



HON. KATHERINE A. MARAMAN
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 THURSDAY, JUNE 25, 2026, 12:00 PM MEETING PACKET

The Judiciary of Guam is an equal opportunity provider and employer.

**CLRC PLENARY MEETING JUNE 25, 2026
AGENDA**

I. CALL TO ORDER

II. PROOF OF DUE NOTICE OF MEETING

III. DETERMINATION OF QUORUM

IV. DISPOSAL OF MINUTES APRIL 9, 2026

V. OLD BUSINESS

- A. Subcommittee Status Update and Report of Executive Director
- B. Report on Legislation Affecting Sections Reviewed or Under Review

VI. NEW BUSINESS

- A. Ad Hoc Subcommittee: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- B. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- C. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
- D. Notice of Next Meeting: **TO BE DETERMINED.**

VII. COMMUNICATIONS

VIII. PUBLIC COMMENT

IX. ADJOURNMENT

PUBLIC NOTICES

CLRC PLENARY MEETING OF

JUNE 25, 2026

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GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION PLenary MEETING JUNE 25, 2026

NOTICE OF PUBLIC MEETING

The Guam Criminal Law and Procedure Review Commission will conduct a plenary meeting on JUNE 25, 2026, at 12:00 pm in the Guam Judicial Center Judge Joaquin V.E. Manibusan, Sr. Memorial Courtroom, 120 West O'Brien Drive, Hagåtña, and by videoconference. The meeting will be streamed live on the Judiciary of Guam YouTube channel.
<https://www.youtube.com/channel/UCinFCWwlp99fAeh9zi4Q4g>

AGENDA

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING
- III. DETERMINATION OF QUORUM
- IV. DISPOSAL OF MINUTES: April 9, 2026
- V. OLD BUSINESS
 - A. Subcommission Status Update and Report of Executive Director
 - B. Report on Legislation Affecting Sections Reviewed or Under Review
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 - A. Ad Hoc Subcommission: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
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- VII. COMMUNICATIONS
- VIII. PUBLIC COMMENT
- IX. ADJOURNMENT

Magistrate Judge Jonathan R. Quan
Chairman

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The Honorable
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Maga Hage • Governor
The Honorable
JOSHUA F. TENORIO
Sigunda Maga • Lieutenant Governor

VINCENT P. ARRIOLA
Director
LINDA J. IBANEZ
Deputy Director
ERNEST G. CANDELETA Jr.
Deputy Director

REQUEST FOR PROPOSAL DEPARTMENT OF PUBLIC WORKS

The Honorable Lourdes A. Leon Guerrero, Governor of Guam and Honorable Joshua F. Tenorio, LT. Governor of Guam, through the Director of Department of Public Works (DPW), Vincent P. Arriola, Announces the solicitation of a sealed proposal for:

MANELL-GEUS GREEN INFRASTRUCTURE (Design Phase)

Project No.: 500-5-1072-F-MER

Availability of Documents: – June 16, 2026, CIP / Contracts Administration, Ground Floor, Federal Highway Building, DPW, Upper Tumon.

Pre-Proposal Conference: – June 25, 2026, 9:00am, CIP Division, Ground Floor, Federal Highway Building, DPW, Upper Tumon.

Pre-Proposal Conference is mandatory.

Quotation Submittal: – July 9, 2026, 4:00pm, One (1) original and one (1) copies must be submitted @ CIP Division, Ground Floor, Federal Highway Building, DPW.

Department of Public Works reserves the right to reject any or all proposals and to waive any imperfections in the proposals, which in its sole and absolute judgement will serve the Government of Guam interests.

VINCENT P. ARRIOLA
Director

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GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION PLenary MEETING JUNE 25, 2026

NOTICE OF PUBLIC MEETING

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<https://www.youtube.com/channel/UCInFCWwllp99fAeh9zi4Q4g>

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Magistrate Judge Jonathan R. Quan
Chairman

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

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GUAM ENVIRONMENTAL PROTECTION AGENCY AHENSIAN PRUTEKSION LINA'LA GUAHAN

BOARD OF DIRECTORS REGULAR BOARD MEETING: Thursday, June 25, 2026-4:00PM
Guam EPA Administration Conference Room: 17-3304 Mariner Avenue Tiyan Barrigada, Guam
MEETING LINK: <https://meet.google.com/fgg-svfi-rsq>

AGENDA:

- I. Call to Order
 - a. Determination of quorum
 - b. Proof of due notice of meeting
- II. Approval of Agenda
- III. Approval of meeting minutes: 5/21/26 Board meeting and 6/9/26 Continuation Meeting
- IV. Board Discussion / Action
 - a. Standard Operating Procedure (SOP) for Well Driller's Licensing, Evaluation vs Guam EPA: Hearing by Hearing Officer only or with Board. Proposed Schedule. Attendance.
 - b. Tutujan Holdings Guam LLC (Palisades)
 - c. Tutujan Holdings Guam LLC (Palisades) vs Guam EPA: Hearing by Hearing Officer only or with Board. Proposed Schedule. Attendance.
- V. Administrator's Report
- VI. Status Reports
 - a. Recycling Revolving Fund
 1. OPA Audit
 2. Abandoned Vehicle Cleanup Program by DPW
 - b. Administrative Appeals
 1. Tutujan Holdings Guam LLC - La Stella Maris
 2. Guam Behavioral Health and Wellness Center
 3. Guam International Country Club
 4. Applebee's
 - c. Notice of Violations
- VII. Public Comments
- VIII. Next Meeting Date and Adjournment

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THE GUAM PUBLIC UTILITIES COMMISSION NOTICE OF PUBLIC MEETING

NOTICE IS HEREBY GIVEN that the GUAM PUBLIC UTILITIES COMMISSION ("PUC") will conduct a regular business meeting, commencing at 6:30 p.m., on **Thursday, June 25, 2026, at Suite 807, DNA Bldg., 238 Archbishop F.C. Flores St., Hagatna, Guam.**

The following business will be transacted:

AGENDA

1. Call to Order.
2. Approval of Minutes of May 07, 2026 and May 21, 2026 Special Meetings.

GUAM WATERWORKS AUTHORITY

3. GWA Docket No. 26-07: Petition to Approve a Fund Increase for Change Order No. 6 for the Ugu Surface Water Treatment Plant Rehabilitation Project; Legal Counsel Report, and proposed Order
4. GWA Docket No. 26-08: Petition to Authorize GWA's Procurement for Construction Services for Water and Sewer Line Replacement for Various Bridges, Phase 1; Legal Counsel Report, and proposed Order.

GUAM POWER AUTHORITY

5. GPA Docket No. 26-11: Petition of the Guam Power Authority to Extend the Term of ULSD Storage Lease Agreement with Tristar Terminal Guam, Inc.; Legal Counsel Report and proposed Order.
6. GPA Docket No. 26-13: Petition of the Guam Power Authority to Increase the Levelized Energy Adjustment Clause (LEAC) for the Period of July 1, 2026 through January 31, 2027; ALJ Report, and proposed Order.
7. GPA Docket No. 26-14: Petition of the Guam Power Authority to Approve Phase IV Renewable Energy Acquisition Award to Sunenergy 1 LLC, Sunenergy 2 LLC, Sunenergy 3, LLC and Sunenergy 4 LLC for up to 62 MW of Renewable Energy Capacity; ALJ Report and proposed Order.

ADMINISTRATIVE MATTERS

8. Update on Waste to Energy White Paper.
9. FYI - GPA Docket Nos. 10-01 and 14-09: Guam Power Authority's Filing of Second Quarter Revenue Bond Usage Reports.

ADJOURNMENT

Further information about the meeting may be obtained from the PUC's Administrator Lourdes R. Palomo at 671-472-1907. Those persons who require special accommodations, auxiliary aids, or services to attend the meeting should also contact Mrs. Palomo.

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MINUTES

CLRC PLENARY MEETING OF

APRIL 9, 2026



HON. KATHERINE A. MARAMAN
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

Judiciary of Guam

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CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC) PLENARY MEETING | THURSDAY, APRIL 09, 2026 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chair Jonathan R. Quan at 12:00 PM. The meeting was held in person in the Judge Joaquin V. Manibusan Sr. Memorial Courtroom at the Judicial Center and via Zoom. The session was livestreamed on the Judiciary of Guam's YouTube channel.

II. PROOF OF DUE NOTICE OF MEETING

The Chair confirmed due notice of the meeting in compliance with the Open Government Law. Notices were published in local newspapers and included in the meeting packet.

III. DETERMINATION OF QUORUM

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

Hon. Jonathan R. Quan – Present, Judiciary of Guam
Hon. Maria T. Cenzon- No response
Hon. Anita A. Sukola – No response
Atty. William B. Brennan – Present, Chalan Pago
DOC Designee Maj. Antone Aguon – No response
Chief of Police Designee Sgt. Michael Elliott – Present, Tiyan
Atty. Joseph McDonald – No response
Atty. Randall Cunliffe – Present, Manila, Philippines
Mr. Monty McDowell – Present, Judiciary of Guam
Public Defender Designee Atty. John Morrison – Present, Waiheke Island, New Zealand
Attorney General Designee Atty. Valerie Nuesa – Presence on Zoom noted.
Attorney Michael Phillips- No response
Miss Valerie Reyes- No response

Attorney Christine Tenorio- No response
Atty. Phillip Tydingco – Present, Judiciary of Guam

Ex-Officio (Non-Voting Members):
Executive Director Serge Quenga – Present, Judiciary of Guam
Compiler of Laws Geri Cepeda – Present, Judiciary of Guam

Chair Quan acknowledged that a quorum was present and welcomed all attendees and observers. Chair Quan also recognized the presence of Senator Telo Taitague, oversight chair, and acknowledged the service of outgoing Department of Corrections Chief Fred Bordallo, thanking him for his contributions to the Commission's review of criminal laws.

IV. DISPOSAL OF MINUTES: January 29, 2026

The minutes of the January 29, 2026, plenary meeting were approved without objection.

V. OLD BUSINESS

A. Status Update and Report of Executive Director.

1. CLRC 4th Quarter Report was submitted to the Legislature and is posted on the webpage.
2. CLRC proposed revisions to Bill 232-38, in the Notice of Errata and Revisions approved in the January plenary meeting, have been submitted to the Legislature.
3. Update on pending bills affecting criminal statutes provided.

VI. NEW BUSINESS

A. Subcommittee on Drugs and Other Criminal Offenses and Corrections-Related Chapters (DOCO-Ad Hoc): Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Chair Quan announced that, with the approval of the Chief Justice, Compiler of Laws Geri Cepeda has been appointed chair of the combined DOCO-Ad Hoc Subcommittee. On behalf of the DOCO-Ad Hoc Subcommittee, Executive Director Quenga presented continued discussion on Articles 1, 2, and 3 of Chapter 80. His PowerPoint presentation is included as Attachment 1.

- 9 GCA Chapter 80. Disposition of Offenders.
 - § 80.10. Types of Sentences Allowed. Amend as shown in Attachment 1, Slide 3.

- Discussion: Circled back to § 80.10 to address the effects of the Commission's previous recommended repeals of § 80.38 (Extended Terms for Felonies) and sister §§ 80.40, and 80.42 based on the Guam Supreme Court's *Muritok* opinion. Reference to these sections in 80.10(b) are deleted for consistency with the repeal of these sections. Subsection (a) "civilly" added to reflect § 80.20 (Civil Commitments in Lieu of Prosecution in Certain Cases), Oxford comma added for clarity. Subsection (a)(6) separated for clarity. Other non-substantive grammatical and punctuation edits for clarity.
- § 80.31. Prison Terms for First Offenders. Amend (c).
 - Discussion: Subcommission initially recommended no change (Attachment 1, Slide 4). However, following discussion of the Guam Supreme Court's opinion in *People v. Walliby*, the plenary commission instead decided to amend subsection (c) for consistency with the Court's interpretation. In *Walliby*, the Court upheld § 80.31, acknowledging ambiguity arising from the statute's use of "may" and "shall," but concluded that the provision is mandatory, thereby resolving the ambiguity and affirming its enforceability. The recommendation is to change the word "may" to "shall" in (c).
- § 80.37. Deadly Weapons Used in Felonies; Sentence. Amend as shown in Attachment 1, Slide 5.
 - Discussion: Non-substantive amendments moving language from (f) into (a)(1) for improved clarity. Other non-substantive amendments for added clarity. Non-substantive amendment to (e) for added clarity and for consistency with the similar consecutive requirement in § 80.37.1(c).
- § 80.37.1. Felony Committed on Release. Attachment 1, Slide 6.
 - Discussion: Correction of erroneous chapter title in (a). Non-substantive renumbering of (b) for added clarity. Non-substantive amendments to (c) for added clarity and consistency with § 80.37(e).
- § 80.37.2. Habitual Offenders. Attachment 1, Slides 7-9.
 - Discussion: Non-substantive amendments to (c) for consistency and clarity. Amendment to (e) for consistency with 9 GCA § 7.16 (Defense: Mental Disease or Defect).

Subsection (d) recommended for repeal. Potential equal protection issue, as (d) singles out COFA citizens by requiring the AG to report only convicted COFA citizens to ICE for possible deportation, but not other non-U.S. citizens. The AG may report convicted non-citizens to federal authorities without this provision.

Resembles 8 U.S.C. § 1227 (Deportable Aliens). Amendments were considered: require conviction of “violent” felony, remove “crime of moral turpitude,” require a five-year sentence for any crime, and require at least four DUI convictions for deportability. But for the deportability of repeat DUI offenders, subsection (d) bears little relation to the habitual offender nature of § 80.37.2

- § 80.37.3. Vulnerable Victim Sentencing Enhancement. Amend as shown in Attachment 1, Slide 10.
 - Discussion: Subsection (a) replace the word “felony” with “crime” for consistency with the referenced § 80.70, and non-substantive renumbering for clarity. Other non-substantive amendments for clarification.
- § 80.39. Title. No change as shown in Attachment 1, Slide 11.
 - Discussion: No change.
- § 80.39.1. Sentencing. Amend as shown in Attachment 1, Slide 11.
 - Discussion: Non-substantive amendments for clarification.
- § 80.39.2. Exceptions. Amend as shown in Attachment 1, Slide 11.
 - Discussion: Non-substantive amendments for clarification.
- § 80.39.3. Reporting. Amend as shown in Attachment 1, Slide 12.
 - Discussion: Non-substantive amendment to modernize language.
- § 80.46. Credit for Prior Detention. No change as shown in Attachment 1, Slide 12.
 - Discussion: No change.

