

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION  
2023 THIRD QUARTER REPORT**

SUBMITTED TO THE  
GOVERNOR OF GUAM,  
SPEAKER OF THE GUAM LEGISLATURE, AND  
CHIEF JUSTICE OF GUAM  
OCTOBER 31, 2023

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION  
JUDICIARY OF GUAM  
GUAM JUDICIAL CENTER  
120 WEST O'BRIEN DRIVE  
HAGÁTÑA, GUAM 96910

## PREFACE

The Guam Criminal Law and Procedure Review Commission (CLRC or Commission) submits its third quarterly report summarizing its activities as required by 1 GCA § 25.07(a). Because the CLRC began operations in January of 2023, quarterly reports are based on the calendar year, rather than the fiscal year. This third quarter report summarizes activities from July 1, 2023 through September 30, 2023.

## CLRC STATUTORY AUTHORITY

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

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

## CLRC STAFF AND MEMBERS (updated)

Governor's Appointees	Hon. Anita A. Sukola, Ms. Valerie Reyes, vacant <sup>1</sup>
Speaker's Appointees	Attorney Phillip Tydingco, Attorney Michael Phillips, Attorney Christine Tenorio
Chief Justice's Appointees	Hon. Jonathan R. Quan, Attorney F. Randall Cunliffe, Mr. Monty McDowell
Guam Bar President Appointees	Attorney Joseph B. McDonald, Attorney William B. Brennan
Statutory Members (or Designees)	Attorney General of Guam (Designee AAG Marianne Woloschuk), Chief of Police (Designee Lt. David Brantley), Director of Corrections (Designee Major Antone F. Aguon), Executive Director of Public Defender Service Corp (Designee Deputy Director John Morrison)
Compiler of Laws	Attorney Geraldine Cepeda
Staff	Attorney Andrew Serge Quenga (Executive Director), Valerie Cruz, (Management Officer)
Ex-officio (auxiliary)	Hon. Elizabeth Barrett-Anderson, Attorney Kat Siguenza, Attorney Sean Brown, Attorney Brian Eggleston, Attorney Leonardo Rapadas

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<sup>1</sup> Awaiting the Governor's appointment of her third member position left vacant after Judge Barrett-Anderson stepped down as an official member due to her membership on the Criminal Injuries Compensation Commission.

## SIGNIFICANT CLRC ACTIVITIES JULY – SEPT 2023

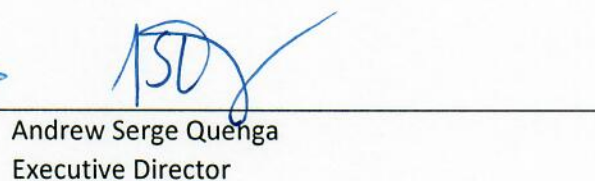
1. During the third quarter, the CLRC held its Fourth Plenary Meeting on August 31, 2023. This was the first in-person and hybrid meeting of the Commission. The agenda, meeting packet and YouTube video link for this meeting are available on the CLRC website and the minutes of the August 31 meeting are included in the packet of the October 5<sup>th</sup> meeting which is also posted on the CLRC website (<http://www.guamcourts.org/Criminal-Law-and-Procedure-Review-Commission/Criminal-Law-and-Procedure-Review-Commission.html>).  
During the August 31 Plenary Meeting, the Subcommittee on Criminal Procedure and the Subcommittee on Crimes Relating to Property presented reports on their review of Chapters and presented recommendations for amendments, repeals or no changes to the CLRC for approval to move the recommendations to the final reading file (see **Attachment 1 – Recommendations of the Subcommittee on Criminal Procedure and the Subcommittee on Crimes Relating to Property**).
2. All four subcommissions continued their review of statutes during several working session meetings during the months of July to September, 2023:
  - Subcommittee on Criminal Procedure met on July 14 and 28, and August 10 and 16.
  - Subcommittee on Crimes Against Persons was unable to meet during the Third Quarter due to typhoon recovery and unavailability of Subcommittee members.
  - Subcommittee on Crimes Relating to Property met on July 13 and August 17.
  - Subcommittee on Crimes on Drugs & Other Criminal Offenses met on August 28.
3. Third Quarter reports of each Subcommittee are attached hereto at **Attachment 2**.

## CONCLUSION

The work of the CLRC in reviewing the Criminal Code of Guam continues to the best of the ability of each member. Our Subcommissions have the daunting task of reviewing thousands of criminal statutes throughout the Guam Code Annotated. Aside from the very small full-time staff of the CLRC, each member must devote significant time to reviewing their assigned chapters and sections of the Criminal Code and discussing any proposed changes in working sessions with their respective Subcommissions. Our appointed and ex-officio volunteer members consist almost entirely of full-time attorneys with clients and litigation caseloads, high-ranking government law enforcement officials and private citizens with full-time work obligations. Chairman Quan and I thank all members for their commitment and diligence to the work of the Commission.



Magistrate Judge Jonathan R. Quan  
Chairman



Andrew Serge Quenga  
Executive Director

# ATTACHMENT 1

## RECOMMENDATIONS APPROVED OR TABLED BY THE CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION Plenary Meeting August 31, 2023

The following recommendations of the **Subcommission on Criminal Procedure** and the **Subcommission on Crimes Relating to Property** were presented to the Criminal Law and Procedure Review Commission at its Plenary Meeting of August 31, 2023. Unless otherwise noted below, the following recommendations were approved to be moved to the CLRC's final reading file. All recommendations are subject to further review.

### RECOMMENDATIONS OF THE SUBCOMMISSION ON CRIMINAL PROCEDURE

#### CHAPTER 71. THE GUAM GUN-FREE SCHOOL ZONE ACT OF 2004.

1. No changes are recommended for 9 GCA §§ 71.10, 71.40, 71.50, and 71.90.
2. Recommendation to amend the title of 9 GCA § 71.30 to provide clarification:  
  
“§ 71.30. ~~Person Not Allowed to Possess Firearms~~ Possession of Firearms in a School Zone.”
3. Recommendation to amend 9 GCA § 71.60 to provide clarification and remove unnecessary language:  
  
“§ 71.60. Punishment.

Any person who ~~violates~~ is convicted of violating § 71.30, § 71.40, or § 71.50 of this Act shall be guilty of a felony of the third degree and ~~any person who is convicted of an offense pursuant to § 71.30, § 71.40, or § 71.50~~ shall be sentenced as follows:

(a) For a first offense, the Court shall impose a sentence of imprisonment of no more than three (3) years, a fine of not less than One Thousand Dollars (\$1,000.00), and mandatory community service of no less than one hundred and fifty (150) hours.

(b) In cases where the person has been convicted of felonies under any provision of this Chapter, the person shall be sentenced to a term of imprisonment which shall not be less than five (5) years and in addition, may be fined not more than Fifteen Thousand Dollars (\$15,000.00). The sentence, ~~if for a term of years,~~ shall include a special parole term of not less than one (1) year in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended, and probation shall not be granted. Sentence in these cases must also include mandatory community service of no less than one hundred fifty (150) hours unless the term of imprisonment is for life.

(c) The Court shall apply any minimum sentence, fine or community service specified in this Section, except in unusual cases where the interests of justice would best be served ~~by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment, fine or community service required in this Subdivision or~~ by granting probation or suspending the execution or imposition of sentence, fine or community service with conditions

other than those set forth in this Section, in which case the Court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.”

4. Recommendation to amend and move 9 GCA § 71.70 to 9 GCA § 71.20(d) to consolidate definitions:

~~“§ 71.70 For purposes of this Chapter, a firearm shall be deemed to be loaded when there is 71.20(d). Loaded Firearm shall mean a firearm loaded with~~ an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.”

5. Recommendation to amend 9 GCA § 71.80 to update it and remove outdated requirements:

“§ 71.80. Notice.

~~(a)~~ The Department of Education and other entities covered by this Chapter shall post permanent signs with large visible lettering stating at a minimum, “Warning this is a Gun-Free Zone” at the main entrances of the covered facilities within their control ~~on or before January 1, 2005~~. This Section does not require that notice be posted regarding the proscribed conduct for the purposes of prosecution of any violation of this Act.

~~(b) The Guam Police Department within sixty (60) days of the effective date of this Act shall implement a public relations campaign to inform the general public of its provisions.”~~

6. Recommendation to combine 9 GCA §§ 71.81, 71.82 and 71.83 to consolidate exemptions into one section:

“§ 71.81. Chapter Not Applicable ~~to Peace Officers and Military~~.

~~(a)~~ This Chapter does not apply to a duly appointed peace officer as defined in § 5.55, Article 2, Chapter 5, Title 8, Guam Code Annotated, a full-time paid peace officer of another state or the Federal government who is carrying out official duties while in Guam, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of Guam or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard engaged in the performance of his or her duties.

~~§ 71.82. Not Applicable to Security Guards.~~

~~(b)~~ This Chapter does not apply to an on-duty security guard authorized to carry a loaded firearm, provided the security guard is an employee of an entity contracted by the school for security purposes.

~~§ 71.83. Not Applicable to Existing Shooting Ranges.~~

(c) This Chapter does not apply to an existing shooting range at a public or private school or university or college campus.”

## **CHAPTER 81. REDUCTION OF SENTENCES.**

Note: All recommendations for Chapter 81 were **tabled for further discussion**.

1. Recommendation to amend and move 9 GCA § 81.10 to a new 9 GCA § 80.23 to consolidate related statutes:

“§ ~~81.10~~ 80.23. Reduction of Sentence by Work Credit.

(a) Any person in custody may work at cleaning up littered areas, parks and beaches or other types of work details beneficial to the island of Guam, including participation in a preapprenticeship program authorized through the Guam Registered Apprenticeship Program as provided in Article 1, Chapter 10, Title 22, Guam Code Annotated; provided, that the Director of Corrections:

(1) determines that the person meets the following eligibility requirements that he or she:

(A) has not been convicted of a second degree felony or higher ~~which is~~ including homicide, criminal sexual conduct, robbery or escape as set forth in Chapters 16, 25, 40, and 58 of this Title, respectively; and

(B) is physically able to do such work.

(b) The Director shall ~~provide~~ ensure supervision of the work detail.

(c) The person’s sentence shall be reduced by one (1) day for each forty (40) hours of work done that involves cleaning up littered areas, parks, and beaches or other types of work details beneficial to the island of Guam. The person’s sentence shall be reduced by two (2) days for each forty (40) hours of work done that involves educational or on-the-job training, or a combination of both.

(d) The Directors of Public Works and Parks and Recreation, and any non-profit organization authorized to participate in the Work Credit program, shall cooperate with the Director of Corrections in choosing sites for work.

(e) Inmates who were eligible to work in previous work detail programs shall only participate in work governed by this Section if they qualify.

~~(f) This Section shall apply to any person who is convicted for the first time of Driving Under the Influence, as defined by 9 GCA § 92101(a), et seq.”~~

2. Recommendation to repeal 9 GCA § 81.10(f) and reenact it as a new 9 GCA § 92104(f) to remove a potential statutory interpretation issue:

~~“§ 81.10 (f) This Section shall apply to any person who is convicted for the first time of Driving Under the Influence, as defined by 9 GCA § 92101(a), et seq.~~

§ 92104 (f) First time offenders are eligible for work credit under 9 GCA § 80.23.”

#### **CHAPTER 82. LOSS AND RESTORATION OF RIGHTS INCIDENT TO CONVICTION OR IMPRISONMENT.**

1. No changes are recommended for 9 GCA §§ 82.10 and 82.25.

2. Recommendation to amend 9 GCA § 82.20(a) to remove unnecessary verbiage:

“(a) from voting in a primary or general election ~~if and only~~ so long as he is committed under a sentence of imprisonment; and”

This recommendation was **tabled for further discussion** on “committed under a sentence of imprisonment” and whether it includes suspended sentences, probation or parole.

