



Judiciary of Guam

Administrative Office of the Courts
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
Tel: (671) 475-3544 • Fax: (671) 475-3184



HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

DANIELLE T. ROSETE, ESQ.
ADMINISTRATOR OF THE COURTS

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
PLENARY MEETING
THURSDAY, FEBRUARY 9, | 12:00 PM
GUAM JUDICIAL CENTER
AND VIA VIDEOCONFERENCE**

AGENDA

- I. CALL TO ORDER
- II. PROOF OF DUE NOTICE OF MEETING: Feb. 2, 2023, Feb. 7, 2023
- III. DETERMINATION OF QUORUM
- IV. READING AND DISPOSAL OF MINUTES Jan. 13, 2023 Meeting
- V. NEW BUSINESS
 - A. Subcommittee Chairs and Membership
 - B. Authorization process for appointment of Subcommittee Ex-Officio members
 - C. Processes for Subcommittee review and recommendations for non-action, amendment, and repeal
 - D. Proposed Subcommittee Assignments and Timelines
 - E. Commission reporting requirements
 - F. Proposed timelines and proposed 2023 meeting schedules
 - G. Notice of Next Meeting: Thursday, April 6, 2023, Noon (Tentative)
- VI. COMMUNICATIONS
- VII. PUBLIC COMMENT
- VIII. ADJOURNMENT

Guam Board of Barbering and Cosmetology

Monday February 6, 2023
9:00 AM (Guam ChST)

Join Zoom Meeting
<https://us06web.zoom.us/j/88955134426?pwd=WmxEMGxhQmc2dHBQOU5yVnBkbnRmMxM0Q0>

Meeting ID: 889 5513 4426
Passcode: 418827

Meeting Agenda:

- I. Call to Order
- II. Roll call
- III. Elections: Chairperson, Vice Chairperson, Secretary and Treasurer
- IV. Proof of Publication
- V. Approval of Agenda
- VI. Approval of Minutes
- VII. HPLD Administrator's Report
- VIII. Treasurer's Report
- IX. Old Business

- a. Rules and Regulations – On-Going
- b. Complaints
 - (1) GBBC-CO-2021-0001 – Date Received: 07/02/2021 (J. Blas)
 - (2) GBBC-CO-2021-0002 – Date Received: 07/08/2021 (R. Santos)
 - (3) GBBC-CO-2021-0003 – Date Received: 07/19/2021 (L. Tumaneng)
 - (4) GBBC-CO-2021-0004 – Date Received: 07/20/2021 (L. Tumaneng)
 - (5) GBBC-CO-2021-0005 – Date Received: 08/19/2021 (A. Taitano)
- c. Applications for Examination
- d. Applications for Apprentice
- e. Application for Establishment

- X. New Business
 - (a) Applications for Examination
 - (b) Applications for Apprentice
 - (c) Application for Reciprocity
 - (d) Application for Establishment
- XI. Announcements
- XII. Adjournment

To view the names of the applicants being considered go to <https://guamhpld.org/gbbc>

LIVE Streaming link <http://facebook.com/HPLDGuam>

This advertisement was paid for by DPHSS/Health Professional Licensing Office-Local Funds.

For more information, please contact the Board office at 735-7404/10 thru 12. Persons needing telecommunication device for the Hearing/Speech Impaired (TDD) may contact 475-8339.



The University Of Guam Solicits Applications To Establish A List Of Eligibles For The Following Position (Tenure/Non-Tenure Track Appointment, Full/Part Time, Subject to the availability of funds):

#034-23 ASSISTANT PROFESSOR TO ASSOCIATE PROFESSOR (EXPERIMENTAL PSYCHOLOGY)

Contact the Human Resources Office at (671)735-2350 for additional information regarding requirements, qualifications and application deadline, 8:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. View the Human Resources Office website at <http://www.uog.edu/hro> for detailed information on the job announcement. For further information, please email Dr. Marshaley J. Baquiano, Search Committee Chair at marshaleyb@triton.uog.edu.