- § 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape. Attachment 1, Slide 13.
 - Discussion: Tabled for further discussion.
- § 80.49. Extension of Limits of Confinement for Humanitarian Reasons. Amend as shown in Attachment 1, Slide 14.
 - Discussion: Non-substantive amendment change “prisoner” to “inmate” for consistency.
- § 80.50. Fines and Restitution as Sentence Allowed: Limited. No change as shown in Attachment 1, Slide 15.
 - Discussion: No change. Amounts have not changed since 1977. Comparisons made with other states and territories. Also reviewed the present fine adjusted for inflation. Guam’s fines remain within reasonable range compared to other jurisdictions and we are not dramatically out of line with comparable jurisdictions. Adjusting these amounts for inflation results in 5x increase, which does not seem reasonable. Members were unable to find compelling reasons to recommend changes (Attachment 1, Slides 16-19).
- § 80.52. Standards for Imposing Fines and/or Restitution. Amend as shown in Attachment 1, Slide 20.
 - Discussion: Non-substantive amendment in (a) for added clarity. Non-substantive amendment in (c) for added clarity consistent with source statute N.J. § 2C:44-2(a)(2).
- § 80.53. When Restitution Required. Amend as shown in Attachment 1, Slide 21.
 - Discussion: Non-substantive amendments for added clarity and consistency with recommended amendment to § 80.52.
- § 80.54. Time and Method of Payment. No change as shown in Attachment 1, Slide 21.
 - Discussion: No change.

- § 80.56. Consequences of Non-Payment. No change as shown in Attachment 1, Slide 22-23.
 - Discussion: No change. Term “contumacious” discussed but no consensus to amend.
- § 80.58. Petition for Revocation of Fine: Conditions. No change as shown in Attachment 1, Slide 24.
 - Discussion: No change.

On behalf of the DOCO-Ad Hoc Subcommittee, CLRC Research Attorney Yusuke Haffeman-Udagawa presented a discussion on antiquated laws. His PowerPoint presentation is included as Attachment 2.

- 10 GCA Chapter 62 (Karate and Judo Experts) Repeal entire chapter as shown in Attachment 2, Slide 9.
 - Discussion: Guam is unique - no other jurisdiction has similar requirements. Applies to anyone with even one level of training (white to yellow belt) would cover thousands of children in martial arts classes. Never used in prosecution - cases charged based on injury, not methodology. Existing assault laws adequately address serious bodily injury on case-by-case basis. Makes prosecution more complicated rather than easier.
- 20 GCA Chapter 2 (Compensatory Relief)
 - §§ 2254-2255. Injuries Suffered in a Duel; Victorious Duelist to Pay all Debts. Repeal as shown in Attachment 2, Slide 12.
 - Discussion: Guam has no use for an 1872 law discouraging a practice that was arguably antiquated at the time. Murder and assault laws adequately criminalize and disincentivize any potentially deadly mutual combat. Removing these laws follows a broader national trend and could be considered routine modernization. These laws were a part of the adoption of large parts of the California Code by the Naval Governor and thus do not reflect a democratically elected legislative process.

- In addition to any restitution in a criminal case, a victim could seek civil remedies adequately parallel to the provisions of § 2254.
 - § 2255 discussion: Making the victorious duelist liable for the other's debts, does not have an alternative civil remedy. However, no California case on Westlaw cites its use in the 100+ year existence, suggesting a largely deterrence function.
 - § 2233. Injuries to Animals: Liability to Owner. Repeal as shown in Attachment 2, Slide 18.
 - Discussion: The law has limited use, has the potential for misuse, and the injury addressed is largely covered by other laws. This is an antiquated law never voted on by democratically elected representatives that does not reflect Guam's needs or agricultural landscape.
- 5 GCA Chapter 73 (Customs & Quarantine Agency)
 - § 73134. Penalty: Opium. Repeal as shown in Attachment 2, Slide 22.
 - Discussion: The provision has been functionally superseded by the Guam Uniform Controlled Substances Act (9 GCA Chapter 67) since 1978. No enforcement gap results from repeal. Consistent with the Legislature's established practice of removing customs provisions rendered superfluous by later drug law.

Chairman Quan called for a motion to approve the subcommission's recommendations:

- to amend 9 GCA §§ 80.10, 80.31, 80.37, 80.37.1, 80.37.2, 80.37.3, 80.39.1, 80.39.2, 80.39.3, 80.49, 80.52, and 80.53;
- to repeal 10 GCA Chapter 62, 20 GCA §§ 2233, § 2254, § 2255, and 5 GCA § 73134;
- to table 9 GCA § 80.48; and
- for no change to §§ 80.39, 80.46, 80.50, 80.54, 80.56, and 80.58.

Motion made by Mr. Monty McDowell. Second, by Attorney Phillip Tydingco. Approved without objection.

C. Subcommission on Crimes Involving Property: Discussion of Chapters and

Presentation of Recommendations for Discussion and Approval.

Tabled by Chairman.

D. Subcommittee on Persons. Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Tabled by Chairman.

E. Subcommittee on Criminal Procedure: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

Tabled by Chairman.

VII. COMMUNICATIONS

None.

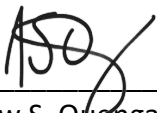
VIII. PUBLIC COMMENT

None.

IX. ADJOURNMENT

There being no further business, Chair Quan adjourned the meeting at approximately 1:10 PM. The next meeting date is to be announced.

Respectfully submitted this 25th day of June 2026.



Andrew S. Quenga, Executive Director

As set out above, the minutes of April 09, 2026, plenary meeting were approved by the CLRC at its next plenary meeting.

Magistrate Judge Jonathan R. Quan, Chairman

Date: _____

ATTACHMENT 1

DOCO/AD HOC SUBCOMMISSION

EXECUTIVE DIRECTOR QUENGA

PRESENTATION

APRIL 9, 2026



Report of the DOCO/ Ad Hoc Subcommittee

April 9, 2026

Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

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



Presented Today

9 GCA Chapter 80. Disposition of Offenders

- Article 1. General Provisions - § 80.10
- Article 2. Imprisonment. §§ 80.31, 80.37, 80.37.1, 80.37.2, 80.37.3, 80.39, 80.39.1, 80.39.2, 80.39.3, 80.46, 80.48, 80.49
- Article 3. Fines and Restitution
- Antiquated Laws

Note: all other sections in Articles 1 and 2 not covered here have already been presented.



Article 1 - General Provisions

9 GCA § 80.10. Types of Sentences Allowed

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

- (1) to imprisonment for a term required by law;
- (2) to imprisonment and to an additional parole;
- (3) to pay a fine or make restitution as authorized by law;
- (4) to alternative community service or to self-improvement and rehabilitative programs;
- (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.~~

(c) The court may suspend the imposition of sentence on a person who has been convicted of a violation or may sentence him to pay a fine or make restitution as authorized by § 80.50.

(d) Nothing in this Code deprives the court of any authority otherwise conferred by law to decree ~~{a}~~ 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.

DOCO/Ad Hoc Recommendation: Subsection (a) “civilly” added to reflect § 80.20 (Civil Commitments in Lieu of Prosecution in Certain Cases), Oxford comma added for clarity. Subsection (a)(6) separated for clarity. Subsection (b) grammatical correction, and references to §§ 80.38, 80.40 and 80.42 deleted. These sections have been recommended for repeal based on the Guam Supreme Court decision in *People v. Muritok*, 2003 Guam 21, which struck down § 80.38 (and by implication §§ 80.40 and 80.42) as unconstitutional, concluding that it impermissibly authorizes the court to sentence a defendant to an extended term of imprisonment, in violation of the rule announced in *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Subsection (d) deletion of unnecessary brackets.

3



Article 2 - Imprisonment

§ 80.31. Prison Terms for First Offenders.

In the cases to which § 80.30 is applicable as to the sentencing of the person, a person who has not previously been convicted of a criminal offense and has been convicted of a felony for the first time may be sentenced to imprisonment as follows:

- (a) In the case of a felony of the first degree, the court shall impose a sentence of not less than three (3) years and not more than fifteen (15) years;
- (b) In the case of a felony of the second degree, the court shall impose a sentence of not less than one (1) year and not more than eight (8) years; and
- (c) In the case of a felony of the third degree, the court may impose a sentence of not more than three (3) years.

DOCO/Ad Hoc Recommendation: No change. In *People v. Walliby*, the Supreme Court acknowledged ambiguity from the statute’s use of “may” and “shall,” but held the provision is mandatory, thereby resolving the ambiguity and upholding its enforceability. The Court did not state or imply that the statute should be amended. Subcommission was unable to conclude that the Legislature did not intend the existing language. Will request the Compiler of Laws to annotate the statute per *Walliby*.



§ 80.37. Deadly Weapons Used in Felonies; Sentence.

(a) Whoever unlawfully possesses or uses a deadly weapon in the commission of a felony punishable under the laws of Guam shall,

(1) in addition to the punishment imposed for the commission of such felony, be imprisoned for a term of not less than five (5) years nor more than twenty-five (25) years; ~~and provided that~~ whoever unlawfully possesses or uses a firearm, as that term is defined in Title 10 Guam Code Annotated § 60100(a), or an explosive device as defined in 10 GCA § 61100, or an improvised explosive device (defined as those devices that are placed or fabricated in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic, or incendiary chemicals and designed to destroy, incapacitate, harass, or distract, which may incorporate military weapons, but are normally devised from non-military components) in the commission of a felony punishable under the laws of Guam shall, in addition to the punishment imposed for the commission of such felony, be imprisoned for a term of not less than ten (10) years nor more than twenty-five (25) years; and

(2) ~~shall~~ be fined not less than one thousand dollars (\$1,000), but not more than five-thousand (\$5,000), which fine shall be payable to the Criminal Injuries Compensation Fund.

(b) The sentence under this section shall include a special parole term of not less than three (3) years in addition to such term of imprisonment.

(c) No person convicted and sentenced ~~hereunder~~under this section shall be eligible for parole or probation until he shall have served at least five (5) years in prison.

(d) No person convicted or sentenced ~~hereunder~~under this section shall be eligible to participate in any work release program until he shall have served at least five (5) years.

(e) The term of imprisonment required to be imposed ~~by~~under this Section shall ~~not run concurrently consecutively to with~~ any term of imprisonment imposed for the commission of any other felony.

~~(f) Whoever possesses or uses an explosive device as defined in 10 GCA, Chapter 61, § 61100, or an improvised explosive device (defined as those devices that are placed or fabricated in an improvised manner incorporating destructive, lethal, noxious, pyrotechnic, or incendiary chemicals and designed to destroy, incapacitate, harass, or distract, which may incorporate military weapons, but are normally devised from non-military components) in the commission of a felony punishable under the laws of Guam shall, in addition to the punishment imposed for the commission of such felony, be imprisoned for a term of not less than ten (10) years nor more than twenty-five (25) years.~~

DOCO/Ad Recommendation: Non-substantive amendments moving language from (f) into (a)(1) for improved clarity. Other non-substantive amendments for added clarity. Non-substantive amendment to (e) for added clarity and for consistency with the similar consecutive requirement in § 80.37.1(c).

5



§ 80.37.1. Felony Committed on Release.

(a) Whoever commits a felony punishable under the laws of Guam while on release on a felony charge pursuant to 8 GCA Chapter 40 (~~Criminal Procedure~~Release) ~~of Title 8, Guam Code Annotated~~, shall, in addition to the sentence imposed for the crime committed while on release, be imprisoned for a term of not less than five (5) years nor more than twenty-five (25) years.

~~(b) [No text]~~

~~(1b)~~ A sentence imposed under ~~s~~Subsection (a) of this section shall include a special parole term of not less than three (3) years nor more than five (5) years in addition to the term of imprisonment.

~~(2c)~~ No person convicted and sentenced under this section shall be eligible for parole or probation until he serves at least five (5) years in prison.

~~(ed)~~ The term of imprisonment required to be imposed under this section shall run consecutivelyly to any term of imprisonment imposed for the commission of any other felony.

DOCO/Ad Hoc Recommendation: Correction of erroneous chapter title in (a). Non-substantive renumbering of (b) for added clarity. Non-substantive amendments to (c) for added clarity and consistency with § 80.37(e). Subcommittee discussed whether consecutive or concurrent imprisonment terms in (c) should be left to the discretion of the court. Consecutive requirement here is consistent with consecutive prison terms required in § 80.37.

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§ 80.37.2 Habitual Offenders.

(a) Notwithstanding any provision that establishes a shorter term of imprisonment, a person who has been convicted of committing or attempting or conspiring to commit any violent or aggravated felonies and who has previously been convicted of two violent or aggravated felonies not committed on the same occasion and separated by intervening arrest shall be sentenced to imprisonment for life and is not eligible for suspension of the sentence, probation, parole, or release.

(b) In order for the penalty under this Section to apply, judgment for the aggravated or violent felonies that comprise the prior conviction shall have been entered within fifteen years of the conviction for the current offense; however, time spent in custody or on probation for an offense or while the person is an absconder shall not be excluded from the calculation of the fifteen years.

(c) For the purposes of this Section:

(1) "violent or aggravated felony" means any of the following offenses if committed in Guam or any offense committed outside Guam that if committed in Guam would constitute one of the following offenses:

- (A) aggravated murder, murder and manslaughter ([Title 9 Guam Code Annotated 9 GCA §§ 16.30, 16.40 and 16.50](#))
- (B) aggravated assault ([Title 9 Guam Code Annotated 9 GCA § 19.20](#))
- (C) kidnapping ([Title 9 Guam Code Annotated 9 GCA § 22.20](#))
- (D) criminal sexual conduct in the 1st and 2nd degree ([Title 9 Guam Code Annotated 9 GCA §§ 25.15 and 25.20](#))
- (E) compelling prostitution ([Title 9 Guam Code Annotated 9 GCA § 28.30](#), as defined involving a child)
- (F) indecent electronic display to a child ([Title 9 Guam Code Annotated 9 GCA § 25A102](#))
- (G) electronic enticement of a child as a 1st and 2nd degree felony ([Title 9 Guam Code Annotated 9 GCA §§ 25A105, 25A104](#))
- (H) crimes involving obscenity and related offenses involving children ([Title 9 Guam Code Annotated 9 GCA §§ 28.51 and 28.52](#))
- (I) photography of minors' sexual acts ([Title 9 Guam Code Annotated 9 GCA § 28.80](#))
- (J) possession of child pornography ([Title 9 Guam Code Annotated 9 GCA § 25A202](#))
- (K) dissemination of child pornography ([Title 9 Guam Code Annotated 9 GCA § 25A203](#))
- (L) aggravated arson ([Title 9 Guam Code Annotated 9 GCA § 34.20](#))
- (M) robbery in the 1st and 2nd degree ([Title 9 Guam Code Annotated 9 GCA §§ 40.10 and 40.20](#)).

DOCO/Ad Hoc Recommendation: Non-substantive amendments in (c)(1) for consistency and clarity.



§ 80.37.2 Habitual Offenders. [Continued]

(d) Under the terms of the Compacts of Free Association (COFA), citizens of the Freely Associated States [the sovereign states of the Federated States of Micronesia (FSM), the Republic of the Marshall Islands (RMI), and the Republic of Belau], may enter the U.S. under a special status, and are treated as foreign nationals while in the U.S., such status allowing the U.S. to deport a citizen of any COFA state if such citizen is found guilty of breaking or disregarding the laws of a U.S. jurisdiction.