#### **CHAPTER 84. REHABILITATIVE AND DEVELOPMENT PROGRAM.**

1. No changes are recommended for 9 GCA §§ 84.10, and 84.25, 84.30, 84.35, and 84.49.

2. Recommendation to amend 9 GCA § 84.15(b) to provide clarification and remove unnecessary verbiage:

“(b) The inmate’s wages derived from the Program, ~~before being disbursed to the inmate,~~ shall be divided and disbursed as follows:

(1) Ten percent (10%) to be deposited in the inmate's name for personal use;

(2) Forty five percent (45%) to be deposited in the ~~client's inmate's~~ name to pay any legal obligations such inmate may have incurred, such as but not limited to spouse and child support.

(3) Forty-five percent (45%) to be used, first, to restore to the victim(s) of the inmate's crime(s) any monies that were lost as a result of such crime(s), with the balance, if any, to be transferred to the Criminal Injuries Compensation Fund (the “Fund”) for compensation to the victims of crime.”

3. Recommendation to amend 9 GCA § 84.20 to update it and correct a misnumbered reference:

“§ 84.20. Authorization to Charge for Work Products of the Program.

(a) Every effort shall be made by the Director to make the Program self-supporting from the funds generated therefrom. The Director shall submit to the Governor and to the Speaker of the Legislature a full report on the status of the Program ~~within ninety (90) days after the enactment of this Chapter and~~ annually ~~thereafter,~~ when the Department's budget request is submitted to the Governor.

(b) The Director is authorized and directed to establish fees and charges for the work products or products generated by the Program and to use such funds generated, after paying the inmates as provided in § ~~84.02~~ 84.15, to support the Program by way of supplies, equipment and administrative expenses.

(c) When services, produce, or products generated by the Program are used by the Department for its own in-house purposes, the Director is authorized to pay the inmates from appropriations to the Department for their labor in creating such services, produce or products.”

#### **CHAPTER 85. TERRITORIAL PAROLE BOARD.**

1. No changes are recommended for 9 GCA §§ 85.10-85.68.
2. Recommendation to amend 9 GCA § 85.72 to provide clarification:

“§ 85.72. Paroled Prisoner to Receive Clothes, Transportation and Maximum of \$25.

~~When a~~ A prisoner who is placed on parole, ~~he shall receive from Guam shall be provided~~ civilian clothing and transportation to the place in Guam in which ~~he~~ the prisoner is to reside. At the discretion of the Board, the prisoner may be advanced such sum for his temporary maintenance as said Board may allow, not to exceed Twenty-Five Dollars (\$25.00), from a fund which shall be provided for use of the Board for this purpose.”

#### **CHAPTER 86. COMPENSATION FOR DAMAGES FROM CRIMINAL ACTIVITIES.**

This Chapter 86 was amended and renumbered by P.L. 27-138:4 (2004) to 8 GCA Chapter 161 (Compensation for Damages from Criminal Activities). This chapter was deferred to Compiler of Laws for removal from the GCA.

#### **CHAPTER 87. VICTIM NOTIFICATION.**

This Chapter 87 was repealed in its entirety by P.L. 27-138:3 (2004), which enacted 8 GCA Chapter 160 (Crime Victim's Rights Act of 2004). Victim notification is covered in that Chapter 160. This chapter was referred to the Compiler of Laws for removal from the GCA

#### **CHAPTER 88. CRIMINAL JUSTICE SUBSTANCE ABUSE ACT.**

Note: the following recommendation is pending review of this chapter by other CLRC Subcommissions.

1. Recommendation to repeal 9 GCA § 88.60 to remove an outdated reporting requirement:

~~“§ 88.60. Report to the Legislature.~~

~~On or before September 1, 1996, the Superior Court of Guam, the Department of Corrections, the Territorial Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center shall jointly make a report to a committee meeting of the Guam Legislature's standing committee with appropriate oversight (as designated by the Legislative Committee on Rules) regarding the implementation of this Act; the results of the programs created by this Act, including any reduction in substance abuse by offenders while incarcerated; the~~



~~standardized procedures developed pursuant to this act; and the number and kinds of punitive sanctions imposed upon offenders pursuant to this Act.”~~

**CHAPTER 93. CRIMINAL SEXUAL CONDUCT ASSESSMENT AND REHABILITATION ACT.**

Note: the following recommendation is pending review of this chapter by other CLRC Subcommissions.

Recommendation to repeal 9 GCA § 93.30(c) to remove unnecessary and duplicative language:

~~“(c) The assessment required by Subsection (a) of this Section or the assessment required by Subsection (b) of this Section shall be at the expense of the person assessed, unless such person is indigent, at which point the government of Guam may provide access to government-funded or government contracted service providers, if available.”~~

**CHAPTERS REFERRED TO OTHER SUBCOMMISSIONS:**

1. Chapters referred to the Subcommittee on Crimes Against Persons and the Guam Police Department:

Chapter 71. The Guam Gun-free School Zone Act of 2004.

Chapter 89. Crimes Against Minors and Sex Offender Registry.

Chapter 93. Criminal Sexual Conduct Assessment and Rehabilitation Act.

2. Chapters referred to the Subcommittee on Drug & Other Criminal Offenses and the Department of Corrections:

Chapter 80. Disposition of Offenders.

Chapter 81. Reduction of Sentences.

Chapter 82. Loss and Restoration of Rights Incident to Conviction or Impeachment.

Chapter 84. Rehabilitative and Development Program.

Chapter 85. Territorial Parole Board.

Chapter 88. Criminal Justice Substance Abuse Act.

Chapter 89. Crimes Against Minors and Sex Offender Registry.

Chapter 93. Criminal Sexual Conduct Assessment and Rehabilitation Act.

**SECTIONS TABLED FOR FURTHER DISCUSSION:**

9 GCA §§ 71.20, 81.10, and 82.20

## RECOMMENDATIONS OF THE SUBCOMMISSION ON CRIMES RELATING TO PROPERTY

### CHAPTER 32. FINANCIAL EXPLOITATION OF ELDERLY AND INDIVIDUALS WITH DISABILITIES.

1. Recommendation to repeal 9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities) in its entirety. Subcommittee Concerns: vulnerable victim sentencing enhancement and theft statute provide sufficient criminal prohibition; conflicting *mens rea* language throughout statute. **This recommendation was tabled for further discussion.**

Considerations:

- a. § 32.10(d) (providing definition of elderly person), is confusing:

(d) Elderly person means a person fifty-five (55) years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.

- b. If not repealed, the statute should be amended to clarify conflicting *mens rea requirements* throughout statute. For example, see § 32.20 below with emphasis added:

§ 32.20. Financial Exploitation of an Elderly Person or Individual with a Disability; Defined.

A person is guilty of financial exploitation of an elderly person or individual with a disability if he or she:

(a) **knowingly** obtains or uses, or endeavors to obtain or use, an elderly person's or individual with a disability's funds, assets, or property **with the intent** to temporarily or permanently deprive the elderly person or individual with a disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or individual with a disability, by a person who: (1) stands in a position of trust and confidence with the elderly person or individual with a disability; or (2) has a business relationship with the elderly person or individual with a disability;

(b) obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use an elderly person's or individual with a disability's funds, assets, or property **with the intent** to temporarily or permanently deprive the elderly person or individual with a disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or individual with a disability, **by a person who knows or reasonably should know** that the elderly person or individual with a disability lacks the capacity to consent;

...

(e) is a caregiver or a person who stands in a position of trust and confidence with the elderly person or individual with a disability who **intentionally or negligently fails to**

effectively use an elderly person's or individual with a disability's income and assets for the necessities required for that person's support and maintenance

**CHAPTER 34. ARSON, NEGLIGENT BURNING, CRIMINAL MISCHIEF.**

1. No changes are recommended for 9 GCA §§ 34.10-34.50, 34.80, and 34.90.
2. Recommendation to amend 9 GCA § 34.60 (Criminal Mischief; Punished) to add an offense grading level and increase offense grading values. **This recommendation was tabled for further discussion.**

Section	Offense Level	Existing Value	Recommended Value
§ 34.60(b)	Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
	Petty Misdemeanor	\$24.01 - \$49.99	\$50.00 - \$499.99
	Misdemeanor	\$50.01 - \$499.99	\$500.00 - \$2,499.99
	3 <sup>rd</sup> Degree Felony	> \$500.01	\$2,500.00 - \$4,999.99
	2 <sup>nd</sup> Degree Felony	-	≥ \$5,000.00

3. To clarify that punishment is based on offense grading value only, and remove unnecessary language, amend 9 GCA § 34.60 as follows:

“§ 34.60. Criminal Mischief; Punished.

~~(a) A violation of subsections (b) or (d) of § 34.50 is a third degree felony.~~

~~(b)~~ (a) A violation of subsection (a) of § 34.50 is a third degree felony if the defendant's conduct causes or is intended to cause pecuniary loss in excess of Five Hundred Dollars (\$500.00), a misdemeanor if the defendant's conduct causes or is intended to cause pecuniary loss in excess of Fifty Dollars (\$50.00), and a petty misdemeanor if the defendant's conduct causes or is intended to cause pecuniary loss in excess of Twenty-four Dollars (\$24.00). Otherwise, criminal mischief is a violation.

~~(c)~~ (b) Any adult convicted under subsection (c) of § 34.50, Title 9, Guam Code Annotated, is guilty of a misdemeanor. ~~punishable by imprisonment for not less than a mandatory forty-eight (48) hours nor more than one year and a fine of two hundred fifty dollars (\$250.00) for the first offense, five hundred dollars (\$500.00) for the second offense and one thousand dollars (\$1000.00) for each subsequent offense.~~

In the case of a minor, the parents or the legal guardian shall be jointly and severally liable with the minor for the payment of all fines. Failure of the parents or legal guardian to make payment will result in the filing of a lien on the parents' or legal guardian's property to include the fine and court costs. Upon an application and finding of indigence, the court may decline to order fines against the minor or parents.

In addition to any punishment listed in subsection ~~(e)~~ (b), the court shall order any violator to make restitution to the victim for damages or loss caused directly or indirectly by the defendant's offense in the amount or manner determined by the court. Furthermore, the person or if a minor, his or her parents, shall re-paint or refurbish the property so damaged, destroyed, removed, or defaced at such person's expense, under the supervision of the affected property owner or a court representative. The person shall also perform a minimum of one hundred eighty (180) hours but not to exceed three hundred sixty (360) hours of community service. Parents or legal guardians of any minor found to have violated this subsection shall also be responsible for providing supervision as well as paying for the fine if the minor is unable to do so.

~~(d)~~(c) The court may order that any person punished under § 34.60~~(e)~~(b) or § 34.70, Title 9, Guam Code Annotated, who is to be punished by imprisonment, shall be confined on days other than days of regular employment of the person, or on days other than school days if the defendant is a minor, as determined by the court.”

4. To provide clarification, amend 9 GCA § 34.70(a)(3) as follows:

“(3) Owner means any and all persons with legal and/or equitable title to real property in Guam as their names and addresses are shown upon the records of the Department of Revenue of Taxation or the Department of Land Management.”

