Justification [Self-Defense].	Article 5. Castle Doctrine Act.
-1977 Criminal and Correctional Code (MPC) -Amended by Castle Doctrine Act (2014)	-Enacted by PL 32-111 (2014) -Amended by PL 37-122 (2024)
Defense (§7.78) (affirmative defense?)	Immunity (§7.113)
No duty to retreat from dwelling unless initial aggressor : §7.86. Self-defense Limited. (b)(A) the defendant is not obliged to retreat from his dwelling, place of work or vehicle* , unless he was the initial aggressor or is assailed in his place of work by another person whose place of work the defendant knows it to be; and * <i>Vehicle</i> added by Castle Doctrine Act. PL 32-111:2 (2014).	No duty to retreat: §7.112. Home Protection, Use of Deadly Force, Presumption of Fear of Death or Harm. (d)(6) “Defensive Force” has the same meaning as self-defense as used in Chapter 7* of Title 9, GCA, except that a lawful occupant of habitable property has no duty or obligation to retreat. *Self-defense is specifically defined in Article 4.



Questions Considered

- Should Castle’s duty to retreat be amended to add an initial aggressor exception to remove any potential conflict with Article 4’s duty to retreat?
- Should no changes be recommended?



Reasons for no Change to Castle:

- The Legislature was clearly aware of the duty to retreat exception in Article 4 when Castle was enacted:
- Castle's duty to retreat provision refers to the definition of self-defense in Article 4.
- When the Legislature enacted Castle in 2014, it amended Article 4's duty to retreat provision to add "vehicle" for consistency with Article 5.
- Just last year, the Legislature expanded Castle's coverage and eliminated the duty retreat from the curtilage of a residence.
- It may be possible for a defendant to assert justification as a defense if their Castle immunity claim fails.
- We have found no Guam caselaw addressing this a potential conflict.
- Castle reflects policy set by the Legislature.



Recommendation is No Change

Although the duty to retreat language between Articles 4 and 5 is awkward and might eventually present conflict issues to the courts, we do not feel compelled to suggest any changes to the Castle law at this time. We invite discussion and debate on this from all members of the CLRC.



Crim Pro Recommendations

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.				-	-	-	-
Article 4. Justification.	7.86(b)		Amend		-	-	-
	7.96(c)		Amend				
Article 5. Castle Law Doctrine.		No-Change					



Report of the Subcommission on Crimes Relating to Property

October 8, 2025

Continued Discussion of Chapters and Presentation of Recommendations for
Discussion and Approval

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



Presented Today

9 Guam Code Annotated

Chapter 58 – Escape and Related Offenses

Chapter 61 – Riot, Disorderly Conduct and Related Offenses



Chapter 58 - Escape and Related Offenses

- § 58.60. Promoting Prison Contraband.

...

(b) ...

Any person, including a person in custody, who violates any provision of this Subsection (b) shall be guilty of a misdemeanor, ~~and upon conviction thereof shall be punished by a sentence of imprisonment for a period of no less than thirty (30) days, or by a fine of no less than Five Hundred Dollars (\$500.00), or by both such minimum sentence of imprisonment and fine.~~

(c) ...

Any person, including a person in custody, who violates any provision of this Subsection (c) shall be guilty of a felony in the second degree, ~~and upon conviction shall be punished by a sentence of imprisonment for a period of no less than three (3) years, or by a fine of no less than Five Thousand Dollars (\$5,000), or by both such minimum sentence of imprisonment and fine.~~

- No other changes to this chapter.



Chapter 61 - Riot, Disorderly Conduct and Related Offenses

§ 61.10. Riot: Failure to Disperse: Defined & Punished.

(a) A person is guilty of riot, a felony of the third degree, if he participates with four (4) or more others in a course of disorderly conduct:

(1) with intent to commit or facilitate the commission of a felony or misdemeanor;

(2) with intent to prevent or coerce official action; or

(3) when he or any other participant to his knowledge uses or plans to use a firearm or other deadly weapon.

(b) **Failure to Disperse:** Where four (4) or more persons are participating in a course of disorderly conduct likely to cause substantial harm or serious inconvenience, annoyance or alarm, a peace officer or other public servant engaged in executing or enforcing the law may order the participants and others in the immediate vicinity to disperse. A person who **knowingly** refuses or **knowingly** fails to obey such an order commits a misdemeanor.