(1) A COFA citizen shall be considered deportable if convicted of a felony or a crime of moral turpitude; or if sentenced to one (1) year or more for any crime(s) committed; or if the COFA citizen becomes a repeat offender for driving-under-the-influence of alcohol.

(2) Such COFA citizen in violation of the COFA will be treated as any other foreign national and shall be deported if convicted of a deportable crime under the terms of the Compact of Free Association.

(3) Upon conviction of a deportable crime, the Attorney General of Guam (AG) shall immediately notify the U.S. Immigration and Customs Enforcement (ICE) Division of the U.S. Department of Homeland Security (DHS) of Guam's desire to have the COFA citizen deported. The AG shall work closely with the U.S. ICE Division of DHS to ensure all documents related to the conviction and required for deportation are immediately provided to the proper authorities. Citizens of the U.S. cannot be deported under the terms of the COFA. The AG shall transmit a quarterly report to / *Liheslatura* indicating how many cases were forwarded to the U.S. ICE Division of DHS for deportation and the status of those cases. The AG shall also publish this report on its website on a quarterly basis.

DOCO/Ad Hoc Comment: For discussion - subsection (d) regards the deportability of COFA citizens who have been convicted of certain crimes. It requires the AG to report only convicted COFA citizens to ICE for possible deportation. Guam has no deportation authority. Consider necessity and enforceability of (d). Consider if (d) unfairly targets COFA citizens.

Resembles 80 U.S.C. § 1227 (Deportable Aliens). Amendments were considered: require conviction of "violent" felony, remove "crime of moral turpitude," require a five-year sentence for any crime, and require at least four DUI convictions for deportability. But for deportability of repeat DUI offenders, (d) bears little relation to the habitual offender nature of this § 80.37.2



§ 80.37.2 Habitual Offenders. [Continued]

(e) If the court certifies that a defendant has a mental ~~health~~ illness, disease or defect, the provisions of Subsection (a) do not apply.

DOCO/Ad Hoc Recommendation: Amendment in (e) for consistency with 9 GCA § 7.16 (Defense: Mental Disease or Defect).



§ 80.37.3. Vulnerable Victim Sentencing Enhancement.

(a) Whoever commits or attempts to commit upon a vulnerable victim:

(1) a violent ~~felony crime~~ as defined in 9 GCA, § 80.70(a)(2), or

(2) theft as a second degree or third degree felony under 9 GCA, §§ 43.15, § 43.20, § 43.30, § 43.35, § 43.40, § 43.45, § 43.50, § 43.55, ~~or~~ § 43.60, or

(3) crimes of forgery or fraudulent practices under 9 GCA, §§ 46.10, § 46.15, § 46.20, § 46.25, § 46.35, § 46.50, § 46.75, ~~or~~ § 46.80, shall, in addition to the sentence imposed for the commission of such felony, be imprisoned for a term of not less than five (5) years nor more than twenty-five (25) years, or shall, in addition to the sentence imposed for the commission of a misdemeanor or petty misdemeanor, be imprisoned for a term of not less than sixty (60) days nor more than one year

(b) A sentence imposed under Subsection (a) of this Section for a felony shall include a special parole term of not less than three (3) years nor more than five (5) years, in addition to the term of imprisonment. No person convicted and sentenced under this Section for a felony shall be eligible for parole or probation until he serves at least five (5) years in prison, or no person convicted and sentenced under this Section for a misdemeanor or petty misdemeanor shall be eligible for probation until he serves at least sixty (60) days in jail or prison.

(c) A vulnerable victim is defined as the following:

(1) an elderly person or senior citizen who is fifty-five (55) years old or older at the time of the crime committed upon him or her;

(2) a child who is thirteen (13) years old or younger at the time of the crime committed upon him or her;

(3) a tourist or visitor:

(A) who is a citizen and resident of a country other than the United States, or its territories, and visiting Guam with a round-trip airline ticket for a duration of no more than forty-five (45) days, or

(B) who is a citizen, ~~or~~ national, or permanent resident of the United States, but is not a resident of Guam, and is visiting Guam with a round-trip airline ticket for a duration of no more than forty-five (45) days;

(4) an individual who at the time of the crime committed upon him or her has a physical or mental disability or disabilities, as defined in a provision of local or federal law, or as certified by a physician or mental health professional; or

(5) any person who is a victim of a crime, as identified in this ~~Act~~ Section, committed by two (2) or more individuals.

DOCO/Ad Hoc Recommendation: Non-substantive numbering amendments in (a) for added clarity and consistency with actual language in § 80.70. Other non-substantive amendments for clarification.



§ 80.39. Title.

This Section shall be known and may be cited as "the Justice Safety Valve Act of 2013."

DOCO/Ad Hoc Recommendation: No change.

§ 80.39.1. Sentencing.

(a) 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:~~

(a1) ~~the~~ imposition of the mandatory minimum sentence would result in substantial injustice to the defendant; and

(b2) the mandatory minimum sentence is not necessary for the protection of the public.

DOCO/Ad Hoc Recommendation: Non-substantive amendments for clarification.

§ 80.39.2. Exceptions.

Section 80.39.1 of this Article shall not apply if the court finds that:

(a) the individual ~~has a conviction for was convicted of~~ the same offense during the ten (10)-year period prior to the commission of the offense;

(b) the individual intentionally ~~uses~~used a firearm in a manner that causes physical injury during the commission of the offense; ~~or~~

(c) the individual was the leader, manager, or supervisor of others in a continuing criminal enterprise-;

(d) the individual was convicted of criminal sexual conduct in the first or second degree pursuant to 9 GCA §§ 25.15 or 25.20-;

~~or~~

(e) the individual was convicted of any crime involving 9 GCA § 67.401.1(a). ~~of Article 4, Chapter 67 of this Title.~~

DOCO/Ad Hoc Recommendation: Non-substantive amendments for clarification.



§ 80.39.3. Reporting.

Upon departing from mandatory minimum sentences, judges shall report to the Judicial Council which shall, one (1) year following the enactment of this statute and annually thereafter, make available in electronic form ~~and on the world wide web on the website of the Judiciary of Guam,~~ a report as to the number of departures from mandatory minimum sentences made by each judge of the Superior Court of Guam.

DOCO/Ad Hoc Recommendation: Non-substantive amendment to modernize language.

§ 80.46. Credit for Prior Detention.

(a) When an offender who is sentenced to imprisonment has previously been detained in any territorial, state or local correctional or other institution, for the conduct for which such sentence is imposed, such period of detention shall be deducted from the maximum and minimum term of such sentence. The officer having custody of the offender shall furnish a certificate to the court at the time of sentence, showing the length of such detention of the offender prior to sentence in any territorial, state or local correctional or other institution, and the certificate shall be attached to the official records of the offender's commitment.

(b) When a judgment of conviction is vacated, or a sentence is revised or reviewed and a new sentence is thereafter imposed upon the offender for the same crime, the period of detention and imprisonment previously served therefor shall be deducted from the maximum and minimum term of the new sentence. The officer having custody of the offender shall furnish a certificate to the court at the time of sentence, showing the period of imprisonment served under the original sentence, and the certificate shall be attached to the official records of the offender's new commitment.

DOCO/Ad Hoc Recommendation: No change.



§ 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape.

(a) Except as otherwise provided by law, either the court at the time of sentencing or the Director of Corrections after the offender has been placed in custody, may extend the limits of ~~his~~ the offender's confinement to permit ~~the offender~~ him to continue in his regular employment or educational program, or, if the ~~prisoner~~ offender does not have regular employment or a regular educational program, to secure employment or education. ...

(b) The earnings of the offender may be collected by the Director of Corrections. From such earnings, the Director may deduct such costs incident to the offender's confinement as the Director deems appropriate and reasonable. The Director may also deduct payments for the support of the offender's dependents and forward such payments to them. The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund.

~~(e) Except for inmates participating in the Work and Educational Programs, all inmates sentenced to the custody of the Department of Corrections and in the Adult Correctional Facility shall be issued uniforms which they shall wear at all times they are outside the facility. The uniform shall be prominently marked to indicate that the person wearing it is an inmate. The uniforms shall at the least have the letter "P" permanently marked on the front and back of the shirt or top portion of the uniform. All inmates including those in the Work and Educational Programs shall have as many haircuts as necessary to maintain a short style so that hair does not extend over the ear or over the shirt collar of the uniform. No beards shall be worn by inmates.~~

~~(f) The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund (the "Fund"). After complying with subsection (b) of this Section, associated with support of dependents and debts, the remaining balance shall be deposited in the Fund.~~

(g) Termination of Eligibility; Work and Education Programs.

(1) Notwithstanding Subsection (c) of this Section, any inmate who has been placed under the ~~W~~work and ~~E~~educational ~~P~~programs must comply with the conditions laid down for the inmate's conduct while enjoying the benefits of the program. Any violations of the conditions, such as failure of the offender to return to the place of confinement within the time pursuant to the terms and conditions of the programs, shall suspend the offender's eligibility ~~to~~ for the ~~P~~programs ~~as outlined below.~~

...
DOCO/Ad Hoc Recommendation: Non-substantive amendments in (a) for clarification and consistency. Amendment to (b) consolidates related language in (f). Repeal in (e) entirely as inmate uniforms should be at Director's discretion, haircut and shaving requirements raise constitutional-religious issues (See *Holt v. Hobbs*, 574 U.S. 352 (2015) (prison's grooming policy prohibiting a Muslim inmate from growing a short beard violated his religious rights)). Non-substantive amendments in (g) for clarity.

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§ 80.49. Extension of Limits of Confinement for Humanitarian Reasons.

(a) The Director of Corrections may extend the limits of the place of confinement of an ~~prisoner~~ inmate entrusted to the Director's custody, when there is reasonable cause to believe the ~~prisoner~~ inmate will honor the Director's trust, by authorizing the ~~prisoner~~ inmate, under prescribed conditions, which shall include close supervision at all times by one (1) or more armed escorts, and twenty-four (24)-hour written notice to the Attorney General of Guam or the Chief Prosecutor, the Superior Court of Guam and the Guam Police Department, to visit a specifically designated place or places for a period not to exceed twenty-four (24) hours and return to the institution. An extension of limits may be granted only to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of necessary medical services not otherwise available, or for any other equally compelling reason consistent with the public interest and safety.

(b) An escape from supervision during an extension of limits period is punishable as a felony escape under Chapter 58 of Title 9 of the Guam Code Annotated.

DOCO/Ad Hoc Recommendation: Change "prisoner" to "inmate" for consistency.

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ARTICLE 3 FINES AND RESTITUTION

§ 80.50. Fines and Restitution as Sentence Allowed: Limited.

A person who has been convicted of an offense may be sentenced to pay a fine or to make restitution not exceeding:

- (a) Ten Thousand Dollars (\$10,000.00), when the conviction is of a felony of the first or second degree;
- (b) Five Thousand Dollars (\$5,000.00), when the conviction is of a felony of the third degree;
- (c) One Thousand Dollars (\$1,000.00), when the conviction is of a misdemeanor;
- (d) Five Hundred Dollars (\$500.00), when the conviction is of a petty misdemeanor or violation;
- (e) Any higher amount equal to double the pecuniary gain to the offender or loss to the victim caused by the conduct constituting the offense by the offender. In such case the court shall make a finding as to the amount of the gain or loss, and if the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. For purposes of this Section, the term "gain" means the amount of money or the value of the property derived by the offender and the term "loss" means the amount of value separated from the victim;
- (f) Any amount specifically authorized by statute. The restitution ordered paid to the victim shall not exceed his loss.

DOCO/Ad Hoc Recommendation: No change. Amounts have not changed since 1977. Comparisons made with other states and territories. Also reviewed the present fine adjusted for inflation. Guam's fines remain within reasonable range compared to other jurisdictions and we are not dramatically out of line with comparable jurisdictions. Adjusting these amounts for inflation results in 5x increase, which does not seem reasonable. Members were unable to find compelling reasons to recommend changes.



Guam vs. High Fine Jurisdictions

Offense Level	Guam	New Jersey	Federal Courts
1st Degree Felony	\$10,000	\$250,000	\$250,000
2nd Degree Felony	\$10,000	\$150,000	\$250,000
3rd Degree Felony	\$5,000	\$15,000	\$250,000
Misdemeanor	\$1,000	\$10,000	\$5,000 - \$100,000
Petty Misdemeanor	\$500	\$500 - \$1,000	\$5,000



Guam vs Medium Fine Jurisdictions

Offense Level	Guam	Hawaii	Washington State
1st Degree Felony	\$10,000	\$50,000	\$50,000
2nd Degree Felony	\$10,000	\$25,000	\$20,000
3rd Degree Felony	\$5,000	\$10,000	\$10,000
Misdemeanor	\$1,000	\$2,000	\$5,000
Petty Misdemeanor	\$500	\$1,000	\$1,000



Guam vs. Lower Fine Jurisdictions

Offense Level	Guam	CNMI	California
1st Degree Felony	\$10,000	\$10,000	\$10,000
2nd Degree Felony	\$10,000	\$5,000	\$10,000
3rd Degree Felony	\$5,000	\$5,000	\$10,000
Misdemeanor	\$1,000	\$1,000	\$1,000
Petty Misdemeanor	\$500	\$50	N/A



Should fines be adjusted for inflation?

Per the inflation calculator available at the website of the Federal Reserve Bank of Minneapolis:

A \$10,000 fine in 1977 is approximately equivalent to **\$53,118** today.

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§ 80.52. Standards for Imposing Fines and/or Restitution.

(a) The court shall not sentence an offender only to pay a fine or to make restitution⁷ when any other disposition is authorized by law, unless, having regard to the nature and circumstances of the offense and to the history and character of the offender, ~~it~~ the court is of the opinion that the fine or restitution alone is appropriate and suffices for the protection of the public.

(b) The court shall not sentence an offender to pay a fine or make restitution in addition to a sentence of imprisonment or probation² unless:

(1) the offender has derived a pecuniary gain from the offense; or

(2) the court believes that a fine or restitution is specially adapted to deterrence of the type of offense involved or to the correction of the offender.

(c) The court shall not sentence an offender to pay a fine or make restitution unless the offender is able, or, given a fair opportunity to do so, will be able to pay the fine or restitution. The court shall not sentence an offender to pay a fine unless the fine will not prevent the offender from making restitution to the victim of the offense.

(d) In determining the amount and method of payment of a fine or restitution, the court shall take into account the financial resources of the offender and the nature of the burden that its payment will impose.

(e) When an offender is sentenced to pay a fine or to make restitution, the court shall not impose at the same time an alternative sentence to be served in the event that the fine is not paid. The response of the court to non-payment shall be determined only after the fine has not been paid and as provided in § 80.56.