5. To provide consistency with general punishment for misdemeanor crimes, amend 9 GCA § 34.70(i) as follows:

“(i) In addition to any punishment listed in subsections (f), (g) and (h), any adult convicted for violating subsections (b), (c), (d) or (e) is guilty of a misdemeanor punishable by imprisonment ~~for not less than a mandatory sixty (60) days.~~”

#### **CHAPTER 37. BURGLARY AND HOME INVASION.**

1. No changes are recommended for 9 GCA §§ 37.10, 37.30, 37.210- 37.360.

2. To provide a reference to the Family Court Act within 9 GCA § 37.20(c), amend as follows:

“(c) A second or subsequent offense of burglary to a school shall be a felony of the first degree. In the case of a second or subsequent conviction of burglary committed to a school as a felony of the first degree, the court shall impose a sentence of imprisonment of a minimum term of ten (10) years, and may impose a maximum term of up to twenty (20) years; the minimum term imposed shall not be suspended nor may probation be imposed in lieu of the minimum term nor shall parole or work release be granted before completion of the minimum term. The sentence shall include a special parole term of not less than three (3) years in addition to such term of imprisonment. However, if the offender is under the age of eighteen years the court shall have the discretion to suspend all or a portion of the minimum sentence, and may encourage the Balanced Approach Restorative Justice Process as provided in 19 GCA § 5134.”

3. To remove a duplicative section already covered by burglary-specific statutory language for vehicles in § 37.20 and because there is no need for second or third degree felony levels for breaking window glass, repeal § 37.40.

~~“§ 37.40. — The Breaking of Window Glass to Gain Access to Vehicles.~~

~~(a) Any person who breaks a glass window of a vehicle, as defined in § 37.10(d) of this Chapter, in the process of committing, or attempting to commit, burglary or criminal trespass, is guilty of an additional offense as a third degree felony.~~

~~(b) Any person who breaks a glass window of a vehicle, as defined in § 37.10(d) of this Chapter, in the process of committing, or attempting to commit, burglary or criminal trespass, in which the broken glass causes bodily injury to an innocent person is guilty of an additional offense as a second degree felony.”~~

4. To add an affirmative defense to burglary, amend 9 GCA § 37.20(a) as follows:

“(a) A person is guilty of burglary if he enters or surreptitiously remains in any habitable property, building, or a separately secured or occupied portion thereof, or if he enters or surreptitiously remains in any School as defined in § 37.10(e) of this Chapter, with intent to commit a crime therein, unless the premises are at the time open to the public or the defendant is licensed or privileged to enter, or a person is guilty of burglary if he enters or surreptitiously remains in any motor vehicle, semi-trailer, trailer, truck tractor, vehicle combination, motor bus, motor truck, or vehicle, with intent to commit a crime therein. It is an affirmative defense to prosecution for burglary that the property, or building, or motor vehicle was abandoned, or if the person reasonably believed that he or she owned, leased rented or was otherwise licensed to enter and remain in the habitable property, building, or a separately secured or occupied portion thereof, or the School, motor vehicle, semi-trailer, trailer, truck tractor, vehicle combination, motorbus, motor truck, or vehicle.”

**CHAPTER 40. ROBBERY.**

1. No changes are recommended for this Chapter 40.

**CHAPTER 43. THEFT AND RELATED OFFENSES.**

1. No changes are recommended for 9 GCA §§ 43.10, 43.15, 43.21, 43.25, 43.30, and 43.35 – 43.75
2. The following recommended amendments to 9 GCA Chapter 43 were tabled for further discussion:

Section	Offense Level	Existing Value	Recommended Value
§ 43.20(e)	Violation	-	-
§ 43.20(d)	Petty Misdemeanor	\$0 - \$49.99	\$0.00 - \$499.99
§ 43.20(c)	Misdemeanor	\$50.01 - \$499.99	\$500.00 - \$2,499.99
§ 43.20(b)	3 <sup>rd</sup> Degree Felony	\$500.01 - \$1,499.99	\$2,500.00 - \$4,999.99
§ 43.20(a)	2 <sup>nd</sup> Degree Felony	≥ \$1,500.00	≥ \$5,000.00

- b. To remove vagueness and ambiguity, repeal 9 GCA § 43.31(a)(3) as follows:

“(a) A person is guilty of a Crime Against the Community if that person knowingly takes, obtains or exercises unlawful control over government-owned, leased or borrowed property, or interferes with, obstructs, or takes action regarding government services in such a way that: (1) doing so creates a threat to the public health and safety; or (2) doing so results in a deprivation of public services, such as utility services, the education of public or private school students, or any government service intended to benefit the public; ~~or (3) does so for a purpose other than the original purpose for which the property or services were to be provided.”~~

**CHAPTER 46. FORGERY, FRAUDULENT PRACTICES & TELEPHONE RECORDS.**

1. No changes are recommended for 9 GCA §§ 46.10-46.20, 46.40, 46.55-46.75, 46.100-46.102, 46.401-46.503, and 46.505-46.608.
2. To remove potentially obsolete, unused statute, repeal 9 GCA Article 2 (Telephone Records; Obtaining, Selling or Receiving Without Consent). **This recommendation was tabled for further discussion.**
3. Recommendation to amend 9 GCA § 46.30 (Issuance of Dishonored Checks) to add felony levels and increase offense grading values. **This recommendation was tabled for further discussion.**

Section	Offense Level	Existing Value	Recommended Value
	Violation	-	-
§ 46.30(b)(1)(A)	Petty Misdemeanor	< \$250.00	< \$500.00
§ 46.30(b)(1)(B)	Misdemeanor	\$250.01 - \$1,000.00	\$500.01 - \$2,499.99
§ 46.30(b)(1)(C)	3 <sup>rd</sup> Degree Felony	> \$5,000.00*	\$2,500.00 - \$9,999.99
	2 <sup>nd</sup> Degree Felony	-	≥ \$10,000.00

4. Recommendation to amend 9 GCA § 46.35(a) to address use of credit information without using physical credit card. **This recommendation was tabled for further discussion.**

**“§ 46.35. Fraudulent Use of Credit Cards; Defined & Punished.**

(a) A person commits an offense if he uses a credit card, or the account number of a credit card, with the intent of obtaining property or services with knowledge that:

- (1) the card, or account number, is stolen or forged;
- (2) the card, or account number, has been revoked or cancelled; or
- (3) for any other reason his use of the card, or account number, is unauthorized.”

5. Recommendation to add offense levels and amend offense grading values for fraudulent use of a credit card in 9 GCA § 46.35(d). **This recommendation was tabled for further discussion.**

Section	Offense Level	Existing Value	Recommended Value
§ 46.35(d)	Violation	-	-
	Petty Misdemeanor	< \$250.00	< \$500.00
	Misdemeanor	\$250.01-\$1,000.00	\$500.01 - \$2,499.99
	3 <sup>rd</sup> Degree Felony	> \$5,000.00	\$2,500.00 - \$9,999.99
	2 <sup>nd</sup> Degree Felony	-	≥ \$10,000.00

6. Recommendation to repeal 9 GCA § 46.50, which is related to greyhound racing as indicated in the Compiler comment, and now inapplicable as greyhound racing no longer exists in Guam.

~~“§ 46.50. Rigging of Public Exhibitions; Defined; Failure to Report; Soliciting Punishment.~~

~~(a) A person commits a misdemeanor if, with intent to prevent a publicly exhibited contest from being conducted in accordance with the rules and usages purporting to govern it, he:~~

~~(1) confers or offers or agrees to confer any benefit upon, or threatens any injury to a participant, official or other person associated with the contest or exhibition; or~~

~~(2) tampers with any person, animal or thing.~~

~~(b) A person commits a misdemeanor if he knowingly solicits, accepts or agrees to accept any benefit the giving of which would be criminal under Subsection (a).~~

~~A person commits a petty misdemeanor if he fails to report, with reasonable promptness, a solicitation to accept any benefit or to do any tampering, the giving or doing of which would be criminal under Subsection (a).”~~

7. Recommendation to add offense levels and amend offense grading values for 9 GCA § 46.80 (Impersonation; Identity Theft; Defined & Punished). **This recommendation was tabled for further discussion.**

Section	Offense Level	Existing Value	Recommended Value
§ 46.80(c)	Violation	-	-
	Petty Misdemeanor	-	< \$500.00
	Misdemeanor	-	\$500.01 - \$2,499.99
	3 <sup>rd</sup> Degree Felony	< \$5,000.00	\$2,500.00 - \$9,999.99
	2 <sup>nd</sup> Degree Felony	≥ \$5,000.00	≥ \$10,000.00

8. Recommendation to amend 9 GCA § 46.103 (Classification of Offense) to add offense levels and amend offense grading values for mortgage fraud. **This recommendation was tabled for further discussion.**

Section	Offense Level	Existing Value	Recommended Value
	Violation	-	-
	Petty Misdemeanor	-	≤ \$500.00
§ 46.103(a)(1)	Misdemeanor	\$300.00 - \$999.99	\$500.01 - \$2,499.99
§ 46.103(a)(2)	3 <sup>rd</sup> Degree Felony	\$1,000.00 - \$ 4,999.99	\$2,500.00 - \$9,999.99
§ 46.103(a)(3)	2 <sup>nd</sup> Degree Felony	≥ \$5,000.00	≥ \$10,000.00

9. Recommendation to repeal 9 GCA § 46.104. It is duplicative and the Attorney General has discretion and authority to hire prosecutors and investigators, without specific need for “mortgage fraud prosecutor and investigators”

~~“§ 46.104. Mortgage Fraud Prosecutor and Investigators.~~

~~(a) The Attorney General may employ:~~

~~(1) An attorney licensed to practice law who:~~

~~(A) has knowledge of the law related to mortgage fraud; and~~

~~(B) if possible, has a background or expertise in investigating and prosecuting mortgage fraud.~~

~~(2) At least two (2) investigators who have a background or expertise in investigating mortgage fraud.~~

~~(3) The attorney employed under Subsection (a) (1) has as that attorney’s primary responsibility the prosecution of mortgage fraud.~~

~~(4) Each person employed under Subsection (b) shall have as that person’s primary responsibility the investigation of mortgage fraud.~~

~~(5) clerks, interns, or other personnel to assist the attorney employed under Subsection (a) (1).”~~

10. Recommendation to amend 9 GCA § 46.504 with Subcommittee concerns as follows:

~~“§ 46.504. Penalties.~~

~~(a) A person who violates § 46.503 (a), (b), (c), (d) or (e) is guilty of a third degree felony; and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~



[Subcommission concerns: duplicative language, provides for a third degree felony base penalty without first offender exception.]

(b) A person who violates § 46.503 (a), (b), (c), (d) or (e) involving the transmission of more than two hundred fifty (250) commercial electronic mail messages during a twenty-four (24) hour period; two thousand five hundred (2,500) commercial electronic mail messages during any thirty (30)-day period; or twenty five thousand (25,000) commercial electronic mail messages during any one (1)- year period is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~

[Subcommission concerns: duplicative language, provides for second degree felony base penalty.]

(c) A person who violates § 46.503 (c) or (d) involving twenty (20) or more electronic mail accounts, or ten (10) or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from the accounts or using the domain names is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~

[Subcommission concerns: duplicative language, provides for second degree felony base penalty.]

(d) A person who violates § 46.503 (a), (b), (c), (d) or (e) that causes a loss of One Thousand Dollars (\$1,000) or more during any one (1)-year period is guilty of a third degree felony, ~~and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~

[Subcommission concerns: duplicative language, provides for third degree felony base penalty.]

(e) A person who violates § 46.503 (a), (b), (c), (d) or (e) in concert with three (3) or more other persons as the leader or organizer of the action that constitutes the violation is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~

[Subcommission concerns: duplicative language, provides for second degree felony base penalty.]