PROPERTY COMMENT: “Failure to disperse” added as a heading for clarity. Moved mental state element of “knowingly” to cover both “refuses” and “fails” in the offense.



9 GCA § 61.20

§ 61.20. Harassment; Defined & Punished.

A person commits a petty misdemeanor if, with intent to harass another, he:

(a) makes, or causes to be made, a communication anonymously or at extremely inconvenient hours, or **uses fighting words likely to provoke an immediate violent response** ~~in offensively coarse language~~, or any other manner likely to cause annoyance or alarm;

(b) subjects another to striking, kicking, shoving or other offensive touching, or threatens to do so; or

(c) engages in any other course of alarming conduct or of repeatedly committed acts which alarm or seriously annoy such other person serving no legitimate purpose of the defendant.

PROPERTY COMMENT: Substituted “offensively coarse language” for “fighting words likely to provoke an immediate violent response” to mitigate potential First Amendment challenges.



9 GCA § 61.20 (cont)

(d) Every person who with intent to annoy, telephones, telefaxes, or communicates by use of any telephone network, data network, text message, instant message, computer, computer network, or computer system with another person and addresses to or about such other person any obscene language is guilty of a misdemeanor.

(e) Every person who makes a telephone call, telefax transmission, or any transmission by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system with intent to annoy and without disclosing his true identity to the person answering the telephone or receiving the telefax transmission or transmission received from any telephone network, data network, text message, instant message, computer, computer network, or computer system, whether or not conversation or return transmission ensues from making the telephone call or the transmission, is guilty of a misdemeanor.

(f) Any offense committed by use of a telephone, telefax machine, or any telephone network, data network, text message, instant message, computer, computer network, or computer system as set out in this Section may be deemed to have been committed at either the place at which the telephone calls, telefax transmissions, or any transmission by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system were made or received. In the event that a customer of a telephone service provider, wireless service provider, or an internet service provider receives harassing telephone calls or transmissions received via or by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system, such customer may file an injunction complaint under the name of John Doe, although the telephone service provider may release the name, address, and telephone number of the plaintiff to the Superior Court of Guam. The telephone service provider, wireless service provider, or an internet service provider shall disconnect all telephone services or computer or wireless services to any subscriber who has violated the provisions of this Section more than one (1) time.

(g) Subsections (d) or (e) of this Section are violated when the person acting with intent to annoy makes a telephone call, telefax transmission, or any transmission by use of a telephone network, data network, text message, instant message, computer, computer network, or computer system requesting a return call or return transmission and performs the acts prohibited under such Subsections upon receiving the return call or transmission.

(d) Communicates with another person, directly or indirectly, by any means — including telephone, written correspondence, electronic message, digital platform, or other medium — without legitimate purpose and with intent to harass, annoy, or alarm, including but not limited to:

(1) initiating contact at extremely inconvenient hours;

(2) uses fighting words likely to provoke an immediate violent response;

(3) concealing or misrepresenting identity to initiate the communication;

(4) causing a communication to be initiated or sent by a third party or automated process; or

(5) engaging in any other course of conduct serving no legitimate purpose and likely to cause annoyance or alarm.

(e) Knowingly permits or authorizes the use of one's computer network, digital account, electronic communications service, or similar resource to engage in conduct described in subsection (3), with the intent to harass, annoy, or alarm another person.

PROPERTY COMMENT: Repetitive technology-specific language rewritten and consolidated into broad, medium-neutral provisions.



9 GCA § 61.30

§ 61.30. Loitering or Prowling; Defined & Punished; Defenses.

(a) A person commits a violation *if* he loiters *or* prowls in a place, at a time, *or* in a manner not usual for law-abiding individuals under circumstances that warrant justifiable and reasonable alarm for the safety of persons *or* property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the person takes flight upon appearance of a peace officer, refuses to identify himself, *or* manifestly endeavors to conceal himself *or* any object.

~~A person commits a violation *if* he loiters *or* prowls in *or* in close proximity to a school bus stop, at a time, *or* in a manner not usual for law-abiding individuals under circumstances that warrant alarm for the safety of persons *or* property in the vicinity.~~

A person commits a violation if he or she loiters or remains in or about a school bus stop, not having any reason of relationship involving custody of or responsibility for a pupil or student, or any other specific, legitimate reason for being there, and not having written permission from anyone authorized to grant the same.