DOCO/Ad Hoc Recommendation: Non-substantive amendment in (a) for added clarity. Non-substantive amendment in (c) for added clarity consistent with source statute N.J. § 2C:44-2(a)(2).

20



§ 80.53. When Restitution Required.

The court shall require restitution in all cases wherein the offender has been convicted of a crime involving damage to property of the victim and when the offender is able, or, given a fair opportunity to do so, will be able to pay the restitution.

DOCO/Ad Hoc Recommendation: Non-substantive amendments for added clarity and consistency with recommended amendment to § 80.52.

§ 80.54. Time and Method of Payment.

(a) When an offender is sentenced to pay a fine or to make restitution, the court may grant permission for the payment to be made within a specified period of time or in specified installments. If no such permission is embodied in the sentence, the fine or restitution shall be payable forthwith.

(b) When an offender sentenced to pay a fine or make restitution is also sentenced to probation, the court may make the payment a condition of probation.

(c) The offender shall pay a fine, restitution or any installment thereof to the court. In the event of default in payment, the Attorney General shall take appropriate action for its collection.

(d) Unless otherwise provided by law, all fines collected shall be paid over to the Treasurer of Guam and shall become part of the general funds of Guam and shall be subject to general appropriation.

DOCO/Ad Hoc Recommendation: No change.



§ 80.56. Consequences of Non-Payment.

(a) When an offender sentenced to pay a fine or make restitution defaults in the payment thereof or of any installment, the court, upon the motion of the Attorney General or upon its own motion, may require him to show cause why his default should not be treated as contumacious and may issue a summons or a warrant of arrest for his appearance. Unless the offender shows that his default was excusable, the court shall find that his default was contumacious and may order him committed until the fine or restitution or a specified part thereof is paid. The term of imprisonment for such contumacious non-payment of the fine or restitution shall be specified in the order of commitment and shall not exceed one day for each Ten Dollars (\$10.00) of the fine or restitution, thirty (30) days if the fine or restitution was imposed upon conviction of a violation or a petty misdemeanor or one (1) year in any other case, whichever is the shorter period. When a fine or restitution is imposed on a corporation or an unincorporated association it is the duty of the person or persons authorized to make disbursements from the assets of the corporation or association to pay it from such assets and their failure so to do may be held contumacious under this Subsection. A person committed for non-payment of a fine or restitution shall be given credit towards its payment for each day of imprisonment, at the rate specified in the order of commitment.



§ 80.56. Consequences of Non-Payment. [Continued]

(b) If it appears that the offender's default in the payment of a fine or restitution is not **contumacious**, the court may make an order allowing the offender additional time for payment, reducing the amount thereof or of each installment, or revoking the fine or restitution or the unpaid portion thereof in whole or in part.

(c) Upon any default in the payment of a fine or restitution or any installment thereof, execution may be levied and such other measures may be taken for the collection of the fine or restitution or the unpaid balance thereof as are authorized for the collection of an unpaid civil judgment entered against the offender in an action on a debt. The levy of execution for the collection of a fine or restitution shall not discharge an offender committed to imprisonment for non-payment until the amount of the fine or restitution has actually been collected.

DOCO/Ad Hoc Recommendation: No change. Blacks Law Dictionary 6th Edition defines contumacious conduct as "willful stubborn and disobedient conduct, commonly punishable as contempt of court." Discussion but no agreement on whether to amend language.



§ 80.58. Petition for Revocation of Fine: Conditions.

An offender who has been sentenced to pay a fine and who is not in **contumacious** default in the payment thereof may at any time petition the court which sentenced him for a revocation of the fine or of any unpaid portion thereof. If it appears to the satisfaction of the court that the circumstances which warranted the imposition of the fine have changed, or that it would otherwise be unjust to require payment, the court may revoke the fine or the unpaid portion thereof in whole or in part.

DOCO/Ad Hoc Recommendation: No change.

ATTACHMENT 2

DOCO/AD HOC SUBCOMMISSION

RESEARCH ATTORNEY

YUSUKE HAFFEMAN-UDAGAWA

PRESENTATION

APRIL 9, 2026



Review of Antiquated Laws

- Karate and Judo Experts
- Dueling
- Injuries to Animals
- Smoking Opium Shipping

1



GUAM CRIMINAL LAW AND PROCEDURE
REVIEW COMMISSION

**10 GCA CHAPTER 62 KARATE AND JUDO EXPERTS;
DUELING LAWS;
INJURIES TO ANIMALS; OPIUM SHIPPING**

2



Overview

Question: Should 10 GCA Chapter 62 be repealed as an outdated and unenforceable— or does it serve a legitimate public safety purpose that warrants its retention?

Background:

- 1 What the Law Does:** 10 GCA §§ 62100–62106 require any person trained in karate, judo, or similar art in which hands/feet are used as deadly weapons to register with the Dept. of Revenue & Taxation. Failure to register is a misdemeanor.
- 2 Scope:** Covers any belt holder — even first-level — in any hand-to-hand fighting art, including taekwondo, jiu-jitsu, and MMA. Military and law enforcement are exempt.
- 3 Origin:** Enacted by the 9th Guam Legislature (c. 1967) amid post-WWII martial arts proliferation. No digitized legislative record identifies a specific triggering incident.



The Current Law 10 GCA §§ 62100-62106

Key Provisions

- | | |
|----------------|---|
| § 62100 | Registration required for any expert in karate, judo, or similar art where hands/feet serve as deadly weapons |
| § 62103 | \$5 registration fee; military and law enforcement exempt; no renewal required |
| § 62104 | "Expert" = any person who has completed at least one level of training and holds a belt or other proficiency symbol |
| § 62105 | Failure to register = misdemeanor criminal offense |
| § 62106 | Assault by a registered expert treated as aggravated assault (elevated charge) |

10 GCA § 62100. Registration of Experts in the Arts of Karate or Judo.

Any person who is an expert in the art of karate or judo, or any similar physical art in which the hands and feet are used as deadly weapons, is required to register with the Department of Revenue and Taxation.

§ 62104: "A 'karate or judo expert' is any person trained in the arts of karate, judo, or other hand-to-hand fighting technique whereby the hands, feet, or other parts of the body are used as weapons, who has completed at least one level of training and has been issued a belt or other symbol showing proficiency in such art."

§ 62106: "Any registered karate or judo expert who thereafter is charged with having used his art in a physical assault on some other person, shall upon conviction thereof, be deemed guilty of aggravated assault."



Guam in Context

Guam: Unique in the U.S.

Comprehensive research across all 50 states, D.C., Puerto Rico, USVI, CNMI, and American Samoa found **no other jurisdiction** requiring martial artists to register as a class.

Other Jurisdictions*

Texas

Hands treated as deadly weapons case-by-case for trained fighters; elevated charges possible

New York

Hands/feet not deadly weapons per se

California

Only objects “extrinsic to the body” can be deadly weapons; but “shod feet” can count?

Federal

Body parts are not “dangerous weapons” under federal assault statute regardless of resulting injury.

**For comprehensive discussion of Guam’s approach compared with other jurisdictions, see Michael R. Romeo, [A Puncher’s Chance: Assessing the Classification of Martial Artists’ Hands As Deadly Weapons](#), 24 Jeffrey S. Moorad Sports L.J. 23 (2017).*

Guam Criminal Law Revision Commission | 10 GCA Chapter 62



Overview of Guam Assault Laws

Note:
Establishing level of assault considers *both* extent of injury *and* use of deadly weapon

9 GCA § 19.20 Aggravated Assault

(a) A person is guilty of aggravated assault if he either recklessly causes or attempts to cause:

- (1) serious bodily injury to another in circumstances manifesting extreme indifference to the value of human life;
- (2) serious bodily injury to another;
- (3) bodily injury to another with a deadly weapon.

(b) Aggravated assault under Paragraph (1) of Subsection (a) is a felony of the second degree; aggravated assault under Paragraphs (2) or (3) or Subsection (a) is a felony of the third degree; provided that any person convicted of aggravated assault shall not be eligible for work release or educational programs outside the confines of prison

Relevant Definitions 9 GCA § 16.10

Bodily Injury means physical pain, illness, unconsciousness or any impairment of physical condition.

Serious Bodily Injury means bodily injury which creates: serious permanent disfigurement; a substantial risk of death or serious, permanent disfigurement; severe or intense physical pain; or protracted loss or impairment of consciousness or of the function of any bodily member or organ;

Deadly Weapon means any firearm, or other weapon, device, instrument, material or substance, whether animate or inanimate, which in the manner it is used or is intended to be used is known to the defendant to be capable of producing death or serious bodily injury.

Simple Assault Key Provisions §19.30

- (a) A person is guilty of assault if he:
- (1) either recklessly causes or attempts to cause **bodily injury** to another;
 - (2) **recklessly uses a deadly weapon** in such a manner as to place another in danger of bodily injury; or
 - (3) by physical menace intentionally puts or attempts to put another in fear of imminent bodily injury. . .
- (d) An assault committed in a fight or scuffle entered into by **mutual consent** is a **petty misdemeanor**.
- (e) Any other assault is a **misdemeanor**.



Arguments for Repeal

Practical Unenforceability and Impossibly Broad Scope.

There is no evidence of successful prosecution under Chapter 62 in its nearly 60-year existence on either the non-registration or the Agg. Ass. enhancement. DRT has a registration form dated from 2022, but reports 10 registrations since 2020, and lack enforcement capability. Further, any person who earns even a first-level belt — including children — technically must register.

Enhanced Penalty Without Chapter

The definition of “deadly weapon” is sufficiently vague as to allow Prosecution to charge under § 19.20(a)(3) – the Texas approach. Alternatively, “serious bodily injury” is sufficiently vague to charge under § 19.20(a)(2) for a range of injuries. In *People v. Castro*, 2013 Guam 20, the Court upheld admission of the defendant’s participation in MMA even when not charged under a Ch. 62 enhancement because the evidence is relevant to *mens rea*.

Perverse Incentives

Because failure to register is a misdemeanor and registering causes a misdemeanor assault to be automatically upgraded to at least a 3rd degree felony, a martial arts expert planning on an assault would shave 3 years off their maximum sentence by choosing to instead fail to register.

Vague Application

Several laws have use of “deadly weapons” clauses allowing for enhanced penalties. However, the Ch. 62 does not automatically mean registered expert is in possession of a deadly weapon – they must “use the art” in a “physical assault” – and even when used as such, it is NOT clear the law intends this as a “use of a deadly weapon” aggravated assault or in effect creates a new class of aggravated assault.

Guam Criminal Law Revision Commission | 10 GCA Chapter 62

7



Arguments for Retention

Legitimate Public Safety Rationale

Trained martial artists can inflict severe injury with unarmed strikes. Their additional skills pose greater danger, and thus impose upon them a higher standard of accountability. Requiring registration and imposing aggravated assault liability for certified fighters provides meaningful deterrence and ensures accountability that ordinary assault law does not.

Prosecutorial Convenience

Avoid needing to prove a martial arts expert’s hands or feet were used as a deadly weapon. Avoid litigation on whether body part can be considered deadly weapons on Guam. Can charge/prove as 3rd Degree Felony Agg. Assault even if just “bodily injury” and not “serious bodily injury”.

Reform Rather Than Repeal

Rather than full repeal, the Legislature could narrow the law: limiting registration to professional fighters or black belt holders, modernizing the fee, and updating the enhanced assault provision — preserving the policy goal while eliminating overbreadth.

Guam Criminal Law Revision Commission | 10 GCA Chapter 62



Recommendation

Primary Recommendation

Repeal 10 GCA Chapter 62 in its entirety — to eliminate a law that is practically unenforceable, impossibly overbroad, and has been largely unenforced in its nearly 60-year existence.

The Commission may also consider the following alternatives:

- 1 Narrow the Scope:** Limit registration to professional fighters and black belt holders only, removing the overbroad inclusion of beginner belt holders.
- 2 Modernize Enforcement:** Transfer registration to the Guam Police Department, increase the fee to a meaningful amount, and require periodic renewal to maintain an accurate registry.
- 3 Retain modified § 62106 Penalty Only:** Repeal the registration requirement but preserve the enhanced assault provision — a trained fighter who commits assault would still face aggravated charges without the burdensome registry. Remove “registered” from § 62016, so that it reads: “Any ~~registered~~ karate or judo expert who thereafter is charged with having used his art in a physical assault on some other person, shall upon conviction thereof, be deemed guilty of aggravated assault”. Keep § 62104 Definition of expert, remove “required to register by the provision of this Chapter” and keep § 62101 exempting LEO/Peace officers.

Guam Criminal Law Revision Commission | 10 GCA Chapter 62



DUELING LAWS

20 GCA §§ 2254 & 2255



The Current Law

Provisions: 20 GCA §§ 2254 & 2255

§ 2254

Injures Suffered in a Duel.

If a person slays or permanently disables another person in a duel in Guam, the slayer must provide for the maintenance of the **widow or wife** of the person slain or permanently disabled and for the minor children, in such manner and at such cost, either by aggregate compensation in damages to each, or by a monthly, quarterly, or annual allowance to be determined by the court.

§ 2255

Victorious Duelist to Pay all Debts.

If any person slays or permanently disables another person in a duel in **Guam**, the slayer is liable for and must pay all debts of the person slain or permanently disabled.

Discussion

History: The Compiler note states §§ 2254 & 2255 comes from the previous Guam Civil Code, CC §§ 3347, 3348. These citations translate directly to the California Code CC §§ 3347, 3348, enacted in 1872 as part of a series of laws aimed at discouraging dueling. The laws were a part of the wholesale adoption of California Code by the Naval Governor in 1933, and appear in the 1933 Civil Code of Guam.

Source: The language of the source California laws are largely identical, save the substitution of “widow or wife” in § 3347 with “surviving spouse or spouse” in 1972.

California Repeal: The California Legislature repealed their version of the laws in a 1994 law referred to as J.U.N.K. (Jurassic, Unproductive, Negligible, and Knuckleheaded). JUNK repealed 10 other dueling laws, as well as laws governing frog-jumping contests, dead or alive posters, and a study on the feasibility of employing women in the California Highway Patrol.



Arguments for Repeal

Outdated and Irrelevant

Guam has no use for an 1872 law discouraging a practice that was arguably antiquated at the time. Murder and assault laws adequately criminalize and disincentivize any potentially deadly mutual combat. Removing these laws follows a broader national trend and could be considered routine modernization. These laws were a part of the adoption of large parts of the California Code by the Naval Governor, and thus do not reflect a democratically elected legislative process.

Civil Remedies

In addition to any restitution in a criminal case, a victim could seek civil remedies adequately parallel to the provisions of § 2254. On the other hand, § 2255 making the victorious duelist liable for the other's debts, does not have an alternative civil remedy. However, no California case on Westlaw cites its use in the 100+ year existence, suggesting a largely deterrence function.

Arguments for Retention

Preservation of Cultural, Historical Record; Symbolic Deterrence

Arguably, these laws better reflect California than Guam history.