(f) A person who violates § 46.503 (a), (b), (c), (d) or (e) in furtherance of a felony, or who has previously been convicted of an offense under the laws of Guam, another state, or under any federal law involving the transmission of multiple commercial electronic mail messages is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed ten (10) years or a fine not to exceed Twenty Five Thousand Dollars (\$25,000), or both.~~

[Subcommission concerns: duplicative language, provides for second degree felony base penalty.]

(g) A person who violates § 46.503 (f) or (g) is guilty of a misdemeanor felony, ~~and upon conviction is subject to imprisonment not to exceed one (1) year or a fine not to exceed Five Thousand Dollars (\$5,000), or both."~~

[Subcommission concerns: imprisonment penalty for misdemeanor, but language stated offense is felony grade.]

**CHAPTER 47. TRADEMARK COUNTERFEITING ACT.**

No changes are recommended for this Chapter 47.

**CHAPTER 48. NOTIFICATION OF BREACHES OF PERSONAL INFORMATION.**

Recommendation to move this Chapter 48 out of the Criminal Code as it does not contain any criminal offenses or penalties. Move to civil code. No other changes are recommended. **Tabled for further discussion.**

TABLE OF AMENDMENTS, REPEALS, NO CHANGES

		<u>No-Change</u>	<u>AMEND</u>	<u>REPEAL</u>	<u>REPEAL &amp; RE-ENACT</u>
<b><u>CRIMINAL PROCEDURE SUBCOMMISSION</u></b>					
CHAPTER 71: The Guam Gun-Free School Zone					
Act of 2004	§71.10	NC			
	§71.20		AMEND		
	§71.30		AMEND		
	§71.40	NC			
	§71.50	NC			
	§71.60		AMEND		
	§71.61		AMEND		
	§71.70		AMEND		
	§71.80		AMEND		
	§71.81		AMEND		
	§71.82		AMEND		
	§71.83		AMEND		
	§71.90	NC			
CHAPTER 81: Reduction of Sentences	§81.10				v as §80.23
CHAPTER 82: Loss and Restoration of Rights Incident to Conviction or Imprisonment	§82.10	NC			
	§82.15		AMEND		
	§82.20		AMEND		
	§82.25	NC			
CHAPTER 84: Rehabilitative and Development Program	§84.10	NC			
	§84.15		AMEND		
	§84.20		AMEND		
	§84.25	NC			
	§84.30	NC			
	§84.35	NC			
	§84.49	NC			
CHAPTER 85: Guam Parole Board	§85.10	NC			
	§85.14	NC			
	§85.18	NC			
	§85.22	NC			
	§85.26	NC			
	§85.30	NC			
	§85.34	NC			
	§85.38	NC			
	§85.50	NC			
	§85.54	NC			
	§85.58	NC			
	§85.61	NC			
	§85.62	NC			
	§85.68	NC			
	§85.72		AMEND		
<b><u>CRIMES AGAINST PROPERTY SUBCOMMISSION</u></b>					
CHAPTER 43: Theft & Related Offenses	§43.10	NC			
	§43.15	NC			
	§43.20	NC			
	§43.21	NC			
	§43.25	NC			

	§43.30	NC			
	§43.31		AMEND		
	§43.35	NC			
	§43.40	NC			
	§43.45	NC			
	§43.50	NC			
	§43.51	NC			
	§43.55	NC			
	§43.56	NC			
	§43.60	NC			
	§43.65	NC			
	§43.70	NC			
	§43.75	NC			
CHAPTER 46: Forgery, Fraudulent Practices	§46.10	NC			
and Telephone Records	§46.15	NC			
	§46.20	NC			
	§46.30		AMEND		
	§46.35		AMEND		
	§46.40	NC			
	§46.45	NC			
	§46.50			REPEAL	
	§46.55	NC			
	§46.60	NC			
	§46.65	NC			
	§46.70	NC			
	§46.75	NC			
	§46.80		AMEND		
	§46.90			REPEAL	
	§46.91			REPEAL	
	§46.92			REPEAL	
	§46.93			REPEAL	
	§46.94			REPEAL	
	§46.100	NC			
	§46.101	NC			
	§46.102	NC			
	§46.103		AMEND		
	§46.104			REPEAL	
	§46.401	NC			
	§46.402	NC			
	§46.403	NC			
	§46.404	NC			
	§46.405	NC			
	§46.406	NC			
	§46.407	NC			
	§46.408	NC			
	§46.501	NC			
	§46.502	NC			
	§46.503	NC			
	§46.504		AMEND		
	§46.505	NC			
	§46.506	NC			
	§46.507	NC			
	§46.508	NC			

	§46.601	NC			
	§46.602	NC			
	§46.603	NC			
	§46.604	NC			
	§46.605	NC			
	§46.606	NC			
	§46.607	NC			
	§46.608	NC			
CHAPTER 37: Burglary and Home Invasion	§37.10	NC			
	§37.20		AMEND		
	§37.30	NC			
	§37.40			REPEAL	
	§37.210	NC			
	§37.220	NC			
	§37.230	NC			
	§37.240	NC			
	§37.310	NC			
	§37.330	NC			
	§37.340	NC			
	§37.350	NC			
	§37.360	NC			
CHAPTER 34: Arson, Negligent Burning	§34.10	NC			
Criminal Mischief	§34.20	NC			
	§34.30	NC			
	§34.40	NC			
	§34.50	NC			
	§34.60		AMEND		
	§34.70		AMEND		
	§34.80	NC			
	§34.90	NC			
CHAPTER 32: Financial Exploitation of the Elderly	§32.10			REPEAL	
and Individuals with Disabilities	§32.20			REPEAL	
	§32.30			REPEAL	
	§32.40			REPEAL	
	§32.50			REPEAL	

ATTACHMENT 2

SUBCOMMISSION THIRD QUARTER REPORTS

**2023 THIRD QUARTER REPORT OF THE  
SUBCOMMISSION ON CRIMINAL PROCEDURE**

**Criminal Law and Procedure Revision Commission  
Subcommission on Criminal Procedure  
Third Quarter Report**

**Subcommission Name:** Subcommission on Criminal Procedure

Chair: Hon. Anita A. Sukola

Members: Marianne Woloshuk, Serge Quenga, Brian Eggleston, Lenny Rapadas

Dates of subcommission meetings: July 14 and 28, August 10 and 16.

**Past activity:**

1. List of Chapters (and Article, if applicable) reviewed.

Continued review of Title 9 Chapters 71, 80, 81, 82, 84, 85, 86, 87, 88, 89, 93.

2. Brief summary of subcommission's findings/conclusions for each Chapter/Article, using the Excel spreadsheet for guidance.

Please refer to our PowerPoint presentation attached from the August 31, 2023 Plenary Meeting.

3. Brief recommendation for each Chapter/Article already reviewed.

Please refer to our PowerPoint presentation attached from the August 31, 2023 Plenary Meeting.

**Current and future activity:**

1. List of Chapters/Articles currently under review and to be reviewed in future subcommission meetings.

Title 9 Chapter 80 and other chapters referred to other Subcommission and agencies.

2. List of future subcommission meeting dates.

Next meeting dates are to be determined.



## CLRC SUBCOMMISSION QUARTERLY REPORT

**Subcommittee:**  Persons  Property  Drugs & Other  Procedure

**Reporting Period:**

<input type="checkbox"/> Jan-Mar 2023	<input type="checkbox"/> April-June 2023	<input checked="" type="checkbox"/> July-Sept 2023	<input type="checkbox"/> Oct-Dec 2023
<input type="checkbox"/> Jan-Mar 2024	<input type="checkbox"/> April-June 2024	<input type="checkbox"/> July-Sept 2024	<input type="checkbox"/> Oct-Dec 2023

**Chair:** Hon. Anita A. Sukola  
**Members:** Marianne Woloshuk, Serge Quenga, Brian Eggleston, Lenny Rapadas  
**Dates of Subcommittee Meetings:** July 14 and 28, August 10 and 16

**Completed and/or Ongoing Review of the Following Title 9 Chapters:**

Chapter Number: 71 Chapter Name: The Guam Gun-Free School Zone Act of 2004  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: § 71.20 tabled for further discussion. Chapter deferred to CAP.

Chapter Number: 80 Chapter Name: Disposition of Offenders  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Chapter deferred to DOCO and CAP.

Chapter Number: 81 Chapter Name: Reduction of Sentences  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: § 81.10 tabled for further discussion. Deferred to DOCO.

Chapter Number: 82 Chapter Name: Loss and Restoration of Rights Incident to Conviction or Imprisonment  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: § 82.20 tabled for further discussion. Deferred to DOCO.

Chapter Number: 84 Chapter Name: Rehabilitative and Development Program  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to DOCO.

Chapter Number: 85 Chapter Name: Territorial Parole Board  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to DOCO.

Chapter Number: 86 Chapter Name: Compensation for Damages from Criminal Activities  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to Compiler for removal from GCA.

Chapter Number: 87 Chapter Name: Victim Notification  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to Compiler for removal from GCA.

Chapter Number: 88 Chapter Name: Criminal Justice Substance Abuse Act  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to DOCO.

Chapter Number: 89 Chapter Name: Crimes Against Minors and Sex Offender Registry  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to DOCO and CAP.

Chapter Number: 93 Chapter Name: Criminal Sexual Conduct Assessment and Rehabilitation Act  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Deferred to DOCO and CAP.

**Future Meeting Dates:** To be determined. Usually bi-weekly.

**Planned Review of the Following:** All chapters listed above are still being reviewed.



# Report of the Subcommission on Criminal Procedure August 31, 2023 CLRC Plenary Meeting

Members: Honorable Anita A. Sukola (Chairperson), Marianne Woloschuk, Esq., Brian Eggleston, Esq., Leonardo Rapadas, Esq.,  
Serge Quenga, Esq.

Review of Guam Code Annotated  
Title 9 Chapters



The Criminal Procedure Subcommittee is primarily responsible for review of Title 8 – the Criminal Procedure Code. P.L. 13-198 (1976).

Title 9 - the Criminal and Correctional Code - was prioritized by P.L. 36-119. The Chairman of the CLRC, Magistrate Judge Jonathan Quan, assigned several chapters in GCA Title 9, to our Subcommittee for review.

Chapter	Title of Chapter
71	The Guam Gun-Free School Zone Act of 2004
80	Disposition of Offenders
81	Reduction of Sentences
82	Loss and Restoration of Rights Incident to Conviction or Imprisonment
84	Rehabilitative and Development Program
85	Territorial Parole Board
86	Compensation for Damages from Criminal Activities
87	Victim Notification
88	Criminal Justice Substance Abuse Act
89	Crimes Against Minors and Sex Offender Registry
93	Criminal Sexual Conduct Assessment and Rehabilitation Act

We have also begun reviewing Title 8 – The Criminal Procedure Code of Guam. We will return to the Title 8 chapters for a more detailed review. Our review today will be limited to the Title 9 chapters assigned to our Subcommittee.



## **Title 9 Chapter 71 – The Guam Gun-free School Zone Act of 2004**

This Chapter 71 was not part of the Criminal & Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 27-116 in 2004. It has not been amended since its adoption.

None of the sections in this chapter are substantively addressed in Superior Court and Supreme Court decisions that are available online. Its enforcement may be infrequent.

We recommend referral of this chapter to the Subcommittee on Crimes Against Persons (GPD is a member) for review and comment.

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Pending feedback from other Subcommittees, we recommended these changes:

1. Correct a typo in 9 GCA § 71.20(c):  
(c) “Concealed firearm” shall mean as defined in 9 10 GCA § 60108(e). [This typo was in the original public law and can be corrected by the Compiler of Laws]
2. Clarify title of 9 GCA § 71.30.

§ 71.30. ~~Person Not Allowed to Possess Firearms~~ Possession of Firearms in a School Zone.