PROPERTY COMMENT: Added “justifiable and reasonable” standard to address vagueness concerns. Rewrote school bus stop provision to model New York Penal Law § 240.35(5) and avoid vagueness concerns.



9 GCA § 61.35

§ 61.35. Obstructing the Public Ways; Defined & Punished.

(a) A person commits a petty misdemeanor if he or she unreasonably obstructs the free passage of foot or vehicular traffic on any public way, and refuses to cease or remove the obstruction upon a lawful order to do so given him by a law enforcement officer.

~~(b) A person commits a petty misdemeanor if he unreasonably obstructs the free passage of foot or vehicular traffic on any public way for the purpose of handbilling as defined by Title 16 GCA Section 3701 or for soliciting as defined by Title 16 GCA Section 3341.~~

~~(b)~~(e) As used in this Section, public way means any public highway or sidewalk, private way laid out under authority of statute, way dedicated to public use, or way upon which the public has a right of access or has access as invitees or licensees.

PROPERTY COMMENT: Remove (b) as redundant with subsection (a) and avoid potential First Amendment content discrimination.



9 GCA § 61.40

§ 61.40. Disrupting Public Gatherings; Defined & Punished.

A person commits a violation if, with intent to prevent or disrupt a lawful meeting, procession or gathering, he does any act tending to obstruct or interfere with it physically, ~~or makes any utterance, gesture or display designed to outrage the sensibilities of the group.~~

PROPERTY COMMENT: Avoid First Amendment challenges by removing subjective speech restrictions and focus on actual disruption.



9 GCA § 61.45

§ 61.45. Desecration Defined & Punished.

(a) A person commits a misdemeanor if he intentionally desecrates any public monument or structure, **insignia, symbol**, or place of worship or burial, ~~or if he intentionally desecrates the national flag or any other object of veneration by the public or a substantial segment thereof in any public place.~~

(b) As used in this Section, desecrate means defacing, damaging, polluting or otherwise physically mistreating in a way that the person knows will outrage the sensibilities of persons likely to observe or discover his action.

PROPERTY COMMENT: Remove flag desecration provision which conflicts with Supreme Court *Texas v. Johnson* (1989). Replace subjective and broad “object of veneration” language with “insignia” and “symbol” modeled after N.J. § 2C:33-9



9 GCA § 61.60

§ 61.60. Creation of Hazards on Land: Penalty.

A person is guilty of a petty misdemeanor when he:

(a) abandons, keeps or knowingly permits to remain on premises **accessible to children** under his control an unused refrigerator, icebox, deep freeze locker or similar container having a capacity of one and one-half (1/2) cubic feet or more from which the door or the hinges and latch mechanism has not been removed. This Subsection shall not apply to a person engaged in the business of selling refrigerators, iceboxes or deep freeze lockers who keeps them for sale, if he takes reasonable precautions to secure the door of any such refrigerator, icebox or deep freeze locker so as to prevent entrance by children small enough to fit therein.

(b) being the owner or otherwise having possession of property upon which an abandoned well or cesspool is located, fails to cover the same with suitable protective construction.

PROPERTY COMMENT: Add “accessible to children” phrase to match intent of law and protect from overbreadth. This approach would mirror Cal. Penal Code § 402b and New York Penal Law § 270.



9 GCA § 61.65

§ 61.65. Creation of Certain Hazards; Oil Pollution by Vessels; Definitions; Penalty.

(a) Except in case of unavoidable accident, collision or stranding, and except as otherwise permitted by law, a person commits a misdemeanor if he discharges or permits the discharge of oil by any methods, means or manner, into or upon the navigable waters of Guam from:

(1) Any vessel using oil for the generation of propulsion power; or

(2) Any vessel carrying or having oil thereon in excess of that necessary for its lubricating requirements, and such as may be required under the laws of the United States and the government of Guam, and the rules and regulations prescribed thereunder.

(b) As used in this Section: ~~“private place” means a place where one may reasonably expect to be safe from casual or hostile intrusion or surveillance, but does not include a place to which the public or a substantial group thereof has access:~~

(1) Oil means oil of any kind or in any form, including fuel oil, oil sludge and oil refuse;

(2) Navigable Waters of Guam means all portions of the sea within the territorial jurisdiction of the government of Guam.