No Harm from Retention

The statutes impose no burden and generate no compliance cost.

Recommendation

Repeal 20 GCA §§ 2254, 2255



INJURIES TO ANIMALS: LIABILITY TO OWNER

20 GCA § 2233

13



Origin & Background

Question: Should 20 GCA § 2233 be repealed as outdated and inadequate, amended to modernize and expand its scope, or left alone as a functioning civil remedy?

The Statute:

- 1 **What the Law Does:** Imposes strict civil liability on any owner, possessor, or harbinger of a dog or other animal that kills, worries, or wounds sheep, angora or cashmere goats, or poultry. No knowledge of prior dangerous behavior required. Also grants a defensive right to kill an attacking animal in the act.
- 2 **Origin:** California Civil Code § 3341, first enacted in 1883, then amended in 1903. Guam adopted the California Civil Code wholesale in 1933 under Naval Governor's executive decree, receiving the 1903-amended version of § 3341 as Guam Civil Code § 3341.
- 3 **Scope:** Protected species: sheep, angora/cashmere goats, and poultry only. Cross-referenced to 10 GCA Ch. 34 (Animal Control Laws) and 9 GCA § 70 et seq. (Pugua's Law).



The Current Law v. CA § 3341

§ 2233

Injures to Animals: Liability to Owner

Location restriction

The owner, possessor, or harbinger of any dog, or other animal that shall kill, worry, or wound any sheep, angora goat, or cashmere goat, or poultry, shall be liable to the owner of the same for the damages and costs of suit, to be recovered in any court of competent jurisdiction:

Strict Liability

(a) In the prosecution of actions under the provisions of this Article, it shall not be necessary for the plaintiff to show that the owner, possessor, or harbinger of such dog or other animal, had knowledge of the fact that such dog or other animal would kill, wound, or worry sheep, goats, or poultry.

No Poultry?

Broad?

(b) Any person on finding any dog or dogs, or other animal, worrying, wounding, or killing any sheep, angora or cashmere goats, may, at the time of finding such dog or dogs, or other animal, kill the same and the owner or owners thereof shall sustain no action for against any person so killing such dog or dogs, or other animal.

Animal (self-defense). No de-escalation, no location, no verification?

Herding dog exemption

Liability of owner, possessor, or harbinger of animal killing or injuring other animals; scienter; right to kill animal found committing injury; accidental killing or injury

The owner, possessor, or harbinger of any dog or other animal, that shall, on the premises of any person other than the owner, possessor, or harbinger of such dog or other animal, kill, worry, or wound any bovine animal, swine, horse, mule, burro, sheep, angora goat, or cashmere goat, or poultry, shall be liable to the owner of the same for the damages and costs of suit, to be recovered in any court of competent jurisdiction:

1. In the prosecution of actions under the provisions of this chapter, it shall not be necessary for the plaintiff to show that the owner, possessor, or harbinger of such dog or other animal, had knowledge of the fact that such dog or other animal would kill, wound or worry bovine animals, swine, horses, mules, burros, sheep, goats, or poultry

Expands scope

2. Any person on finding any dog or dogs, or other animal, not on the premises of the owner or possessor of such dog or dogs, or other animal, worrying, wounding, or killing any bovine animals, swine, horses, mules, burros, sheep, angora or cashmere goats, may, at the time of finding such dog or dogs, or other animal, kill the same, and the owner or owners thereof shall sustain no action for damages against any person so killing such dog or dogs, or other animal.

Nothing in this section shall render an owner, possessor, or harbinger of a dog liable for the accidental or unavoidable killing or injury of any bovine animal, swine, horse, mule, burro, sheep, angora goat, cashmere goat, or poultry which occurs in connection with or as an incident to the driving or herding the same from the premises of the owner, possessor, or harbinger of the dog, whether such killing or injury occurs upon such premises or off of such premises

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Interactions with Other Laws

Pugua's Law: 9 GCA § 70.65. Defenses; Exceptions

Defenses; Exceptions

- (a) It is an affirmative defense in a prosecution for violation of animal abuse under § 70.25 (a) of this Article if:
- ...
- (2) the animal posed a present and immediate danger to the safety of people, and the defendant took reasonable measures necessary to protect against serious bodily harm, or death, to themselves or other people, livestock, or domestic animals.
- (d) Trespass by an animal shall not be a defense...

Title 10 Ch. 34 Keeping Animals. 10 GCA § 34111.

Persons Attacked by Animal.

Any person who is attacked by a pet or animal, or any person witnessing any such attack, may kill such pet or animal in self-defense or defense of others; provided, that it is done in accordance with the provisions in §§ 70.10 through 70.10.15 of Article 1, Chapter 70, Title 9, Guam Code Annotated. Such person shall notify the Department immediately of such killing and remain with the carcass until an officer takes possession of the carcass. The carcass shall be immediately delivered to the Department for examination.

Dated: 70.10.15
doesn't exist, COL
renumbering

20 GCA § 2235

Recovery of Damages for Injuries by Animals

Property owners may recover just and adequate civil indemnity, or other redress, for damages to crops, livestock, or other property, caused by other persons, livestock, poultry, dogs, or other domestic animals.

Discussion

§ 70.65: Affirmative defense to injure animal, but "reasonable measures" and threat of "serious bodily harm" to protect other humans or animals

§ 2235: Civil Redress does not have strict liability nor clause for immunity from suit after a killing

§ 34111: Only provides for defense of people, not animals



Arguments for Repeal of 20 GCA § 2233

No Published Case Law or Demonstrated Enforcement.

No published digitally available Guam Supreme Court or Superior Court opinion has ever cited 20 GCA § 2233 directly. The statute appears to have sat largely dormant since 1933.

Outdated and Irrelevant?

This law was a part of the adoption of large parts of the California Code by the Naval Governor, and thus is not an outcome of Guam's democratically elected legislative process. The law originated in 1883 in California, and is perhaps better suited to the large scale and widespread animal husbandry that occurs there.

Narrowly Protected Species, No Location Qualifier

Guam farms raise these animals that are not protected by § 2233. Without a "premises of any person other than the owner" qualifier, § 2233 could impose liability when a dog attacks livestock that wandered onto the dog owner's own land—a result California recognized as unfair and corrected in 1945.

20 GCA § 2235 Provides a Backstop General Remedy

Section 2235 already provides property owners a general civil remedy for animal-caused damage. If § 2233 were repealed, farmers could still sue under § 2235—though they would lose the strict liability advantage and the specific defensive kill right.

Potential Harsh Outcome

Killing a dog for "worrying" a chicken appears harsh—especially when that dog could be on its own property, and the chicken does not need to be owned by the shooter. The law could be used to shield bad behavior in an escalating conflict between neighbors.



Recommendation:

Primary Recommendation

Repeal 20 GCA § 2233 — The law has limited use, has the potential for misuse, and the injury addressed is largely covered by other laws. This is an antiquated law never voted on by democratically elected representatives that does not reflect Guam's needs or agricultural landscape.

Alternative Recommendation

Amend 20 GCA § 2233 — to adopt the 1945 California improvements (save the herding exemption) Guam never adopted and add attorney's fees recovery for small-scale farmers. Farmers can protect against large stray population without concern about whether dog is owned.

The following amendments are recommended:

- 1 **Expand the Protected Livestock List:** Add bovine animals, swine, horses, mules, and donkeys.
- 2 **Add Location Qualifier & Premises Restriction:** Limit civil liability to attacks on premises other than the dog owner's. Limit the defensive kill right to dogs found off their owner's land. Both changes track California's 1945 amendment and eliminate ambiguity.
- 3 **Add Attorney's Fees:** Add recovery of reasonable attorney's fees to make the statute accessible to small-scale farmers whose individual livestock losses are too low to justify litigation costs without fee-shifting.



OPIUM SHIPPING

5 GCA § 73134

19



5 GCA § 73134. Penalty: Opium.

If any of such merchandise so found consists of smoking opium or opium prepared for smoking, the master of such vessel or the owner of such vessel shall be liable to a penalty of twenty-five dollars (\$25.00) for each ounce thereof so found. Such penalty shall constitute a lien upon such vessel; except that the master or owner of a vessel used by any person as a common carrier in the transaction of business as such common carrier shall not be liable to such penalty and the vessel shall not be held subject to the lien, if it appears that neither the master nor any of the officers (including licensed and unlicensed officers and petty officers) nor the owner of the vessel knew, and could not, by the exercise of the highest degree of care and diligence, have known that such smoking opium or opium prepared for smoking was on board. Clearance of any such vessel may be withheld until such penalty is paid or until a bond, satisfactory to the Collector, is given for the payment thereof.

20



Origin & Background

Question: Should 5 GCA § 73134 be repealed as functionally superseded, amended, or retained?

The Statute:

- 1 What the Law Does:** Imposes a customs penalty for the importation of opium into Guam. Codified as part of Chapter 73 (Customs & Quarantine Agency), Article 1 (Operations & Duties). Source note: GC § 47134, previously 14232 in 1952 Government Code. No public law has ever amended it.
- 2 Origin:** Traces directly to U.S. Naval Government regulations (ca. 1898–1950). The First Guam Legislature codified the Naval Government's customs rules into Government Code § 14232 (later renumbered to GC § 47134 by P.L. 7-48) without change.
- 3 Functional Status:** 9 GCA Chapter 67, Article 6 (Importation & Exportation Penalties), enacted via P.L. 14-141 (1978) and comprehensively reenacted via P.L. 24-149 (1998), now governs all controlled substance importation — including opium (Schedule II) and heroin (Schedule I) — with felony-grade sanctions.

Guam Criminal Law Revision Commission | 5 GCA § 73134



Recommendation:

Primary Recommendation

Repeal 5 GCA § 73134 — The provision has been functionally superseded by the Guam Uniform Controlled Substances Act (9 GCA Chapter 67) since 1978. No enforcement gap results from repeal. Consistent with the Legislature's established practice of removing customs provisions rendered superfluous by later drug law.

Key Rationale:

Precedent in Ch. 73

The Legislature already did this in 1978: § 73101(c) was repealed when Chapter 67 superseded it. Section 73134 is the unfinished business from that same cleanup.

No Enforcement Gap

9 GCA § 67.401.9 imposes felony-grade penalties for opium importation. CQA officers already enforce this under § 73102, not under § 73134.

Guam Criminal Law Revision Commission | 5 GCA § 73134



Option Analysis

REPEAL ✓ (Recommended)

Eliminates a dormant provision creating potential enforcement confusion. 9 GCA § 67.401.9 fully governs opium importation with felony-grade sanctions. CQA enforcement authority under § 73102 is unaffected. A simple one-section bill is sufficient. This law should have been repealed alongside § 73101(c) in 1978 as part of the implementation of what became Chapter 67.

AMEND

Not warranted. There is no unique substantive function § 73134 could serve that is not already covered by Chapter 67. Amending it to serve as a cross-reference duplicates functionality already provided by Compiler's notes and § 73102, consuming legislative resources without legal benefit.

RETAIN

Perpetuates ambiguity. A practitioner or officer without access to cross-reference notes might treat § 73134 as the operative charging authority for opium importation. A dormant provision with a \$25/ounce penalty alongside felony sanctions in Chapter 67 creates an inconsistent statutory landscape.

POWERPOINT PRESENTATION

CLRC PLENARY MEETING OF

JUNE 25, 2026



GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

PLENARY MEETING
JUNE 25, 2026
12:00 NOON



Guam Criminal Law and Procedure Review Commission Plenary Meeting June 25, 2026 Agenda

- I. **CALL TO ORDER**
- II. **PROOF OF DUE NOTICE OF MEETING**
- III. **DETERMINATION OF QUORUM**
- IV. **DISPOSAL OF MINUTES** April 9, 2026
- V. **OLD BUSINESS**
 - A. Subcommittee Status Update and Report of Executive Director
 - B. Report on Legislation Affecting Sections Reviewed or Under Review
- VI. **NEW BUSINESS**
 - A. Ad Hoc Subcommittee: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - B. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - C. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - D. Notice of Next Meeting: **TO BE DETERMINED.**
- VII. **COMMUNICATIONS**
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**



- Status Update
- Pending Legislation



Recently Enacted Laws Affecting Criminal Statutes

Bill No.	Introduced	Status as of 6/25/26	Title 9 Section(s) Affected	Interim Report Recommendation
Bill 137-38	5/8/25	Enacted 10/17/25 PL 38-070	Add a new §§ 25.50, 19.82 (interfering with reporting of CSC)	Chap 25 covered in IR. New sections covered in Notice of Errata and in revised Bill 232.
Bill 138-38	5/8/25	Enacted 2/11/26. PL 38-094	Amends § 7.58 (intoxication)	Chap 7 not covered in Interim Report. Amended section added to pending reviewed.
Bill 157-38	6/26/25	Enacted 12/20/25 PL 38-083	Amends § 25.25 (penalties for 3rd degree CSC)	Chap 25 covered in IR with no changes to this section. However, P.L. 38-083 subsequently amended this section. This amendment was covered in Notice of Errata and in revised Bill 232.
Bill 162-38	6/26/25	Enacted 2/11/26 PL 38-096	Amends § 19.50 (terroristic conduct)	Chap 19 was covered in IR with this section amended. Amendment by PL 38-096 (2/11/26) is post Notice of Errata. This section must be added to Bill 232 on the floor.
Bill 167-38	7/3/25	Enacted 12/16/25 PL 38-078	Amends § 34.70 (penalties for graffiti)	Chap 34 covered in IR with no change to this section. However, PL 38-078 subsequently amended this section. This amendment was covered in the Notice of Errata and in revised Bill 232.
Bill 191-38	9/18/25	Enacted 6/3/26 PL 28-128	Adds a new § 70.460 (drones over corrections facilities)	Chap 70 covered in IR. This new section must be added to the bill.



Pending Bills Potentially Affecting Criminal Statutes

Bill No.	Introduced	Status as of 6/25/26	Title 9 Section(s) Affected	Interim Report Recommendation
Bill 105-38	4/10/25	Pending	Amends § 80.70(a) (parole for violent crimes)	Chap 80 not covered in IR. Amended section subject to review if bill is passed.
Bill 140-38	5/9/25	Pending	Adds a new § 90.16.2 to article 1 of chapter 90 (compensation for corrections officers)	Chap 90 not covered in IR. New sections subject to review if bill is passed.
Bill 171-38	7/10/25	Pending	Adds a new chapter 28A (nonconsensual intimate depictions). Amends Ch. 25, adding new § 25.10(a)(12) and new section § 25.50	New Chapter 28A subject to review if bill is passed. Ch. 25 in NOE and IR. If bill passed, Ch. 25 amendments must be added to Bill 232 on the floor
Bill 236-38	11/26/25	Pending	Adds a new Article 6 to 9 GCA Chapter 7 (no consent if serious harm or death in sexual activity)	Chap 7 not covered in IR. New Article 6 subject to review if bill is passed.
Bill 271-38	2/9/26	Pending	Add § 55.75 (tampering with Guam Customs seals)	Chap 55 covered in IR. If bill is passed, this section must be added to Bill 232 on the floor.
Bill 280-38	2/23/26	Pending	Amend § 52.10 and add §§ 52.70, 55.70 (interfering with judicial and peace officers)	Chap 52 covered in IR with § 52.10 amended. If bill is passed, these sections must be added to Bill 232 on the floor.