3. Remove unnecessary verbiage in 9 GCA § 71.60.

§ 71.60. Punishment.

Any person who ~~violates~~ is convicted of violating § 71.30, § 71.40, or § 71.50 of this Act shall be guilty of a felony of the third degree and ~~any person who is convicted of an offense pursuant to § 71.30, § 71.40, or § 71.50~~ shall be sentenced as follows:

(a) For a first offense, the Court shall impose a sentence of imprisonment of no more than three (3) years, a fine of not less than One Thousand Dollars (\$1,000.00), and mandatory community service of no less than one hundred and fifty (150) hours.

(b) In cases where the person has been convicted of felonies under any provision of this Chapter, the person shall be sentenced to a term of imprisonment which shall not be less than five (5) years and in addition, may be fined not more than Fifteen Thousand Dollars (\$15,000.00). The sentence ~~if for a term of years~~, shall include a special parole term of not less than one (1) year in addition to such term of imprisonment. Imposition or execution of such sentence shall not be suspended, and probation shall not be granted. Sentence in these cases must also include mandatory community service of no less than one hundred fifty (150) hours unless the term of imprisonment is for life.

(c) The Court shall apply any minimum sentence, fine or community service specified in this Section, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment, fine or community service required in this ~~Subdivision or~~ by granting probation or suspending the execution or imposition of sentence, fine or community service with conditions other than those set forth in this Section, in which case the Court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.



4. The fines and sentences in § 71.60(a) and (b), above, have not been changed since adoption of this law in 2004. However, they do not appear to be inconsistent with the fines and sentences under 10 GCA Chapter 60 – Firearms.

5. § 71.70 defines a loaded firearm. We recommend moving it to the definitions section - § 71.20 as a new subsection (d).

~~§ 71.70. What Constitutes a Loaded Firearm.~~

~~For purposes of this Chapter, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.~~

§ 71.20(d). “Loaded Firearm” shall mean a firearm loaded with an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.



6. Amend § 71.80 to update it and remove outdated requirements.

§ 71.80. Notice.

~~(a)~~ The Department of Education and other entities covered by this Chapter shall post permanent signs with large visible lettering stating at a minimum, "Warning this is a Gun-Free Zone" at the main entrances of the covered facilities within their control ~~on or before January 1, 2005~~. This Section does not require that notice be posted regarding the proscribed conduct for the purposes of prosecution of any violation of this Act.

~~(b) The Guam Police Department within sixty (60) days of the effective date of this Act shall implement a public relations campaign to inform the general public of its provisions.~~





7. Consolidate “Not Applicable” sections (71.81-71.83) into one section.

§ 71.81. ~~Chapter~~ Not Applicable ~~to Peace Officers and Military~~.

(a) This Chapter does not apply to a duly appointed peace officer as defined in § 5.55, Article 2, Chapter 5, Title 8, Guam Code Annotated, a full-time paid peace officer of another state or the Federal government who is carrying out official duties while in Guam, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of Guam or of the United States who is engaged in the performance of his or her duties, or an armored vehicle guard engaged in the performance of his or her duties.

~~§ 71.82. Not Applicable to Security Guards.~~

(b) This Chapter does not apply to an on-duty security guard authorized to carry a loaded firearm, provided the security guard is an employee of an entity contracted by the school for security purposes.

~~§ 71.83. Not Applicable to Existing Shooting Ranges.~~

(c) This Chapter does not apply to an existing shooting range at a public or private school or university or college campus.



## Title 9 Chapter 80 – Disposition of Offenders

Our Subcommittee is doing a deep dive into this Chapter 80 as it contains many procedural provisions. The substance of this Chapter 80 also requires review by the enforcing agencies.

Chapter 80	1977 Criminal and Correctional Code	Title 9 Guam Code Annotated
Article 1	General Provisions	General Provisions
Article 2	Imprisonment	Imprisonment
Article 3	Fines and Restitution	Fines and Restitution
Article 4	Probation	Probation
Article 5	Parole	Parole
Article 6	N/A	Alternative Community Service
Article 7	N/A	Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders

Chapter 80, as it was enacted by P.L. 13-185, contained 5 articles. It now contains 7 articles and has been extensively updated by the Legislature.

We will work closely with other Subcommittees and their specific member agencies in working sessions on review of this chapter. We will report back to the Plenary Commission at a later date.



## **Title 9 Chapter 81 – Reduction of Sentences**

This Chapter 81 was not part of the original Criminal & Correctional Code. It was added by P.L. 15-1116:4 (1980). Last amended in 2022 by P.L. 35-103:5.

Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO) for review and comment by the Director of Corrections, who is a member of that Subcommittee.

This Chapter 81 provides for the reduction of sentences by work credit. It is a very short chapter consisting of only one section. Because it involves sentences, it would be a good fit in Article 1 of Chapter 80, which contains sections regarding sentences.



Pending feedback from other Subcommittees, we recommend these changes:

1. Move Chapter 81 to a new Section 80.23 of 9 GCA and make minor clarifications:

9 GCA § ~~81-10~~ 80.23. Reduction of Sentence by Work Credit.

(a) Any person in custody may work at cleaning up littered areas, parks and beaches or other types of work details beneficial to the island of Guam, including participation in a preapprenticeship program authorized through the Guam Registered Apprenticeship Program as provided in Article 1, Chapter 10, Title 22, Guam Code Annotated; provided, that the Director of Corrections:

(1) determines that the person meets the following eligibility requirements that he or she:

(A) has not been convicted of a second degree felony or higher ~~which is~~ including homicide, criminal sexual conduct, robbery or escape as set forth in Chapters 16, 25, 40, and 58 of this Title, respectively; and

(B) is physically able to do such work.

(b) The Director shall ~~provide~~ ensure supervision of the work detail.



(c) The person's sentence shall be reduced by one (1) day for each forty (40) hours of work done that involves cleaning up littered areas, parks, and beaches or other types of work details beneficial to the island of Guam. The person's sentence shall be reduced by two (2) days for each forty (40) hours of work done that involves educational or on-the-job training, or a combination of both.

(d) The Directors of Public Works and Parks and Recreation, and any non-profit organization authorized to participate in the Work Credit program, shall cooperate with the Director of Corrections in choosing sites for work.

(e) Inmates who were eligible to work in previous work detail programs shall only participate in work governed by this Section if they qualify.

~~(f) This Section shall apply to any person who is convicted for the first time of Driving Under the Influence, as defined by 9 GCA § 92101(a), et seq. [See below]~~

2. Subsection (f), above, fits better in the Driving While Impaired section of the Safe Streets Act. We recommend repeal and reenactment of Subsection (f) to 9 GCA § 92104(f) as amended:

9 GCA § 92104. First Offender Conviction: Punishment.

A person convicted of a first violation of driving while impaired is guilty of a misdemeanor and shall be sentenced as follows:

...

(f) First time offenders are eligible for work credit under 9 GCA § 80.23.



### **Title 9 Chapter 82 – Loss and restoration of Rights Incident to Conviction or Imprisonment**

This Chapter 82 has not been amended since adoption of the Criminal & Correctional Code by P.L. 13-185 (1976).

This Chapter 82, in part, involves Parole. Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO), as the Chief Parole Officer has actively participated in this subcommission. The Parole Board may take special note of § 82.25 (Discretionary Lifting of Disqualification by Parole Board) and the commentary by the Compiler of Laws that this section may violate the Organic Act.

Pending feedback from other Subcommissions, we recommend the following changes:

1. Amend § 82.20 to remove excess verbiage.

§ 82.20. Jury or Voting Disqualification for Duration of Sentence Only.

Notwithstanding any other provision of law, a person who is convicted of a crime shall be disqualified:

- (a) from voting in a primary or general election ~~if and only so long~~ as he is committed under a sentence of imprisonment; and
- (b) from serving as a juror until he has satisfied his sentence.

2. Correct a typo in § 82.25(d).

- (d) The removal of disqualifications or disabilities shall not constitute a pardon nor preclude any person from taking into consideration the fact that the petitioner has been found guilty of a crime where such fact may have previously lawfully been ~~en~~ considered.



### **Title 9 Chapter 84 – Rehabilitative and Development Program**

This Chapter 84 was not part of the Criminal & Correctional Code adopted by P.L. 13-185 (1976). This Chapter 84 was adopted by P.L. 21-75 (1992). It has not been amended since it was adopted.

Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO) for review and comment by the Director of Corrections, as this chapter substantively affects DOC.

Pending feedback from other Subcommittees, we recommend the following changes:

1. Amend § 84.15 to provide clarification and a correction.  
§ 84.15. Inmate Compensation and Distribution of Income Received.  
(a) Inmates shall be paid by the Department at rates determined by the Director by regulation.  
(b) The inmate's wages derived from the Program, ~~before being disbursed to the inmate,~~ shall be divided and disbursed as follows:
  - (1) Ten percent (10%) to be deposited in the inmate's name for personal use;
  - (2) Forty five percent (45%) to be deposited in the ~~client's~~ inmate's name to pay any legal obligations such inmate may have incurred, such as but not limited to spouse and child support.
  - (3) Forty-five percent (45%) to be used, first, to restore to the victim(s) of the inmate's crime(s) any monies that were lost as a result of such crime(s), with the balance, if any, to be transferred to the Criminal Injuries Compensation Fund (the "Fund") for compensation to the victims of crime.
- (c) Profits, if any, derived from the Program shall be deposited in the Fund.



2. Amend § 84.20 to update it and correct a misnumbered reference.

§ 84.20. Authorization to Charge for Work Products of the Program.

- (a) Every effort shall be made by the Director to make the Program self-supporting from the funds generated therefrom. The Director shall submit to the Governor and to the Speaker of the Legislature a full report on the status of the Program ~~within ninety (90) days after the enactment of this Chapter and~~ annually ~~thereafter~~, when the Department's budget request is submitted to the Governor.
- (b) The Director is authorized and directed to establish fees and charges for the work products or products generated by the Program and to use such funds generated, after paying the inmates as provided in ~~§ 84.02~~ 84.15, to support the Program by way of supplies, equipment and administrative expenses.
- (c) When services, produce, or products generated by the Program are used by the Department for its own in-house purposes, the Director is authorized to pay the inmates from appropriations to the Department for their labor in creating such services, produce or products.





## Title 9 Chapter 85 – Territorial Parole Board

This Chapter 85 was part of the Criminal & Correction Code adopted by P.L. 13-185 (1976). It has been amended since 1976 and most recently in 2017.

Recommend referral to the Subcommittee on Drug & Other Criminal Offenses (DOCO), because Chapter 85 is the enabling law for the Parole Board and should be reviewed by the Director of Corrections, Chief Parole Officer, Parole Services Division, and Parole Board.

Pending feedback from other Subcommissions and entities, the Subcommittee recommends this change:

1. Clarify the language in § 85.72:  
§ 85.72. Paroled Prisoner to Receive Clothes, Transportation and Maximum of \$25.

~~When a~~ A prisoner who is placed on parole, ~~he shall receive from Guam~~ shall be provided civilian clothing and transportation to the place in Guam in which ~~he~~ the prisoner is to reside. At the discretion of the Board, the prisoner may be advanced such sum for his temporary maintenance as said Board may allow, not to exceed Twenty-Five Dollars (\$25.00), from a fund which shall be provided for use of the Board for this purpose.

We note that the amount of money (\$25) that may be provided to a parolee has not been increased since 1976. An increase, if any, should be requested by Parole.



### **Title 9 Chapter 86 – Compensation for Damages from Criminal Activities**

In 2004, this Chapter 86 was amended and renumbered by P.L. 27-138:4 to 8 GCA Chapter 161 – Compensation for Damages from Criminal Activities. Reference to Chapter 86 was kept in Title 9 to advise readers of its renumbering to 8 GCA Chapter 161.