The University of Guam is a U.S. accredited institution and an Equal Opportunity Employer and Provider and complies with the Americans with Disabilities Act. For assistance, please contact the Director, EEO and Title IX/ADA Coordinator at (671)735-2244; (671)735-2243 (TTY).

/s/ JOSEPH B. GUMATAOTAO
Chief Human Resources Officer

THIS AD IS PAID FOR BY UNIVERSITY OF GUAM FUNDS

NOTICE OF PUBLIC MEETING

The Guam Criminal Law and Procedure Review Commission will conduct a plenary meeting on Thursday, February 9, 2023, at 12:00 pm in the Guam Judicial Center, 120 West O'Brien Drive, Hagatna, by videoconference.

A monitor will be set up for any member of the public who would like to observe and offer comments.

The meeting will be streamed live on the Judiciary of Guam YouTube channel: <https://www.youtube.com/channel/UCfnFCWwllp99fAeh9zi4Q4g/featured>

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

This ad was paid for with Government of Guam funds. Magistrate Judge Jonathan R. Quan, Chairman

THE SCORE

Banchero headlines Rising Stars

Associated Press

Paolo Banchero's rookie season will include a trip to NBA All-Star weekend.

The Orlando Magic forward and No. 1 pick in last year's draft was announced Tuesday as a participant in this year's Rising Stars Game, to be held in Salt Lake City on Feb. 17, two nights before the All-Star Game.

Banchero — who leads all rookies with a



AP PHOTO

Orlando Magic's Paolo Banchero dunks during the second half of an NBA basketball game against the Philadelphia 76ers on Jan. 30, 2023, in Philadelphia.

20.7 points-per-game average — may still be selected as an All-Star reserve. Those play-

ers will be revealed Thursday.

"Anytime you can get a chance to be a part of All-Star weekend, you can't say no," Banchero said. "Especially me, being a rookie, first year, never experienced it before, it's always been the dream to just be a part of that whether it was Rising Stars or as a reserve. I'm definitely excited to get there and just see what it's like."

Banchero is on pace to be the first rookie to average 20 points per game since Luka Doncic in 2018-19. He also is fourth among rookies in rebounds per game entering Tuesday and third among them in steals per game.

DIPATTAMENTON I KAHOHAO GUINAHAN CHAMORU
DEPARTMENT OF CHAMORU AFFAIRS
193 Chalan Santo Papa Juan Pablo Dos
Hagåtña, Guam 96910
Tel: (671) 989-2426/4455 • Fax: (671) 989-7219

REGULAR BOARD OF TRUSTEES MEETING
Thursday, February 9, 2023 – 10:00 a.m.
Guam Museum Conference Room and Zoom Video Conference
For special accommodations, please contact Marilyn Reyes at (671) 989-2426.
Zoom Link: <https://us02web.zoom.us/j/83592205692>
Meeting ID: 835 9220 5692

- AGENDA**
- I. CALL TO ORDER
 - II. ROLL CALL
 - III. APPROVAL OF MINUTES
 - a. December 1, 2022
 - IV. PRESIDENT'S REPORT
 - a. CHamoru Village
 - b. Guam Museum
 - c. GCR Update
 - d. Finance/Admin
 1. Financial Reports
 - V. OLD BUSINESS
 - VI. NEW BUSINESS
 - a. 2023 Mes CHamoru
 - b. Professional Training & Certification for DCA Staff
 - c. Resolution – P. Hernandez
 - VII. ADJOURNMENT
- /s/ Melvin Won Pat-Borja, DCA President
This Ad was paid for with government funds.