Report Of The Crimes Against Persons Subcommission

Criminal Law And Procedure Review Commission

Plenary Meeting

June 25, 2026

CRIMES AGAINST PERSONS SUBCOMMISSION

Sgt. M. Elliot, Member, GPD

Attorney C. Tenorio, Member, OAG

Mag. Hon. S. Brown, Member, JOG

Attorney J. Morrison, V. Chair, PDSC

Attorney J. McDonald, Member, Chair



Presented Today

Title 9

Chapter 64. Gambling. § 64.40

**Chapter 49. Governmental Bribery, Other Unlawful
Influence And Related Offenses. § 49.90**



Subcommission Report

9 GCA § 64.40 Legal
Cockfight Gambling
Permitted: vote taken to
report out no changes
recommended.

9 GCA § 49.90 Official
Misconduct: vote taken
3-1 to recommend
increasing penalties.



§ 49.90. Official Misconduct; Defined & Punished.

A public servant commits ~~a misdemeanor~~ third degree felony if, with intent to benefit himself or another person or to harm another person or to deprive another person of a benefit;

(a) he commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or

(b) he knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office.



§ 49.90 Official Misconduct

- Most jurisdictions (25/33) treat it as a misdemeanor.
- Official misconduct usually paired with a more serious crime, e.g. Blue House. Other jurisdictions follow this approach.
- Legislative history shows that Bill 127-36 increasing the penalty to misdemeanor never passed. AG appeared to be in favor of keeping it as a misdemeanor.
- Legislative history also shows Bill 30-307 including the penalty of Gov Guam employment ineligibility was vetoed by the Governor because of concerns over ambiguous language.



§ 49.90 Official Misconduct

Recommendation is to increase the penalty to at least a 3rd Degree Felony. Consider the following hypotheticals which are not subject to criminal sanction:

- (a) Law enforcement officer refusing to act on an investigation and intentionally thwarting it because of personal or family reasons.
- (b) Law enforcement officer intentionally creating a *Miranda* or Fourth Amendment violation.
- (c) Tax official instructing CIB not to investigate fraud connected to a very large tax because of political reasons.
- (d) School safety officer looking the other way during a gang fight that resulted in serious bodily injury.
- (e) Sec. 8 program officer refusing to approve applicant because applicant will not rent relative's real property.
- (f) Other *ultra vires* or refusal to act in an official capacity that is not a bribe because it benefits a third party or gratuity because it is not pecuniary.



Persons Subcommittee Recommendations

Title and Chapter	Section/Article	No-Change	AMEND	REPEAL	REPEAL & REENACT	ADD	TABLE
Title 9 Chapter 64. Gambling.	§ 64.40	No Change					
Title 9 Chapter 49. Governmental Bribery ...	§ 49.90		Amend				



Report of the DOCO / Ad Hoc Subcommittee

June 25, 2026

Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

Members: COL Geraldine Cepeda, Atty Valerie Nuesa, Atty Kristine Borja, 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

- § 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape. (Tabled April 09, 2026)
- Article 4. Probation.
- Article 5. Parole.
- Article 6. Alternative Community Service.



§ 80.48. Extension of Limits of Confinement: Failure to Adhere to Conditions Punished: Failure to Return is Escape.

(a) Except as otherwise provided by law, either the court at the time of sentencing or the Director of Corrections after the offender has been placed in custody, may extend the limits of ~~his~~ the offender's confinement to permit the ~~offender-him~~ to continue in his regular employment or educational program, ~~or~~ if the prisoner ~~offender~~ does not have regular employment or a regular educational program, to secure employment or education. ...

(b) The earnings of the offender may be collected by the Director of Corrections. From such earnings, the Director may deduct such costs incident to the offender's confinement ~~as the Director deems appropriate and reasonable only as authorized by Department of Corrections rules and regulations~~. The Director may also deduct payments for the support of the offender's dependents and forward such payments to them. The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund.

...

DOCO/Ad Hoc Recommendation: Non-substantive amendments in (a) for clarification and consistency. Amendments to (b) limit deduction of an inmate's earnings as permitted by existing DOC rules, and consolidate related language regarding work release from (f).



§ 80.48. Continued

~~(e) Except for inmates participating in the Work and Educational Programs, all inmates sentenced to the custody of the Department of Corrections and in the Adult Correctional Facility shall be issued uniforms which they shall wear at all times they are outside the facility. The uniform shall be prominently marked to indicate that the person wearing it is an inmate. The uniforms shall at the least have the letter "P" permanently marked on the front and back of the shirt or top portion of the uniform. All inmates including those in the Work and Educational Programs shall have as many haircuts as necessary to maintain a short style so that hair does not extend over the ear or over the shirt collar of the uniform. No beards shall be worn by inmates.~~

~~(f) The remaining balance of earnings by an inmate from participating in a Work Release Program shall be deposited into the Criminal Injuries Compensation Fund (the "Fund"). After complying with subsection (b) of this Section, associated with support of dependents and debts, the remaining balance shall be deposited in the Fund.~~

(g) Termination of Eligibility; Work and Education Programs.

(1) Notwithstanding Subsection (c) of this Section, any inmate who has been placed under the Work and Educational Programs must comply with the conditions laid down for the inmate's conduct while enjoying the benefits of the program. Any violations of the conditions, such as failure of the offender to return to the place of confinement within the time pursuant to the terms and conditions of the programs, shall suspend the offender's eligibility ~~to~~ for the Programs ~~as outlined below~~.

...

DOCO/Ad Hoc Recommendation: Repeal in (e) entirely as inmate uniforms should be at Director's discretion, haircut and shaving requirements raise constitutional-religious issues (*See Holt v. Hobbs*, 574 U.S. 352 (2015) (prison's grooming policy prohibiting a Muslim inmate from growing a short beard violated his religious rights)). Non-substantive amendments in (g) for clarity.



Article 4 - Probation

9 GCA § 80.60. Standards for Imposing or Withholding Probation.

(a) When Sentence May Not Require Prison Term.

...

(2) "Minimum," wherever it appears in this Code, means, for purposes of imposing punishment upon a person convicted of a crime, that the court shall impose the entire term of confinement, the full amount of the fine and the complete requirement of community service prescribed by law. The court shall not suspend in full or in part any punishment described as minimum, specifically, for the crimes enumerated in the habitual offender statute (P.L. 32-049, codified as § 80.50 of Article 2 of this Chapter 9)-9 GCA § 80.37.2 (Habitual Offenders), and all other violent offenses that carry a minimum punishment.

(3) When used for the purpose of describing or requiring a sentence of incarceration imposed pursuant to this Code, the terms "minimum," "mandatory," "minimum mandatory," "mandatory minimum," "minimum sentence of," "a sentence of not less than," "a sentence of at least," and any derivative thereof, shall be construed as being synonymous.

...

(c) The following factors, while not controlling, shall be accorded weight in determining whether to suspend imposition of sentence or to place the offender on probation whether:

...

DAH Comment: Non-substantive grammatical edits and correction of habitual offender statute citation.



§ 80.62. Conditions Which Court May Attach to Probation.

(a) If the court suspends the imposition of sentence or places an offender on probation, it shall attach such reasonable conditions, authorized by this Section, as it deems appropriate to assist him to lead a law-abiding life.

(b) The court, as a condition of its order, may require the offender:

...

(4) to pursue a prescribed secular course of study or vocational al training;

...

(7) to refrain from possessing any firearm or other dangerous instrument or weapon;

...

DAH Comment: Non-substantive grammatical edit in (b)(4). The term "instrument" added in (b)(7) for consistency with the definition of "Dangerous Instrument" in 9 GCA § 58.10(e). The term "dangerous weapon" is from the Model Penal Code and is not specifically defined in Title 9.



§ 80.64. Term of Probation: Modification of Probation.

(a) If the court has suspended imposition of sentence or has placed an offender on probation, the period of the suspension or probation shall not exceed five (5) years for a felony, two (2) years for a misdemeanor or petty misdemeanor and one (1) year for a violation.

(b) ~~(No text)~~(1) At any time during the period of suspension or probation, upon a showing that such action will best satisfy the ends of justice and the best interests of the public and the offender, the court may modify or terminate the conditions to which the offender is presently subject. ~~(2)~~ Prior to modification or termination, the offender shall be given notice and a reasonable opportunity to be heard regarding any change in the conditions. All changes in conditions shall be given to the offender in writing.

...

(d) Notwithstanding any other provisions of the law, the Court may, upon good cause shown, extend probation beyond the terms set forth in subsection (a) of this section up to a maximum additional term of one (1) year for petty misdemeanors and misdemeanors, and a maximum additional term of two (2) years for felonies.

DAH Comment: Non-substantive reorganization of (b) for clarity. Subsection (d) moved here from the § 80.66(c), which is more relevant to this section and cites directly to this section.



§ 80.66. Revocation of Probation: When Permitted.

(a) At any time before the discharge of the offender or the termination of the period of suspension or probation:

(1) ~~U~~ Upon a showing of probable cause that an offender has violated a condition of his suspension or probation, the court may summon the offender to appear before it or may issue a warrant for his arrest. The warrant or summons shall be served in the manner provided by 8 GCA § 15.70 (Criminal Procedure). The offender may be arrested without a warrant only in those circumstances where such an arrest is otherwise permitted by law₂.

(2) ~~T~~The ~~C~~Court, if satisfied that the offender has inexcusably failed to comply with a substantial requirement imposed as a condition of the order₂, may revoke the suspension or probation and sentence or re-sentence the offender. Violation of a condition shall not result in revocation, however, unless the court determines that revocation under all the circumstances then existing will best satisfy the ends of justice and the best interests of the public₂.

(3) Upon a showing of probable cause before the Court, pursuant to Subsection (a)(1), a summons or warrant shall issue and the period of probation shall thereby be tolled pending the hearing upon the motion and the decision of the Court₂.

(A) The period of tolling shall start on the date the summons or warrant is filed by the Clerk of Court and shall end on the date the Clerk of Court files a judge's written decision or the judge issues an oral decision in open Court, whichever first occurs, on whether the defendant violated a condition of probation.

(B) Unless otherwise ordered by the Court, the defendant's term of probation shall be extended for the number of days the time is tolled.



§ 80.66. [Continued]

(C) During the period the time is tolled, the defendant shall remain subject to all conditions of probation.

(4) In the event the Court, following a hearing, is satisfied that the defendant's failure to comply with the conditions of probation was excusable, the Court may order that the defendant ~~may~~ be credited with the tolled period for purposes of computation of the remaining probation, if any. However, if the defendant fails to comply with the terms of probation during the tolled period, another affidavit of probable cause or petition for revocation may be filed and time may be tolled again.

(b) When the ~~e~~Court revokes a suspension or probation, it may impose on the offender any sentence that might have been imposed originally for the crime of which he was convicted.

~~(c) Notwithstanding any other provisions of the law, the Court may, upon good cause shown, extend probation beyond the terms set forth in § 80.64(a) up to a maximum additional term of one (1) year for petty misdemeanors and misdemeanors, and a maximum additional term of two (2) years for felonies.~~

~~(d) The amendments made in Subsections (a) and (c) of this Section shall apply prospectively to criminal acts committed after the effective date of this Section. [8/14/1998]~~

DAH Comment: Non-substantive grammatical and capitalization edits for clarity and consistency. Subsection (c) moved to § 80.66(d) for better relevancy and consistency. Deletion of (d) as it is no longer necessary. However, (d) will be referenced in a Compiler of Laws annotation to this section.



§ 80.68. Hearing Required; Release Permitted; Confinement Provided for.

(a) The court shall not revoke a suspension or probation or increase the requirements imposed thereby on the offender except after a hearing upon written notice to the offender of the grounds on which such action is proposed. The offender shall have the right to hear and controvert the evidence against him, to offer evidence in his defense and to be represented by counsel.

(b) Pending the hearing required by Subsection (a), the offender may be released in the manner and subject to the conditions prescribed by ~~Title~~ 8 GCA Chapter 40 (~~Criminal Procedure Release~~) (~~commencing with § 40.10~~). However, if there is probable cause to believe that the offender has committed another crime or if he has been held to answer therefor, the court may commit him without bail, pending a determination of the charge by the court having jurisdiction thereof.

DAH Comment: Correction of chapter title and deletion of unnecessary language.



Article 6 – Alternative Community Service 9 GCA § 80.90. Definitions.

As used in this Article:

(a) “Alternative Community Service” means repayment of the general public for the expenses incurred incidental to the crime. Repayment shall be by donation of time by doing public service work at entities or for persons so as to benefit the general public which includes: charitable agencies, governmental subdivisions, educational institutions, the ~~handicapped~~ disabled, the elderly, the ecology, the church of the offender’s choice, and any other agencies that the sentencing judge deems reasonably rehabilitative to the offender, however, no work service shall result in gain to any private individual or corporation, other than the ~~defendant~~ offender as authorized in this Article.

(b) “Self-Improvement and Rehabilitative Programs” shall include, but are not limited to, educational and vocational school, classes in public or private schools, alcohol education/alcohol treatment, ~~a~~Alcoholics ~~a~~Anonymous meetings, vocational/health education and rehabilitation, employment counseling, or any other self-improvement activities that the sentencing judge deems reasonablely rehabilitative and beneficial to the offender.

DAH Comment: Non-substantive amendments for appropriateness, consistency, and to clarify that the offender can gain from community service only as provided in this Article.



§ 80.91. Sentence ~~Alternatives Service; Restitution as Sentence~~; Restrictions.

In lieu of, or in addition to a fine, confinement, or probation, a judge, in any felony case where in which force or violence is not an element of the offense of which the defendant stands convicted, or in any misdemeanor, petty misdemeanor, ~~or violation case, including or~~ juvenile cases, ~~but excluding every case in which the offense of which the defendant stands convicted carries a mandatory sentence of confinement or involves damage to property of the victim,~~ may impose a sentence that ~~contains~~ includes any or all of the following ~~elements~~:

- (a) Restitution as provided for in this Chapter ~~80 of the Criminal and Correctional Code~~;
- (b) Alternative ~~e~~Community ~~s~~Service; or
- (c) Participation in a self-improvement and rehabilitative program.

This provision shall not apply to any case in which the crime of which the defendant stands convicted carries a mandatory sentence of confinement, involves damage to the property of a victim, or is punishable by fine only.

DAH Comment: Non-substantive amendments for clarification. The exclusion in the opening paragraph is consolidated into the last sentence with other exclusions.



§ 80.92. Time for Completion of Work, Alternative Fine or Imprisonment.