We have deferred removal of this reference to Chapter 86 to the Compiler of Laws.

### **Title 9 Chapter 87 – Victim Notification**

In 2004, this Chapter 87 was repealed in its entirety by P.L. 27-138:3, which enacted 8 GCA Chapter 160 - the Crime Victim's Rights Act of 2004. Victim notification is covered in that Chapter 160. Reference to Chapter 87 was kept in Title 9 to advise readers of the repeal by P.L. 27-138.

We have deferred removal of this reference to Chapter 87 to the Compiler of Laws.



## Chapter 88 – Criminal Justice Substance Abuse Act

This Chapter 88 was not part of the original Criminal and Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 23-060:1 (1995) and has not been amended.

Recommend referral to the Subcommittee on Drug and Other Criminal Offenses (DOCO) for review and comment. Recommend referral to Prosecution, Probation and GBHWC for review and comment.

Pending feedback from other Subcommissions and entities, the Subcommittee recommends this change:

1. Repeal of § 88.60, which is contained a reporting requirement that has long since passed.

### ~~§ 88.60. Report to the Legislature.~~

~~On or before September 1, 1996, the Superior Court of Guam, the Department of Corrections, the Territorial Parole Board, the Guam Police Department, and the Guam Behavioral Health and Wellness Center shall jointly make a report to a committee meeting of the Guam Legislature's standing committee with appropriate oversight (as designated by the Legislative Committee on Rules) regarding the implementation of this Act; the results of the programs created by this Act, including any reduction in substance abuse by offenders while incarcerated; the standardized procedures developed pursuant to this act; and the number and kinds of punitive sanctions imposed upon offenders pursuant to this Act.~~



### **Title 9 Chapter 89 - Crimes Against Minors and Sex Offender Registry**

This Chapter 89 was not part of the original Criminal and Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 25-072:2 (1999) and has been amended several times since its adoption.

This chapter contains mandates for many different entities (DOC, Parole, Probation, GPD, the Judiciary. It also contains electronic monitoring provisions. Recommend referral to the Subcommittee on Crimes Against Persons (GPD) and Subcommittee on Drug and Other Criminal Offenses (DOCO) for review and comment. Also, suggest asking for input and comment from Probation, the Judiciary and AG Prosecution.

We will discuss at working sessions whether § 88.40(b) (requiring punitive sanctions against offenders testing positive for alcohol or controlled substances) might raise due process issues if testing results in false positives. We will report back to the Plenary Commission on this.



### **Title 9 Chapter 93 – Criminal Sexual Conduct Assessment and Rehabilitation Act**

This Chapter 93 was not part of the original Criminal and Correctional Code adopted by P.L. 13-185 (1976). It was added by P.L. 35-071:1 (2020).

Recommend referral to the Subcommission on Crimes Against Persons (GPD) and Subcommission on Drug and Other Criminal Offenses (DOCO) for review and comment. Also, suggest asking for input and comment from Probation and GBHWC for review and comment.

Will discuss at working sessions whether § 93.30 (requiring assessment of convicting sex offenders) might raise due process issues for individuals found to not be indigent but not having affordable assessment/treatment options available to them.



Pending further discussions, the Subcommittee recommends the following change:

1. Repeal unnecessary and repetitive language of § 93.30(c), which is already stated in 93.30 (a) and (b).

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

(a) A person convicted of a criminal sexual conduct felony committed on or after the effective date of this Act who is to be considered for probation, pre-sentence release, sentencing, or parole shall be required, as part of the pre-sentence or probation investigation, to submit to an assessment developed pursuant to § 93.20(a)(1). The court shall order such person to comply with the recommendations of such assessment as a condition of probation, pre-sentence release, or parole, and as part of the sentence, at the person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

(b) Each person convicted of a criminal sexual conduct misdemeanor committed on or after the effective date of this Act shall be required to submit to an assessment developed pursuant to § 93.20(a)(1). The court shall order such person to comply with the recommendations of such assessment at the person's own expense, unless such person is indigent. If such person is sentenced to probation, such person shall be ordered to comply with the recommendations as a condition of probation at such person's own expense, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.

~~(c) The assessment required by Subsection (a) of this Section or the assessment required by Subsection (b) of this Section shall be at the expense of the person assessed, unless such person is indigent, at which point the government of Guam may provide access to government funded or government contracted service providers, if available.~~



**THANK YOU**

**2023 THIRD QUARTER REPORT OF THE  
SUBCOMMISSION ON CRIMES RELATING TO PROPERTY**



## CLRC SUBCOMMISSION QUARTERLY REPORT

**Subcommittee:**  Persons  Property  Drugs & Other  Procedure

**Reporting Period:**

<input type="checkbox"/> Jan-Mar 2023	<input type="checkbox"/> April-June 2023	<input checked="" type="checkbox"/> July-Sept 2023	<input type="checkbox"/> Oct-Dec 2023
<input type="checkbox"/> Jan-Mar 2024	<input type="checkbox"/> April-June 2024	<input type="checkbox"/> July-Sept 2024	<input type="checkbox"/> Oct-Dec 2023

**Chair:** Philip J. Tydingco, Esq.

**Members:** F. Randall Cunliffe, Esq., Mr. Monty McDowell, William B. Brennan Esq.

**Dates of Subcommittee Meetings:** July 13, 2023, August 17, 2023

**Completed and/or Ongoing Review of the Following Title 9 Chapters:**

Chapter Number: 43 Chapter Name: Theft and Related Offenses

If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading and crime against the community special allegation

Chapter Number: 37 Chapter Name: Burglary, Section 37.20\*

If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_

Recommended Action:  No Change  Amend  Repeal  Tabled

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 37 Chapter Name: Burglary, Section 37.40

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 37.20

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 34 Chapter Name: Arson, Negligent Burning, Criminal Mischief

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 34.60(a)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 34 Chapter Name: Arson, Negligent Burning, Criminal Mischief

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 34.60(b)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading

Chapter Number: 34 Chapter Name: Arson, Negligent Burning, Criminal Mischief

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 34.60(c)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 34 Chapter Name: Arson, Negligent Burning, Criminal Mischief

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 34.70(a)(3)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 34 Chapter Name: Arson, Negligent Burning, Criminal Mischief

If Applicable, Article Number: \_\_\_\_\_ Article Name: 34.70(i)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone Records

If Applicable, Article Number: 2 Article Name: Telephone Records, Obtaining, Selling, or Receiving Without Consent

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing legislative history

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.30

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading for dishonored checks

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.50

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.35(a)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Subcommittee reviewing language to address fraudulent use of account information and debit cards

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.35(d)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.80(c)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.103

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.103

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee reviewing offense grading

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.104

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(a)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(b)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(c)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(d)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(e)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(f)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 46 Chapter Name: Forgery, Fraudulent Practices & Telephone  
Records

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(g)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 32 Chapter Name: Financial Exploitation of Elderly Individuals with  
Disabilities

If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee revising language due to numerous inconsistencies

Chapter Number: 48 Chapter Name: Notification and Breach of Personal Information

If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: Subcommittee considering whether civil cause of action more  
appropriate than criminal proscription

Chapter Number: 47 Chapter Name: Trademark Counterfeiting Act

If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

Chapter Number: 40 Chapter Name: Robbery

If Applicable, Article Number: \_\_\_\_\_ Article Name: Section 46.504(a)

Recommended Action:  No Change  Amend  Repeal  Tabled\*

\*Reason for Tabling: \_\_\_\_\_

**Next Meeting: Tentative – December 6, 2023**

**Planned Review of the Following:**

Chapter Number:	Chapter Name:	Article Number:	Article Name:
4	General Principles of Liability		
13	Attempt, Solicitation, Conspiracy		
49	Government Bribery,		
69	Antitrust Law		
70	Miscellaneous Crimes		



# Subcommission on Crimes Relating to Property Update

Guam Criminal Law Review and Procedure Commission

August 31, 2023

Subcommission Chairperson: Phillip J. Tydingco, Esq.

Subcommission Members: F. Randall Cunliffe, Esq., Mr. Monty McDowell, William B. Brennan, Esq.



## Preliminary Review

### Completed (by Chapter)

- 9 GCA Chapter 32 (Financial Exploitation of Elderly)
- 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)
- 9 GCA Chapter 37 (Burglary)
- 9 GCA Chapter 40 (Robbery)
- 9 GCA Chapter 43 (Theft and Related Offenses)
- 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)
- 9 GCA Chapter 47 (Trademark Counterfeiting Act)
- 9 GCA Chapter 48 (Notification of Breaches of Personal Information)

## Chapters Remaining

- 9 GCA Chapter 4 (General Principles of Liability)
- 9 GCA Chapter 13 (Attempt, Solicitation, Conspiracy)
- 9 GCA Chapter 49 (Government Bribery, Other Unlawful Influence and Related Offenses)
- 9 GCA Chapter 69 (Antitrust Law)
- 9 GCA Chapter 70 (Miscellaneous Crimes)



# Highlights of Preliminary Review





## 9 GCA Chapter 43 (Theft and Related Offenses)

- Recommend amendment to offense grading

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	\$0 - \$49.99	\$0.00 - \$499.99
Misdemeanor	\$50.01 - \$499.99	\$500.00 - \$2,499.99
3 <sup>rd</sup> Degree Felony	\$500.01 - \$1499.99	\$2,500.00 - \$4,999.99
2 <sup>nd</sup> Degree Felony	> \$1,500.00	> \$5,000.00



## 9 GCA Chapter 43 (Theft and Related Offenses)

Recommend deletion of subsection 43.31(a)(3) of the crime against community special allegation to address vagueness and ambiguity:

59

Existing Statute with subsection (a)(3) only, (emphasis added):

"A person is guilty of a Crime Against the Community if that person knowingly takes, obtains or exercises unlawful control over government-owned, leased or borrowed property, or interferes with, obstructs, or takes action regarding government services in such a way that . . . ~~(3) does so for a purpose other than the original purpose for which the property or services were to be provided.~~"



## 9 GCA Chapter 37 (Burglary)

Add cross reference to the Family Court Act in Section 37.20:

“ . . . However, if the offender is under the age of eighteen years the court shall have the discretion to suspend all or a portion of the minimum sentence, and may encourage the Balanced Approach Restorative Justice Process as provided for in 19 G.C.A Section 5134.”



# 9 GCA Chapter 37 (Burglary)

Recommend Repeal of Section 37.40 “The Breaking of Window Glass to Gain Access to Vehicles.”