GUAM POWER AUTHORITY
ATURIDÁT ILEKTRESEDÁT GUÁHAN
P.O. BOX 2977
HAGÁTÑA, GUAM U.S.A. 96932-2977
Telephone Nos. (671) 648-3054/55 or Facsimile (671) 648-3165

Joseph T. Duenas
CCU Chairman

John M. Benavente, P.E.
General Manager

REQUEST FOR PROPOSALS
This notice is paid for by the GUAM POWER AUTHORITY REVENUE FUNDS.
Public Law 26-12

| RFP NO.: | DUE DATE: | TIME: | DESCRIPTION: |
|--------------------------------|------------|-----------|--------------------------------|
| Re-Solicitation GPA-RFP-23-001 | 03/09/2023 | 4:00 P.M. | Regulatory Consulting Services |

Copies of the general scope of work may be picked up at the GPWA Procurement Office, 1ST Floor, Room 101, Gloria B. Nelson Public Service Building, 688 Route 15, Mangilao, Guam 96913. All interested firms should register with GPA's Procurement Division to be able to participate in the RFP. Please call our office at 1 (671) 648-3054 / 3055 to register. Registration is required to ensure that all "Amendments and Special Reminders" are communicated to all proponents throughout the RFP process. Procurement instructions are posted on the Authority's web site at http://guampowerauthority.com/gpa_authority/procurement/gpa_current_rfps.php#.

GUAM POWER AUTHORITY
ATURIDÁT ILEKTRESEDÁT GUÁHAN
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Telephone Nos. (671) 648-3045/55 or Facsimile (671) 648-3165

Joseph T. Duenas
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General Manager

FINAL ADVERTISEMENT INVITATION FOR BID
This notice is paid for by the GUAM POWER AUTHORITY REVENUE FUNDS
PUBLIC LAW 26-12

| BID NO.: | DUE DATE: | TIME: | DESCRIPTION: |
|------------|------------|------------|--|
| GPA-024-23 | 02/09/2023 | 11:00 A.M. | Pad Mounted Transformers (Revenue) |
| GPA-026-23 | 02/10/2023 | 10:00 A.M. | 2023 New Tractor with Boom Mower and Real Deck Pan Mower (CIP) |

Bid packages may be picked up at the GPWA Room 101, Procurement Office, 1st. Floor, Gloria B. Nelson Public Services Building, 688 Route 15, Mangilao, Guam 96913. All interested firms should register with our GPA's Procurement Division to be able to participate in the bid. Please call our office at (671) 648-3045 / 3055 to register. Registration is required to ensure that all "Amendments and Special Reminders" are communicated to all bidders throughout the bid process. Procurement instructions are posted on the Authority's web site at <https://go.opengovguam.com/bids/available/gpa>.

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Animals for Sale: Livestock / Pets • **Automotive:** Cars/Motorcycles/Pickups and SUVs • **Celebrations** • **Fundraisers** • **Goods for Sale:** Auto Parts/Baby Items/Computers/Electronics/Exercise Equipment/Furniture/Household Goods/Miscellaneous/Musical Instruments/Sports and Outdoors Equipment/Tool • **Lost and Found** • **Heavy Equipment** • **Repairs and Installation:** Air Conditioning/Appliances/Cellphones/Computers/Electrical/Electronics/Plumbing/Repair and Installation Services Needed • **Services:** Child and Elderly Care/Educational/Lawn Care or Yardwork/Other Services/Therapeutic Massage/Tutoring/Cleaning Services • **Wanted to Buy** • **Watercraft:** Boats/Personal Water Craft

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NOTICE OF PUBLIC MEETING

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This ad was paid for with Government of Guam funds. Magistrate Judge Jonathan R. Quan, Chairman

GUAM WATERWORKS AUTHORITY

"Better Water. Better Lives."