(a) Any sentence imposed under this Article shall contain the time necessary for the completion of the sentence and shall include the penalties of a fine or confinement that will be imposed in the event that such sentence is not completed.

(b) In the event that the offender fails to complete a sentence imposed under this Article, the sentencing judge shall give proportional credit for any portion of such sentence completed by deducting part of the fine or confinement, or in all cases where fine and confinement have been stated as a penalty, the percentage shall be deducted from both the fine and the term of confinement.

DAH Comment: No change.

§ 80.93. Waiver of Liability.

(a) Guam and its political subdivisions shall not be liable in any way for any personal injury, civil damages, worker's compensation, or unemployment compensation as a result of any injury while the ~~person~~ offender is doing ~~a~~Alternative ~~e~~Community ~~s~~Service.

(b) All work service sentences imposed hereunder shall be deemed public service without monetary compensation and shall not be deemed employment by any of the cooperating agencies, individuals or non-profit corporations that receive the work service.

DAH Comment: Amendments for consistency with recommendations above.



§ 80.94. Minimum Wage; Restitution for Actual Amount Lost.

(b) ~~With the approval of the sentencing judge, R~~estitution to a crime victim shall ~~be consist of~~ either:

~~(1) in~~ monetary payment for damages ~~and should not to~~ exceed the victim's actual amount lost; ~~or~~

~~(2) repair of the damage by~~ the offender ~~may repay the crime victim by repairing the damages~~ with the consent and agreement of the crime victim; or

~~(3) the offender may repay the crime victim with the consent and agreement of the crime victim. other services, labor, replacement property, or agreed compensation reasonably related to the victim's loss, with the consent and agreement of the crime victim.~~

~~(c) [No text]~~

~~(1) In the event that there is a dispute between the crime victim and the offender as to the amount of the loss, the judge shall set an amount that adequately and fairly compensates the crime victim; , however, the crime victim may pursue his claim in a civil action, or be mutually agreed upon arbitration under the provisions of §§ 2110 through 2120 inclusive of the Civil Procedure Code of Guam, and any decision rendered by such court or arbitrator shall be binding upon the offender, the sentencing judge, and the crime victim.~~

~~(2) The amount of restitution set by the sentencing judge hereunder shall not limit whatever other civil remedies the crime victim may have.~~

DAH Comment: Amendments to (b) for consistency with a sentencing judge's require approval throughout this Article, and non-substantive reorganization/renumbering for added clarity. Subsection (c) moved to a new § 80.95 for better organization and clarity.



(~~dc~~) The sentencing judge shall give consideration to any community service that benefits the public and is beneficial to the offender.

(1) Any charity, governmental agency or public cause that qualifies for a tax deduction to any donor under United States income tax laws or the tax laws of Guam shall be deemed beneficial to the public.

(2) Any person convicted of ~~Driving Under the Influence~~ Driving While Impaired, as defined by 9 GCA § 92102 ~~92101(a) et seq.~~, shall serve at least one-half (1/2) of that person's community service, working in the litter cleaning program created by 9 GCA § 81.10, unless the Court determines that the defendant is prevented from working in said program by mental or physical infirmity.

DAH Comment: Correction of citation in (d).



§ 80.95. Amount of Restitution Disputed.

(a) In the event that there is a dispute between the crime victim and the offender as to the amount of the loss, the judge shall set an amount that adequately and fairly compensates the crime victim. However, the crime victim may pursue a claim by civil action, or by mutually agreed upon arbitration under the laws of Guam.

(b) The amount of restitution set by the sentencing judge hereunder shall not limit whatever other civil remedies the crime victim may have.

DAH Comment: This new § 80.95 replaces § 80.94(c) with an amendment to the arbitration language. Reference to sections in the Civil Procedure Code is deleted as that code does not exist. The binding decision requirement has been removed in deference to arbitration provisions under Guam law (generally Title 7 GCA).



Article 5 – Parole

9 GCA § 80.70. When Parole Permitted.

(a) ~~When Parole Permitted.~~ An offender sentenced to a term of imprisonment may be released conditionally on parole upon completion of two-thirds (2/3) of his fixed sentence or thereafter in accordance with the provisions of this Article, provided that in the case of an offender sentenced to a term of imprisonment for the commission of a ~~v~~iolent ~~e~~crime § as defined in 80.70.1(l), such offender may be released conditionally on parole upon completion of eighty-five percent (85%) of his fixed sentence or thereafter in accordance with the provisions of this Article.

~~(1) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.~~

~~(2) For the purposes of this Section, a “violent crime” is defined as one (1) or more of the following:~~

- ~~(A) aggravated murder, as defined in 9 GCA § 16.30;~~
- ~~(B) murder, as defined in 9 GCA § 16.40;~~
- ~~(C) manslaughter, as defined in 9 GCA § 16.50, and when such manslaughter is not involuntary;~~
- ~~(D) aggravated assault, as defined in 9 GCA § 19.20, and when it is a felony in the first second degree;~~
- ~~(E) kidnapping, as defined in 9 GCA § 22.20, and when it is a felony in the first degree;~~
- ~~(F) first degree criminal sexual conduct, as defined in 9 GCA § 25.15;~~
- ~~(G) second degree criminal sexual conduct, as defined in 9 GCA § 25.20;~~
- ~~(H) aggravated arson, as defined in 9 GCA § 34.20;~~
- ~~(I) first degree robbery, as defined in 9 GCA § 40.10; or~~
- ~~(J) second degree robbery, as defined in 9 GCA § 40.20.~~

DAH Comment: Redundant to restate the title. (a)(1) moved to new 80.70(g). (a)(2) moved to definitions section, 80.70.1(l)



§ 80.70 [Continued]

(e) Notwithstanding any other provision of law to the contrary, all sentenced and incarcerated first offenders who have been convicted and sentenced to a prison term for non-violent or non-drug offense(s) shall be eligible for parole after serving fifty percent (50%) of their prison term. All procedures for applying for parole, reviewing and granting parole under this ~~s~~ection, except as stated herein, shall be governed by the provisions of this Article ~~5 of this Chapter.~~

~~(g) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.~~

DAH Comment: Non-substantive clarifications. (a)(1) moved to new 80.70(g).

§ 80.70.1 Definitions.

For purposes of Article 5 of this Chapter:

~~(b) “Rated Capacity” shall mean the total number of inmates who can be safely incarcerated in the Prison or any portion of the Prison as established by the Federal Bureau of Prisons or other Federal agency of the United States qualified to provide a rating or maximum number for a safe and controllable population for the Prison or any of its subunits.~~

~~(d) “Prison Population” shall mean the total number of incarcerated persons confined within the Prison or within a subunit of the Prison.~~

DAH Comment: These two terms only appear in the definitions section.



§ 80.70.1 Definitions. [Continued]

...

(l) For the purposes of this Section, a “Violent eCrime” is defined as one (1) or more of the following shall mean:

- (1) aggravated murder, as defined in 9 GCA § 16.30;
- (2) murder, as defined in 9 GCA § 16.40;
- (3) manslaughter, as defined in 9 GCA § 16.50, and when such manslaughter is not involuntary;
- (4) aggravated assault, as defined in 9 GCA § 19.20, and when it is a felony in the ~~first~~ second degree;
- (5) kidnapping, as defined in 9 GCA § 22.20, and when it is a felony in the first degree;
- (6) first degree criminal sexual conduct, as defined in 9 GCA § 25.15;
- (7) second degree criminal sexual conduct, as defined in 9 GCA § 25.20;
- (8) aggravated arson, as defined in 9 GCA § 34.20;
- (9) first degree robbery, as defined in 9 GCA § 40.10; or
- (10) second degree robbery, as defined in 9 GCA § 40.20.

(m) As used in this Article, “Bboard” shall means the Guam Parole Board

DAH Comment: § 80.71 functionally a definition of Guam Parole Board, moved to subsection (m), with language modified to mirror § 80.70.1 as a whole. “Violent crime” moved and consolidated from § 80.70 and § 80.72 to subsection (l), since functionally a chapter wide definition. Introductory language modified to match the rest of the definitions section. As per (l)(4), there is no aggravated assault in the first degree.



~~§ 80.71. Definition of Board as Guam Parole Board~~

~~As used in this Article, “board” shall means the Guam Parole Board~~

DAH Comment: § 80.71 functionally a definition of Guam Parole Board, moved to subsection 80.70.1(m), with language modified to mirror § 80.70.1 as a whole.

§ 80.72. Exception for Parole Eligibility.

(a) Unless otherwise provided by law, every person in a Guam penal or correctional institution shall be eligible for release on parole at any time after the service of two-thirds (2/3) of his/~~her~~ fixed sentence or after a greater time set by the court, which shall state reasons therefore, provided that in the case of an offender sentenced to a term of imprisonment for the commission of a ~~v~~Violent eCrime § as defined in 80.70.1(l), such offender may be released conditionally on parole upon completion of eighty-five percent (85%) of his ~~or her~~ fixed sentence or after a greater time set by the Court, which shall state reasons therefor, or in the case of a person sentenced to life imprisonment, after such person has been confined for twenty-five (25) years.

DAH Comment: Gender references made uniformly singular masculine; aligns with CLRC edits to 1 GCA §1.12 “Rules of Construction” making singular masculine refer to plural and feminine.



§ 80.72. Exception for Parole Eligibility. [Continued]

(a)...

~~(1) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.~~

~~(2) For the purposes of this Section, a "violent crime" is defined as one or more of the following:~~

~~(A) aggravated murder, as defined in 9 GCA § 16.30;~~

~~(B) murder, as defined in 9 GCA § 16.40;~~

~~(C) manslaughter, as defined in 9 GCA § 16.50, and when such manslaughter is not involuntary;~~

~~(D) aggravated assault, as defined in 9 GCA § 19.20, and when it is a felony in the first degree;~~

~~(E) kidnapping, as defined in 9 GCA § 22.20, and when it is a felony in the first degree;~~

~~(F) first degree criminal sexual conduct, as defined in 9 GCA § 25.15;~~

~~(G) second degree criminal sexual conduct, as defined in 9 GCA § 25.20;~~

~~(H) aggravated arson, as defined in 9 GCA § 34.20;~~

~~(I) first degree robbery, as defined in 9 GCA § 40.10; or~~

~~(J) second degree robbery, as defined in 9 GCA § 40.20.~~

DAH Comment: § 80.72(a)(1-2) identical to previous § 80.70(a)(1-2). (2) Consolidated and moved into Definitions section, § 80.70.1(l) and § (a)(1) moved to separate subsection 80.72(c).



§ 80.72. Exception for Parole Eligibility. [Continued 2]

(b) The Board shall consider the desirability of parole of each inmate at least sixty (60) days prior to his/~~her~~ first eligibility.

...

- (i) that if a person imprisoned for the commission of a ~~v~~violent ~~e~~crime has been denied parole by the Board for two (2) consecutive years, the Board shall set the next consideration four (4) years from the date of the previous consideration.

...

(c) Nothing in this Section shall be construed as limiting or mitigating in any fashion the discretionary or mandatory imposition of a sentence of life imprisonment without parole for any offense, as may be detailed elsewhere in this Title or the laws of Guam.

DAH Comment: Non-substantive edits to align with rest of Article 5. Subsection (a)(1) relocated to (c).

§ 80.74. Preparing Prisoner for Parole Hearing

(a) Each prisoner in advance of his parole hearing shall be requested to prepare a parole plan, setting forth the manner of life he intends to lead if released on parole, including such specific information as to where and with whom he will reside and what occupation or employment he will follow. The institutional parole staff shall render reasonable aid to the prisoner in the preparation of his plan and in securing information for submission to the ~~b~~Board.

(b) A prisoner shall be permitted to advise with any persons whose assistance he reasonably desires, including his own legal counsel, in preparing for a hearing before the ~~b~~Board.

DAH Comment: No substantive change, corrections to capitalize the letter 'b' in Board, to occur throughout Article in line with Definitions Section.



§ 80.76. Standards Governing Release on Parole.

(a) Whenever the ~~B~~board considers the release of a prisoner for parole, the ~~B~~board shall order his release, if it is of the opinion after review of the records mandated in 9 GCA § 80.78, that:

...

(b) In making its determination regarding a prisoner's release on parole, the ~~B~~board may consider, to the extent relevant, the following factors:

...

DAH Comment: No substantive change, corrections to capitalize the letter 'b' in Board.

§ 80.78. Records to Be Made Available to Board.

Before making a determination regarding a prisoner's release on parole, the ~~B~~board shall cause to be brought before it, and it shall be the responsibility of the Department of Corrections, ~~or administrative head of the institution in which an offender is held~~ and the Clerk of Court of the Superior Court of Guam to furnish such of the following records and information regarding the prisoner as may be available:

...

DAH Comment: Corrections to capitalize the letter 'b' in Board; Parole reports this phrase is unnecessary.



§ 80.80. Conditions of Parole.

(a) If a prisoner is released on parole, the ~~b~~Board shall require as a condition of his parole that he refrain from engaging in criminal conduct. The ~~b~~Board may also require,

...

(3) remain within the geographic limits fixed in his ~~e~~Certificate of ~~p~~Parole, unless granted written permission to leave such limits;

...

(5) reside at any place fixed in his ~~e~~Certificate of ~~p~~Parole and notify his parole officer of any change in his address or employment;

...

(10) pay a fine, ~~restitution or other applicable courts costs~~ imposed by the court as provided in this Chapter;

(11) satisfy any other conditions ~~ordered by the Board~~ reasonably related to his rehabilitation ~~enhancing or to the~~ public safety and security.

(b) Before release on parole, a parolee shall be provided with a ~~e~~Certificate of ~~p~~Parole setting forth the conditions of his parole, and shall sign a statement agreeing to such conditions.

DAH Comment: Corrections to capitalize the letter 'b' in Board and "Certificate of Parole". Other non-substantive recommendations by Parole.



§ 80.82. Sanctions for Violation of Parole.

(b)...

(1) The parolee shall thereupon be detained on the written order of ~~the parole office~~ the Parole Services Division or warrant of the Guam Parole Board in a local jail, lockup, or other detention facility, pending action by the Guam Parole Board of Parole.

(2) Immediately after such arrest and detention, the parole officer concerned shall notify the Bboard and submit a written report of the reason for such arrest.

(3) Thereupon the Bboard may order the release of the parolee or take such action as is authorized in Subsection (a) with respect to parolees arrested under its warrant.

(c) [No text]

(1)...

(2) If a parolee fails to complete or is terminated from the Guam Adult Reentry Court Program, the parolee shall be referred to the Parole Office ~~or~~ and the Parole Board for disposition.

DAH Comment: Non-substantive edits proposed by Parole.



§ 80.84. Revocation Hearing Required: Standards for Revocation of Parole.

(b) The BBoard may by majority vote of its members order revocation of parole if it is satisfied that:

...

(c) The failure by the BBoard to hold a hearing within sixty days, as required by Subsection (a), shall not be a ground for release of the offender, but his right to such a hearing may be enforced by a judge of the superior court by court order after a hearing.