61

Concerns: Language duplicative and already covered by burglary specific statutory language proscribing burglarizing a vehicle at Section 37.20, do not need additional separate offense at a second or third degree felony level if window broken to accomplish burglary



## 9 GCA Chapter 37 (Burglary)

Recommend Amendment to Section 37.20(a) regarding affirmative defense to

Burglary:

A person is guilty of burglary if he enters or surreptitiously remains in any habitable property, building, or a separately secured or occupied portion thereof, or if he enters or surreptitiously remains in any School as defined in § 37.10(e) of this Chapter, with intent to commit a crime therein, unless the premises are at the time open to the public or the defendant is licensed or privileged to enter, or a person is guilty of burglary if he enters or surreptitiously remains in any motor vehicle, semi-trailer, trailer, truck tractor, vehicle combination, motor bus, motor truck, or vehicle, with intent to commit a crime therein. It is an affirmative defense to prosecution for burglary that the property, or building, or motor vehicle was abandoned **or if the person reasonably believed that he or she owned, leased rented or was otherwise licensed to enter and remain in the habitable property, building, or a separately secured or occupied portion thereof, or the School, motor vehicle, semi-trailer, trailer, truck tractor, vehicle combination, motorbus, motor truck, or vehicle.**



# 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend deletion of Subsection 34.60(a) to clarify punishment is based on offense grading value only
- Recommend amendment to offense grading value for Criminal Mischief:

Offense Level	Existing Statute	Recommended Change
Violation	\$0.01 - \$24.00	\$0.00 - \$49.99
Petty Misdemeanor	\$24.01 - \$49.99	\$50.00 - \$499.99
Misdemeanor	\$50.01 - \$499.99	\$500.00 - \$2,499.99
3 <sup>rd</sup> Degree Felony	> \$500.01	\$2,500.00 - \$4,999.99
2 <sup>nd</sup> Degree Felony	-	> \$5,000.00



# 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend deletion of mandatory minimum in Section 34.60(c) which includes mandatory minimum 48 hours jail time and fines for first, second, and third offenses, separate from general sentencing structure
- Remainder of Subsection(c) related to joint and several liability for parents of offending minors to remain



## 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend Amendment to definition of owner for Graffiti statute at Section 34.70(a)(3):

“(3) Owner means any and all persons with legal and/or equitable title to real property in Guam as their names and addresses are shown upon the records of the Department of Revenue of Taxation **or the Department of Land Management.**”





# 9 GCA Chapter 34 (Arson, Negligent Burning, Criminal Mischief)

- Recommend Amendment punishment at Section 34.70(i) for consistency with general punishment for misdemeanor crimes:

In addition to any punishment listed in subsections (f), (g) and (h), any adult convicted for violating subsections (b), (c), (d) or (e) is guilty of a misdemeanor punishable by imprisonment. ~~for not less than a~~ ~~mandatory sixty (60) days.~~



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Subcommission is considering recommending repeal of Sections 46.90 to 46.94 :

“Prohibition on Use of Telephone Records”

Subcommission Concerns: potentially obsolete, significant penalties, unused statute.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to offense grading values for dishonored checks (Section 46.30)

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	< \$250.00	< \$500.00
Misdemeanor	\$250.01 - \$1,000.00	\$500.01 - \$2,499.99
3 <sup>rd</sup> Degree Felony	> \$5,000.00	\$2,500.00 - \$9,999.99
2 <sup>nd</sup> Degree Felony	-	> \$10,000.00



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend repealing Section 46.50:  
“Rigging of Public Exhibitions; Defined; Failure to Report; Soliciting Punishment.”

Comment to section: “This Section is provided not in repose to an apparent need, but for its prophylactic effect. However, this Section would deal directly with cases of dog-doping at the Greyhound Track.”



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend Amendment to Section 46.35(a) to address use of credit information without using physical credit card:

A person commits an offense if he uses a credit card or **the account number of a credit card account** with the intent of obtaining property or services with knowledge that:

- (1) the card **or account number** is stolen or forged;
- (2) the card **or account number** has been revoked or cancelled;  
or
- (3) for any other reason his use of the card **or account number** is unauthorized.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment of offense grading values for fraudulent use of credit card Section 46.35(d):

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	< \$250.00	< \$500.00
Misdemeanor	\$250.01 - \$1,000.00	\$500.01 - \$2,499.99
3 <sup>rd</sup> Degree Felony	> \$5,000.00	\$2,500.00 - \$9,999.99
2 <sup>nd</sup> Degree Felony	-	> \$10,000.00



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to offense grading values for Impersonation and Identity Theft crimes Section 46.80(c)

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	< \$500.00
Misdemeanor	-	\$500.01 - \$2,499.99
3 <sup>rd</sup> Degree Felony	< \$5,000.00	\$2,500.00 - \$9,999.99
2 <sup>nd</sup> Degree Felony	> \$5,000.00	> \$10,000.00



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to Section 46.103 to update offense grading values for Mortgage Fraud.

Offense Level	Existing Statute	Recommended Change
Violation	-	-
Petty Misdemeanor	-	< \$500.00
Misdemeanor	\$300.01 - \$1,000.00	\$500.01 - \$2,499.99
3 <sup>rd</sup> Degree Felony	\$1,000.00 - \$ 4,999.99	\$2,500.00 - \$9,999.99
2 <sup>nd</sup> Degree Felony	> \$5,000.00	> \$10,000.00





# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend repeal of Section 46.104:

“Mortgage Fraud Prosecutor and Investigators.”

Subcommission Concerns: Duplicative, Attorney General has discretion and authority to hire prosecutors and investigators, without specific need for “mortgage fraud prosecutor and investigators”



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amendment to Section 46.504(a):

*“person who violates this Act is guilty of a third degree felony, ~~and is subject to a fine not to exceed Five Thousand Dollars (\$5,000), or imprisonment not to exceed five (5) years, or both.~~”*

Subcommission Concerns: Duplicative, provides for Third Degree Felony base penalty, without first offender exception



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(a):

*“A person who violates § 46.503 (a), (b), (c), (d) or (e) is guilty of a third degree felony, ~~and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~”*

Subcommission Concerns: Duplicative, provides for Third Degree Felony base penalty.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(b):

“person who violates § 46.503 (a), (b), (c), (d) or (e) involving the transmission of more than two hundred fifty (250) commercial electronic mail messages during a twenty-four (24) hour period; two thousand five hundred (2,500) commercial electronic mail messages during any thirty (30)-day period; or twenty five thousand (25,000) commercial electronic mail messages during any one (1)- year period is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~”

Subcommission Concerns: Duplicative, provides for Second Degree Felony base penalty.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(c):

“person who violates § 46.503 (c) or (d) involving twenty (20) or more electronic mail accounts, or ten (10) or more domain names, and intentionally initiates the transmission of multiple commercial electronic mail messages from the accounts or using the domain names is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~

Subcommission Concerns: Duplicative, provides for Second Degree Felony base penalty.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(d):

“A person who violates § 46.503 (a), (b), (c), (d) or (e) that causes a loss of One Thousand Dollars (\$1,000) or more during any one (1)-year period is guilty of a third degree felony, ~~and upon conviction is subject to imprisonment not to exceed three (3) years or a fine not to exceed Five Thousand Dollars (\$5,000), or both.~~”

Subcommission Concerns: Duplicative, provides for Third Degree Felony base penalty.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(e):

“A person who violates § 46.503 (a), (b), (c), (d) or (e) in concert with three (3) or more other persons as the leader or organizer of the action that constitutes the violation is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed five (5) years or a fine not to exceed Ten Thousand Dollars (\$10,000), or both.~~”

Subcommission Concerns: Duplicative, provides for Second Degree Felony base penalty.



# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(f):

*“A person who violates § 46.503 (a), (b), (c), (d) or (e) in furtherance of a felony, or who has previously been convicted of an offense under the laws of Guam, another state, or under any federal law involving the transmission of multiple commercial electronic mail messages is guilty of a second degree felony, ~~and upon conviction is subject to imprisonment not to exceed ten (10) years or a fine not to exceed Twenty-Five Thousand Dollars (\$25,000), or both.~~”*

Subcommission Concerns: Duplicative, provides for Second Degree Felony base penalty.





# 9 GCA Chapter 46 (Forgery, Fraudulent Practices & Telephone Records)

- Recommend amend Section 46.504(g):

“A person who violates § 46.503 (f) or (g) is guilty of a misdemeanor ~~felony, and upon conviction is subject to imprisonment not to exceed one (1) year or a fine not to exceed Five Thousand Dollars (\$1,000), or both.~~”

Subcommission Concerns: imprisonment penalty for misdemeanor, but language stated offense is felony grade



## 9 GCA Chapter 32 (Financial

# Exploitation of Elderly and Individuals with Disabilities)

- Recommend Repeal of entire Chapter
- Subcommission Concerns: vulnerable victim sentencing enhancement and theft statute provide sufficient criminal prohibition; conflicting *mens rea* language throughout statute.



# 9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities)

- If not repealed, confusing definition of elderly person 33.10(d) (after 55 years or older).  
“(d) Elderly person means a person fifty-five (55) years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.”



# 9 GCA Chapter 32 (Financial Exploitation of Elderly and Individuals with Disabilities)

- If not repealed, amend the statute to clarify conflicting *mens rea requirements* throughout statute, i.e. the existing statute provides:
  - A person is guilty of financial exploitation of an elderly person or individual with a disability if he or she:
    - (a) **knowingly** obtains or uses, or endeavors to obtain or use, an elderly person's or individual with a disability's funds, assets, or property **with the intent** to temporarily or permanently deprive the elderly person or individual with a disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or individual with a disability, by a person who: (1) stands in a position of trust and confidence with the elderly person or individual with a disability; or (2) has a business relationship with the elderly person or individual with a disability;
    - (b) obtains or uses, endeavors to obtain or use, or conspires with another to obtain or use an elderly person's or individual with a disability's funds, assets, or property **with the intent** to temporarily or permanently deprive the elderly person or individual with a disability of the use, benefit, or possession of the funds, assets, or property, or to benefit someone other than the elderly person or individual with a disability, **by a person who knows or reasonably should know** that the elderly person or individual with a disability lacks the capacity to consent;
    - (e) is a caregiver or a person who stands in a position of trust and confidence with the elderly person or individual with a disability who **intentionally or negligently fails** to effectively use an elderly person's or individual with a disability's income and assets for the necessities required for that person's support and maintenance



## No Changes at this Time

- 9 GCA Chapter 48 (Notification of Breaches of Personal Information) – recommend amending to civil cause of action and removing from criminal code
- 9 GCA Chapter 47 (Trademark Counterfeiting Act) – no proposed amendments
- 9 GCA Chapter 40 (Robbery) – no proposed amendments



The Subcommittee on Crimes Related to Property continues its work and will finalize submit its finalized recommendations and worksheets for Commission Review.

# Thank you

Subcommittee Chairperson: Phil Tydingco

Subcommittee Members: F. Randall Cunliffe, Monty McDowell, William (Bucky) Brennan

**2023 THIRD QUARTER REPORT OF THE  
SUBCOMMISSION ON DRUG & OTHER CRIMINAL OFFENSES**

**Criminal Law and Procedure Revision Commission  
Subcommission Quarterly Report Template**

**Subcommission Name:**      Drugs & Other Criminal Offenses

Chair:                      Geraldine Cepeda (Acting)

Members:                Hon. Elizabeth Barrett-Anderson, Acting DOC Director Fred Bordallo,  
Major Antone Aguon, Mark Perez, Attorney Mike Phillips, Parole Board  
Chief Michael Quinata, Valerie Reyes, Attorney Kat Siguenza

Dates of subcommission meetings: August 28, 2023.

**Past activity:**

1.      List of Chapter (and Article, if applicable) reviewed.

Chapter 90, Articles 1-7

2.      Brief summary of subcommission’s findings/conclusions for each  
Chapter/Article, using the Excel spreadsheet for guidance.

The subcommittee conducted close and extensive examination of each provision,  
guided by the representatives from DOC. See quarterly report form and  
spreadsheet attached.

3.      Brief recommendation for each Chapter/Article already reviewed.

See quarterly report form and spreadsheet attached.