~~(3) Person means an individual, partnership, corporation, or association, any owner, master, officer, or employee of the government of Guam.~~

PROPERTY COMMENT: Add separate sub-sections (1) and (2) to make clear that there are two types of vessels defined.

Fix the transcription error that occurred in sub-section (b) by removing the “private place” definition and re-inserting the definition of “person” from the Guam Penal Code.



9 GCA § 61.70

§ 61.70. Discharge of Firearms.

(a) A person commits a misdemeanor who willfully discharges a firearm:

(1) At any occupied dwelling, building or other structure;

(2) At any utility pole or light fixture, or line or device for transmittal of power or communications of any kind;

(3) At any sign, signboard or notice placed upon or affixed to any property belonging to the government of the territory;

(4) Into the air; or

~~(5) Within fifty (50) yards of any occupied dwelling, building or other structure without the prior consent of the owner thereof or his agent or of the person in lawful possession thereof, with the exception of the discharge of firearms at a properly constructed shooting range approved by the Director of the Department of Public Safety or by a peace officer in pursuit of his duty as a peace officer.~~

(b) Penalties

(1) Any individual found to commit a misdemeanor within the provisions of this section ~~may shall~~ be assessed a fine ~~of no less than \$500 and no more than \$1,000 per offense~~, the firearm used ~~may shall~~ be confiscated upon order of the court and its registration certificate, and all rights thereunder, ~~may shall~~ be suspended for one (1) year by the court. Any individual so convicted who has legal possession of more than one firearm shall have only the firearm used in the commission of the crime confiscated and its registration suspended.

(2) Any firearm so confiscated shall not be sold or transferred to another prior to completion of the sentence imposed.

(3) No individual found guilty under the provisions of this section shall purchase any other firearm during the duration of the suspension of his or her firearm's registration card.

~~(b) A person commits a misdemeanor who willfully discharges a firearm within fifty (50) yards of any occupied dwelling, building or other structure without the prior consent of the owner thereof or his agent or of the person in lawful possession thereof, with the exception of the discharge of firearms at a properly constructed shooting range approved by the Director of the Department of Public Safety or by a peace officer in pursuit of his duty as a peace officer.~~

PROPERTY COMMENT: Reorganize to separate the elements of the offense from the penalties. Change mandatory penalties to discretionary to address possible Eighth Amendment Excessive Fines clause concerns.



No Change

§ 61.15. Disorderly Conduct; Defined & Punished.

§ 61.20.1. Definitions.

§ 61.25. Public Drunkenness; Defined & Punished.

§ 61.50. Disinterring a Corpse; Punished.

§ 61.55. Endangering Health & Safety: Defined; Penalty.



Property Recommendations

Crimes Against Property							
Chapter number, name	Section/Article	No-Change	AMEND	REPEAL	REPEAL & RE-ENACT	ADD	TABLE
Ch. 58. Escape and Related Offenses.		-	-	-	-	-	-
	§ 58.60		Amend	-	-	-	-
	All other sections	No Change	-	-	-	-	-
Ch. 61. Riot, Disorderly Conduct and Related Offenses.		-	-	-	-	-	-
	§ 61.10.		Amend				
	§ 61.15.	No Change					
	§ 61.20.		Amend				
	§ 61.20.1	No Change					
	§ 61.25.	No Change					
	§ 61.30.		Amend				
	§ 61.35.		Amend				
	§ 61.40.		Amend				
	§ 61.45.		Amend				
	§ 61.50.	No Change					
	§ 61.55.	No Change					
	§ 61.60.		Amend				
	§ 61.65.		Amend				
	§ 61.70		Amend				



Notice of Next Meeting

To Be Determined



AGENDA

- I. **CALL TO ORDER**
- II. **PROOF OF DUE NOTICE OF MEETING**
- III. **DETERMINATION OF QUORUM**
- IV. **DISPOSAL OF MINUTES JULY 31, 2025**
- V. **OLD BUSINESS**
 - A. Status Update and Report of the Executive Director
- VI. **NEW BUSINESS**
 - A. Subcommittee on Criminal Procedure: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - B. Ad Hoc Subcommittee on Corrections-related Chapters: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - C. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - D. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - E. Subcommittee on Drug & Other Criminal Offenses: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.
 - F. Notice of Next Meeting: TO BE DETERMINED.
- VII. **COMMUNICATIONS**
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**