DAH Comment: Non-substantive capitalization to comport with Article convention.

§ 80.86. Prison Term After Revocation: Current Prisoners Provided for.

(a) A parolee whose parole is revoked for violation of the conditions of parole shall be recommitted for the term provided by Subsection (c) of § 80.70 after credit thereon for the period served on parole prior to the violation.

(b) A parole whose parole has been revoked may be considered by the board for re-parole at any time. He shall be considered for re-parole not more than six months after reconfinement.

~~(c) Persons recommitted for violation of parole prior to the effective date of this Section shall, with their consent, have their maximum term of imprisonment recomputed in accordance with Subsection (a), or set at six months following the operative date of this Section, whichever period shall be longer. All such persons shall be considered by the board for re-parole in accordance with Subsection (b). The remaining period of incarceration eliminated from the person's sentence shall constitute a term of parole.~~

DAH Comment: Effective date of Section long since passed, from Government Code era. Transition provision recommended for repeal.



§ 80.88. Discretionary and Mandatory Release from Parole.

(a) The **Board** may, by written order, relieve a prisoner on parole from making further report to his parole officer, and may, in writing, permit such prisoner to leave Guam and reside elsewhere if satisfied that such change of residence is for the best interest of society and the welfare of the prisoner. Any such permission may be revoked by the **Board** in its discretion.

...

(c) A parolee's discharge from parole or from recommitment for violation of parole becomes mandatory upon completion of the maximum parole term.

DAH Comment: Non-substantive capitalization to comport with Article convention.



80.82(d) Statutory Parole Tolling? The Problem & Where It Arose

Origin: Suggestion raised by the Parole in the DAH Subcommittee— the Chief Parole Officer's concern of absconders running down their parole term until expiration of parole.

Background:

- Guam imposes definite, hardline parole-length mandates.**
9 GCA § 80.70(b) attaches a parole term of three (3) years for every felony and one (1) year for every misdemeanor, by operation of law, after first conditional release. There is no judicial discretion to shorten or vary the term at sentencing. See *Materne*, 72 F.3d 103 (9th Cir. 1995).
- But Article 5 contains no statutory tolling provision.**
Probation has one — 9 GCA § 80.66(a)(3)–(4), enacted in 1998, tolls the term from summons/warrant until the court's decision. Parole has nothing parallel. Under the unaltered text, an absconder keeps running down a fixed parole term while a fugitive.
- The current workaround relies entirely on a Parole Board Order.**
Order No. 2006-01 declares the parole tenure tolled between warrant issuance and execution.



Current Guam Practice: *Sahagon v. Palacios*

Superior Court SP246-08 (Sukola, J.) — May 6, 2009

FACTS

- Sahagon served a 3-year prison term, then began a 5-year parole term in January 2004.
- Reported monthly until August 2007. On 8/14/2007, the Parole Board issued a warrant for failure to report.
- Apprehended 12/14/2007 — four months later. Parole officers added 4 months + 1 day to his parole term.
- Petitioner argued: “tolling doesn’t apply on Guam” because no statute provides for it.

HOLDING

Petition for habeas corpus denied. The Parole Board may toll the term by regulation under **9 GCA § 85.26**’s general rulemaking authority.

Parole Board Order No. 2006-01 (quoted by the Court):

“upon the issuance of and up until the time of the execution of the Warrant of Arrest, the parole tenure is tolled.”

Authorities relied on: *Henrique v. U.S. Marshal*, 653 F.2d 1317 (9th Cir. 1981); *Caballero v. U.S. Parole Comm’n*, 673 F.2d 43 (2d Cir. 1982); *McLinn v. U.S. Parole Comm’n* (W.D. Wash. 2007). All three are federal **parole** cases — not supervised release.



Potential § 80.82(d). Sanctions For Violation Of Parole: *Sahagon V. Palacios*

19 Although Guam Law does not provide for parole tolling, the Government disputes
20 Petitioner’s argument. The Government contended that Guam Law gives the authority to the
21 Parole Board to enact rules and procedures in order to carry out its duties. The Government’s
22 Response at 2 (January 16, 2009). According to 9 G.C.A. § 85.26:

23 [t]he Board is authorized to release on parole any person confined in any penal or
24 correctional institution of this Territory and to revoke parole or discharge from parole any
25 parolee as provided in Article 5 (commencing with § 80.70) of Chapter 80. The Board
26 may adopt such rules and procedures not inconsistent with law as it may deem proper or
27 necessary to carry out its duties.

28 Pursuant to 9 G.C.A. § 85.26, the Parole Board adopted a rule and regulation in Parole Board
1 Order No. 2006-01. The order provides that “upon the issuance of and up until the time of the
2 execution of the Warrant of Arrest, the parole tenure is tolled. (i.e. Parolee has absconded¹ and a
3 Warrant of Arrest has been issued and executed, the time during this event, parole time is not
4 running). Declaration of Parole Officer Riaka Cruz Exhibit B (January 16, 2009). The reasons
5 the Parole Board enacted these rules because they have seen an increase in parolees absconding
6 while serving their parole supervision. *Id.* The Government argued that Parole Board’s Order No.
7 2006-01 is in harmony with the Parole Board’s legislative mandate. The Government’s Response
8 at 3 (January 16, 2009). The Court agrees.



The Supreme Court: *Rico v. United States*

607 U.S. ____ (2026) — Gorsuch, J., for an 8–1 Court — reversed the Ninth Circuit on March 25, 2026

HOLDING

“The Sentencing Reform Act does not authorize a rule automatically extending a defendant’s term of supervised release when the defendant fails to report to a probation officer.”

From the Court’s reasoning:

Tolling is really extension

“What the Ninth Circuit’s challenged rule really does is use a defendant’s abscondment to extend (not toll) the period of supervised release beyond what a judge has ordered.”

Speak to the legislature, not the court

“The proper place to register that complaint is with Congress, as this Court is not free to rewrite the directions Congress has provided.”



Potential § 80.82(d). Sanctions For Violation Of Parole: *Rico V. United States*

Cite as: 607 U. S. ____ (2026)

9

Opinion of the Court

4

RICO v. UNITED STATES

Opinion of the Court

automatically extend a term of supervised release. Compare *United States v. Crane*, 979 F. 2d 687, 691 (CA9 1992); and *United States v. Buchanan*, 638 F. 3d 448, 458 (CA4 2011), with *United States v. Hernandez-Ferrer*, 599 F. 3d 63, 66–69 (CA1 2010); *United States v. Talley*, 83 F. 4th 1296, 1297 (CA11 2023).

II

In approaching this dispute, a preliminary note on terminology is warranted. The Ninth Circuit held that a defendant who absconds during supervised release “tolls” his existing, judicially ordered term of supervised release until federal authorities find him. This is a misnomer. In legal settings, the word “toll” often denotes some stop or pause. See *Artis v. District of Columbia*, 583 U. S. 71, 80–82 (2018). But under the Ninth Circuit’s approach, a defendant who absconds stops or pauses nothing. Rather, he remains subject to the conditions of his supervised release and can be held accountable for any violations he commits during his abscondment. What the Ninth Circuit’s rule really does is extend the period of supervised release beyond what a judge has ordered. On its view, an absconding defendant’s term of supervised release does not expire when a court has directed but continues to run so long as the defendant remains out of contact with his probation officer.

A

Moving past our precedents, the government next appeals to the common law. For centuries, the government observes, common-law courts have held that the time between a defendant’s escape from prison and his recapture generally does not count toward the discharge of his sentence. It is a rule, the government notes, premised on the commonsense view that an escapee should take no “manner of advantage from it.” Brief for United States 25 (quoting 2 W. Hawkins, Pleas of the Crown 200 (6th ed. 1788)). And it is a rule, the government says, we should assume Congress meant to carry forward under the Sentencing Reform Act—and one that should ultimately lead us to adopt the Ninth Circuit’s rule. Brief for United States 29.

The government’s premises here may be sound, but its conclusion is not. Congress may sometimes legislate against the backdrop of the common law. We can also assume for argument’s sake that the government is right about the common-law rule and courts generally paused the clock on a defendant’s sentence and its attendant conditions when he escaped from prison and remained at large. But, as we have seen, the government seeks a very different rule here. Its proposed rule does not stop any clock or merely ensure a defendant does not take advantage of his abscondment. It imposes a new punishment on him by automatically extending his term of supervised release.

Look at it this way. When a prisoner escapes, he is in no sense serving his prison sentence. In contrast, when a defendant on supervised release fails to report, everyone agrees he remains bound by the terms of his release. That is why, for failing to report and any other violation he may commit during his judicially ordered term of supervised release, a court may send a defendant to prison and authorize more supervised release yet. §3583(e)(3). The court can do all that, too, even after the defendant’s prescribed term of supervised release expires, so long as a warrant or summons issues beforehand. §3583(i). The Act thus already



Federal Supervised Release vs. Guam Parole

Two different statutory regimes. *Rico's* holding draws the line — and preserves the parole tradition.

Federal Supervised Release

(*Rico*)

Source: Sentencing Reform Act of 1984 (18 U.S.C. § 3583)

Nature: Determinate **add-on** imposed by the judge; begins after full custodial service.

***Rico's* move:** Without statutory authorization, courts cannot extend a determinate add-on.

Guam Parole

(*Sahagon*)

Source: Criminal and Correctional Code 1976–77 (9 GCA § 80.70(b))

Nature: Conditional release; supervision is a **carve-out** of the custodial sentence (parolee still under restraint). Common law 'escapee' analysis?

***Rico's* move:** Expressly **preserves** parole tolling tradition by distinguishing it from SR.

WHAT THIS MEANS

Rico did **not** overrule *Henrique*, *Caballero*, or *McLinn*. The parole tolling case line survives — the Court distinguished parole from SR and shielded those parole cases.



Does *Rico* affect *Sahagon*?

Statutory Gap

Ch. 80 Article 4 **does** provide express tolling for probation (§ 80.66(a)(3)–(4)). Argument that the Legislature knew how to do this and chose not to for parole.

Rico endorses exactly this inference — legislative silence on tolling, where the legislature could have provided for it, is meaningful.

Extension on Strict Timeline?

Sahagon's tolling rests on **Parole Board Order 2006-01**, sustained under § 85.26 general rulemaking authority.

But **9 GCA § 80.88(c)** makes discharge "mandatory upon completion of the maximum parole term."

An administrative rule that pushes a release date past a fixed statutory maximum — even labeled "tolling" — is precisely the pattern *Rico* reframed as unauthorized **extension**.



Statute or No Statute?

A. Stand on Board Order 2006-01

What it preserves

- Practice in place since 2006.
- *Sahagon's* federal parole authorities still good law.
- Board can refine mechanics by Order without legislation.

What it exposes

- Article 4 has express tolling (§ 80.66); Article 5's silence is now harder to defend.
- Order 2006-01 pushes past § 80.88(c)'s mandatory discharge — the rule-vs-statute thread.

B. Codify as new § 80.82(d)

What it secures

- Closes the statutory gap.
- Cures the § 80.88(c) [mandatory release upon max parole term] / Order 2006-01 tension by replacing the Order with statute.
- Provides express authorization — the kind *Rico* said must come from the legislature.
- Codifies the Parole-side's recommendation.

What it costs

- Locks the warrant-issuance / restoration mechanics into statute.



Proposed § 80.82(d): Chairman-Issued Warrant

Based on Indiana Code § 11-13-3-8; adapted to align with current Board Order 2006-01 practice.

Proposed Parole Statute

§ 80.82(d) Issuance of Warrant; Suspension of Parole Period.

- (1) Upon a showing of probable cause to believe that a parolee has violated a condition of parole, the **Chairman of the Guam Parole Board (or a member designated by the Chairman)** may issue a warrant for the arrest and confinement of the parolee pending a hearing.
- (2) The issuance of the warrant under this section **suspends** the running of period of parole until the Guam Parole Board's final determination of the charge.
- (3) The suspended period shall be restored if there is a finding of no violation, if a finding of a violation is later overturned, or if the parole violation charge is dismissed.
- (4) The parolee shall remain subject to all conditions of parole in the time the running of the parole period is suspended under this subsection.

80.66. Revocation: When Permitted

- (a)(3) Upon showing of probable cause before the Court, pursuant to Subsection (a)(1), a summons or warrant shall issue and the period of probation shall thereby be tolled pending the hearing upon the motion and decision of the Court.
- (A) The Period of tolling shall start of the date the summons or warrant is filed by the Clerk of Court...
 - (B) Unless otherwise ordered by the Court, the defendant's term of probation shall be extended for the number of days the time is tolled.
 - (C) During the period the time is tolled, the defendant shall remain subject to all conditions of probation.

Why "suspends"

After *Rico's* "extension, not tolling" framing, "suspends" more honestly describes what the statute does — and avoids use of "toll".

Why the 'Chairman'

Tracks current Board Order 2006-01 practice. Chairman can act on email notice from a parole officer; not bottlenecked by the monthly Board meeting.

Why no "extension" ¶

Working draft's old ¶(3) — "extended for the number of days the time is tolled" — is dropped. Subsection (2) does the work; (3) is the restoration valve.



DOCO/Ad Hoc Recommendations

Title and Chapter	Section/Article	No-Change	AMEND	REPEAL	REPEAL & REENACT	ADD	TABLE
Title 9 Chapter 80. Disposition of Offenders.							
	§ 80.48		Amend				
	§ 80.60		Amend				
	§ 80.62		Amend				
	§ 80.64		Amend				
	§ 80.66		Amend				
	§ 80.68		Amend				
	§ 80.70		Amend				
	§ 80.70.1		Amend				
	§ 80.71				REPEAL & REENACT		
	§ 80.72		Amend				
	§ 80.74		Amend				
	§ 80.76		Amend				
	§ 80.78		Amend				
	§ 80.80		Amend				
	§ 80.82		Amend				
	§ 80.84		Amend				
	§ 80.86		Amend				
	§ 80.88		Amend				
	§ 80.90		Amend				
	§ 80.91		Amend				
	§ 80.92	No-Change					
	§ 80.93		Amend				
	§ 80.94		Amend				
	§ 80.95					ADD	



Thank you!



Guam Criminal Law and Procedure Review Commission Plenary Meeting June 25, 2026 Agenda

- I. **CALL TO ORDER**
- II. **PROOF OF DUE NOTICE OF MEETING**
- III. **DETERMINATION OF QUORUM**
- IV. **DISPOSAL OF MINUTES** April 9, 2026
- V. **OLD BUSINESS**
 - A. Subcommittee Status Update and Report of Executive Director
- VI. **NEW BUSINESS**
 - A. Ad Hoc Subcommittee: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - B. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - C. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval
 - D. Notice of Next Meeting: **TO BE DETERMINED.**
- VII. **COMMUNICATIONS**
- VIII. **PUBLIC COMMENT**
- IX. **ADJOURNMENT**