**Current and future activity:**

1.      List of Chapters/Articles currently under review and to be reviewed in future  
subcommission meetings.

Chapter 58 (Escape and Related Offenses)

Referrals from other subcommissions:

- Chapter 85 (Guam Parole Board) generally
- 9 GCA § 81.10 Work Credit
- 9 GCA § 82.20. Jury or Voting Disqualification for Duration of Sentence Only
- 9 GCA § 84.15. Inmate Compensation and Distribution of Income Received
- 9 GCA § 84.20. Authorization to Charge for Work Products of the Program
- 9 GCA § 85.72. Paroled Prisoner to Receive Clothes, Transportation and  
Maximum of \$25
- 9 GCA § 88.60. Report to the Legislature

2.      List of future subcommission meeting dates: TBA



Chapter number	Section number	Title	NO CHANGE	AMEND	REPEAL	REPEAL & RE-ENACT	Suggested changes (if any)
90	Article 1.	Department of Corrections					
	§ 90.10.	Definitions		AMEND			Renumber to § 90101. Add definitions
	§ 90.15.	General Duties of Department of Corrections.		AMEND			Renumber to § 90102. Rename to Mission Statement. New substantive language.
	§ 90.16.	Minimum Qualifications for Department of Corrections Officers.		AMEND			Renumber to § 90103. New substantive language to align with POST Commission requirements and to be uniform with other LEO's.
	§ 90.16.1	Annual Corrections Officer Recruits Training Cycle		AMEND			Renumber to § 90104. New substantive language.
	§ 90.20.	Corrections Advisory Council Established.			REPEAL		
	§ 90.25.	Director to Establish Prisons.		AMEND			Incorporate with § 90105. General Powers and Duties of Director. Substantive changes.
	§ 90.27.	Prison May Serve as Overflow Lock-Up.		AMEND			Incorporate with § 90105 as new subsection.
	§ 90.30.	Rules, Regulations & Disciplinary Rules Authorized.		AMEND			Incorporate with § 90105. General Powers and Duties of Director as new subsection.
	§ 90.35.	Director to Control Organization of DOC; Appoint Staff.		AMEND			Incorporate with § 90105. General Powers and Duties of Director as new subsection.
	§ 90.40.	General Duties of Director of Corrections.		AMEND			Renumber and rename to § 90105. New substantive language, consolidated other existing provisions.
	§ 90.41.	Inmate Commissary.		AMEND			Renumber to § 90115. Rename to Commissary.
	§ 90.42.	Operation of Inmate Commissary.		AMEND			Renumber to § 90116. Rename to Operation of Commissary. New substantive language.
	§ 90.43.	Corrections Commissary Fund.		AMEND			Incorporate with § 90116. New substantive language.
	§ 90.44.	Inmate Phone Access Act of 2021.		AMEND			Renumber to § 90117. Rename Phone Access Act of 2021. New substantive language.
	§ 90.45.	Authorization to Transfer Prisoners to Federal Correctional Institutions.	NC				Renumber to § 90107. Rename to Authorization to Transfer Inmates to Federal Correctional Institutions.
	§ 90.46.	Emergency Transfers of Inmates.	NC				Renumber to § 90108.
	§ 90.47.	Inmate Transfer: Non-Emergency.	NC				Renumber to § 90109. Rename to Non-Emergency Transfers of Inmates
	§ 90.47.01.	Same: Disciplinary Transfer.	NC				Renumber and rename to § 90110 Disciplinary Transfers of Inmates
	§ 90.47.02.	Same: Non-disciplinary Transfer.	NC				Renumber to § 90111. Rename to Non-disciplinary Transfers of Inmates
	§ 90.47.03.	Same: Procedures for Transfers.		AMEND			Renumber to § 90112. Rename to Procedures for Transfers of Inmates. New substantive language, delete existing language.
	§ 90.47.05.	Same: Basis of Determination.			REPEAL		
	§ 90.47.04.	Same: Appeal from Determination.			REPEAL		

	§ 90.48.	Nursing Mothers-Accommodations.		AMEND			Consolidate with § 90105 as new subsection.
	§ 90.49.	Corrections Revolving Fund		AMEND			Re-number to § 90114
		Correctional Medical Facilities.				ADD	Add new § 90106.
90	Article 2.	Western Interstate Corrections Compact					
	§ 90.50.	Purpose of Article.	NC				Re-number to § 90201
	§ 90.51	Compliance to §§ 90.46-90.48.		AMEND			Re-number to § 90202. Remove reference to repealed provision
	§ 90.52.	Compact Stated.	NC				Re-number to § 90203
	§ 90.54.	Director, Department of Corrections May Commit Prisoner Outside of Guam Pursuant to Terms of Compact.	NC				Re-number to § 90204. Change references from Prisoner to Inmate
	§ 90.56.	All Agencies of Government of Guam Shall Enforce Compact.	NC				Re-number to § 90205
	§ 90.58.	Director, Department of Corrections May Hold Hearings as Required by Compact.	NC				Re-number to § 90206
	§ 90.60.	Governor May Contract to Implement Compact.	NC				Re-number to § 90207
	§ 90.62.	Guam to Provide Transportation to Guam Resident Ending Sentence Out-of-Guam.	NC				Re-number to § 90208
	§ 90.64.	Severability.		AMEND			Re-number to § 90209
	§ 90.66.	Effective Date.		AMEND			Re-number to § 90210
90	Article 3.	Interstate Compact on Juveniles					
	§ 90.80.	Purpose of Article: Title.				REPEAL	Move to Title 19, Chapter 20 Department of Youth Affairs, as a new article.
	§ 90.82.	Governor to Execute Compact: Compact Stated.				REPEAL	Move to Title 19, Chapter 20 Department of Youth Affairs, as a new article.
	§ 90.84.	Chief Judge of Superior Court to be Compact Administrator: Duties.				REPEAL	Move to Title 19, Chapter 20 Department of Youth Affairs, as a new article.
90	Article 4.	Prison Industries					
	§ 90.90.	Prison Industries, Established.		AMEND			Re-number to § 90401. Substantive changes recommended.
	§ 90.91.	Prison Industries Revolving Fund.		AMEND			Re-number to § 90402. Substantive changes recommended.
90	Article 5.	Transfer Pursuant to Treaty					
	§ 90.100	Untitled.	NC				Move to Article 1. Re-number § 90113. Transfers Pursuant to Treaty.
90	Article 6.	Civilian Corrections Reserve Program.					
	§ 90.201.	Creation.	NC				Re-number to § 90601
	§ 90.202.	Functions and Duties.	NC				Re-number to § 90602
	§ 90.203.	Recruitment.	NC				Re-number to § 90603
	§ 90.204.	Training, Equipping, and Maintenance of Records.	NC				Re-number to § 90604
	§ 90.205.	Reservist: Authority.	NC				Re-number to § 90605
	§ 90.206.	Same: Allowance.	NC				Re-number to § 90606



CLRC Subcommittee Report

Subcommittee:    \_\_ Persons       \_\_ Property    \_\_ Drugs & Other    \_\_ Procedure

Reporting period:

\_\_ Jan-Mar 2023    \_\_ April-June 2023       \_\_ July-Sept 2023       \_\_ Oct-Dec 2023  
\_\_ Jan-Mar 2024    \_\_ April-June 2024       \_\_ July-Sept 2024       \_\_ Oct-Dec 2024

Chair: \_\_\_\_\_

Members: \_\_\_\_\_

Chief Michael Quinata, Parole Bd; Atty. Kat Fokas Siguenza; Not present: Atty Mike Phillips; Valerie Reyes

Dates of subcommittee meetings: \_\_\_\_\_

Completed and/or ongoing review of the following:

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_  
If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_  
Recommended action: \_\_No change       \_\_Amend       \_\_Repeal       \_\_Tabled\*  
\*Reason for tabling action: \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_  
If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_  
Recommended action: \_\_No change       \_\_Amend       \_\_Repeal       \_\_Tabled\*  
\*Reason for tabling action: \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_  
If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_  
Recommended action: \_\_No change       \_\_Amend       \_\_Repeal       \_\_Tabled\*  
\*Reason for tabling action: \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_  
If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_  
Recommended action: \_\_No change       \_\_Amend       \_\_Repeal       \_\_Tabled\*  
\*Reason for tabling action: \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_  
If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_  
Recommended action: \_\_No change       \_\_Amend       \_\_Repeal       \_\_Tabled\*  
\*Reason for tabling action: \_\_\_\_\_

**\*\*Completed review of Ch. 90, Article 7 - DOC Modernization Act of 2021; Recommended Action: No change**

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_

If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_

Recommended action: No change Amend Repeal Tabled\*

\*Reason for tabling action: \_\_\_\_\_

Future meeting dates: \_\_\_\_\_

Planned review of the following:

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_

If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_

If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_

If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_

If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_

Chapter number \_\_\_\_ Chapter name \_\_\_\_\_

If applicable, Article number \_\_\_\_ Article name \_\_\_\_\_

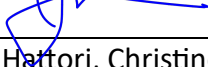
**2023 THIRD QUARTER REPORT OF THE  
SUBCOMMISSION ON CRIMES AGAINST PERSONS**

# CLRC SUBCOMMISSION QUARTERLY REPORT

**Subcommittee:**  Persons  Property  Drugs & Other  Procedure

**Reporting Period:**

<input type="checkbox"/> Jan-Mar 2023	<input type="checkbox"/> April-June 2023	<input checked="" type="checkbox"/> July-Sept 2023	<input type="checkbox"/> Oct-Dec 2023
<input type="checkbox"/> Jan-Mar 2024	<input type="checkbox"/> April-June 2024	<input type="checkbox"/> July-Sept 2024	<input type="checkbox"/> Oct-Dec 2023

**Chair:** Joseph McDonald  10/24/23  
**Members:** Steve Ignacio, Steve Hattori, Christine Tenorio, John Morrison (ex officio), Sean Brown (ex officio).

**Dates of Subcommittee Meetings:** 8/7/23; the subcommission was unable to meet further due to typhoon recovery and members' unavailability.

**Completed and/or Ongoing Review of the Following Title 9 Chapters:**

Chapter Number: 7 Chapter Name: Exemptions and Defenses  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Pending analysis and group consensus on recommended action.

Chapter Number: 16 Chapter Name: Criminal Homicide (§§ 16.30, 16.40, 16.50)  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Unable to meet

Note: At the Oct. 2023 Plenary Meeting, the subcommission made a presentation to amend CH 16, which was approved. Subsequent to that meeting, the members in reviewing other chapters believe there may be a need to consider an additional amendment to CH16.

Chapter Number: 17 Chapter Name: Unborn victims of violence  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Pending analysis and group consensus on recommended action.

Chapter Number: 19 Chapter Name: Assault, Reckless Endangering, Terrorizing  
If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
Recommended Action:  No Change  Amend  Repeal  Tabled\*  
\*Reason for Tabling: Pending analysis and group consensus on recommended action.

Chapter Number: 22 Chapter Name: Kidnapping and Related Offenses

If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
 Recommended Action:  No Change  Amend  Repeal  Tabled\*  
 \*Reason for Tabling: Pending analysis and group consensus on recommended action.

Chapter Number: 25 Chapter Name: Sexual offenses  
 If Applicable, Article Number: \_\_\_\_\_ Article Name: \_\_\_\_\_  
 Recommended Action:  No Change  Amend  Repeal  Tabled\*  
 \*Reason for Tabling: Pending analysis and group consensus on recommended action.

**Future Meeting Dates:** The subcommission now meets every 2 weeks on Tues. at 5P in a regularly scheduled meeting.

**Planned Review of the Following:**

Chapter Number:	Chapter Name:	Article Number:	Article Name:
25A	Solicitation of Children and Child Pornography		
26A	Human Trafficking and Criminal Exploitation		
31	Offenses against the Family		
40	Robbery		
71	The Guam Gun-Free School Zone Act of 2004 (recommendations from Subcommission on Criminal Procedure)		
89	Crimes against Minors and Sex Offender Registry (recommendations from Subcommission on Criminal Procedure)		
92	Infant Child's Right to Life Act		
93	Criminal Sexual Conduct Assessment and Rehabilitation Act (recommendations from Subcommission on Criminal Procedure)		