Gloria B. Nelson Public Services Building
688 Route 15, Mangilao, Guam 96913
Tel: (671) 300-6026/27 Fax: (671) 649-3750

***THIS AD IS PAID FOR BY GWA (PUBLIC LAW 26-12)**

INVITATION FOR BID

The GUAM WATERWORKS AUTHORITY, will receive sealed bids for **Motor Rewinding Services (Wastewater Stations)**, in **GWA IFB NO. 2023-06**. Bids will be accepted until 10:00 a.m. Chamorro Standard Time, **February 28, 2023** at the GWA Procurement Office, first floor located at the Gloria B. Nelson Public Services Building in Mangilao at which time and place all bids will be publicly opened and read aloud. All bids must be accompanied by a Bid/Performance Bond, in the amount of fifteen percent (15%) of the total bid price. Bid security may be bid/performance bond, Surety Bond, certified check or cashier's check made payable to Guam Waterworks Authority. A non-refundable amount of \$15.00 is required for the purchase price of every set of bidding documents which are available at the GWA Procurement Office. Bidders can download a bid package at www.guamwaterworks.org without charge, although vendors are strongly encouraged to contact via e-mail at psbids@guamwaterworks.org or visit GWA Procurement to register to ensure that updated information, notices or bid amendments are distributed to you.

GWA reserves the right to revise or reject any or all proposals and to waive any minor imperfection in the bid proposal in the interest of the Guam Waterworks Authority

/s/MIGUEL C. BORDALLO, P.E.
General Manager

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Pacific Daily News

THE SCORE

Kyrie Irving heads to Mavs, joins Doncic

guampdn.com
THE PACIFIC DAILY NEWS
28 Tuesday, February 7, 2023



Judiciary of Guam

Administrative Office of the Courts
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
Tel: (671) 475-3544 • Fax: (671) 475-3184



HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

DANIELLE T. ROSETE, ESQ.
ADMINISTRATOR OF THE COURTS

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC)
INITIAL PLENARY MEETING
FRIDAY, JANUARY 13, 2023
Guam Judicial Center
via Videoconference (Zoom)**

MINUTES

I. CALL TO ORDER

The Initial Plenary Meeting of the Guam Criminal Law and Procedure Review Commission (CLRC) on January 13, 2023 was called to order by Chief Justice F. Philip Carbullido at the hour of 12:00 p.m. For the record, Chief Justice Carbullido indicated that this was the first meeting of the Commission. He then introduced Attorney Andrew Serge Quenga, who he appointed as the Executive Director of the Commission, and asked him to call the roll for this meeting.

ROLL CALL

Executive Director Quenga began by saying that under Public Law 36-119, this Commission consists of 15 appointed or designated members from: the three branches of government, the Guam Bar Association (GBA), the Office of the Attorney General (OAG), the Public Defender Services Corporation (PDSC), the Guam Police Department (GPD) and the Department of Corrections (DOC).

CLRC Members Roll Call:

(CJ Appointee) Magistrate Judge Jonathan R. Quan, (Present, Judiciary of Guam)
(CJ Appointee) Attorney Randall Cunliffe (No response)
(CJ Appointee) Mr. Monty McDowell, (Present, Harmon)
(Speaker Appointee) Attorney Phillip Tydingco (No response)
(Speaker Appointee) Attorney Christine Tenorio (Present, Tiyan)
(Speaker Appointee) Attorney Mike Phillips (No response)
(Governor Appointee) Hon. Elizabeth Barrett-Anderson (Present, Yona)
(Governor Appointee) Hon. Anita Sukola (Present, Tomhom)
(Governor Appointee) Ms. Valerie Reyes (No response)
(GBA President Appointee) Attorney Joseph McDonald (Present, Hagatna)
(GBA President Appointee) Attorney William Brennan (Present, Hagatna)
(Attorney General Designee) Assistant Attorney General Marianne Woloschuk (Present, Tamuning)
(PDSC Designee) Attorney John Morrison (Present, Sinajana)
(GPD Designee) Lt. David Brantley (no response)
(DOC) Director Robert Camacho (no response);

Also, Present:

Andrew S. Quenga, Executive Director and Ms. Geraldine Cepeda, Compiler of Laws

Chief Justice F. Philip Cabullido, Supreme Court of Guam

Associate Justice Robert J. Torres, Supreme Court of Guam

Senator Frank Blas, Jr., 37th Guam Legislature

Senator Telo Taitague, 37th Guam Legislature

Senator San Nicolas, 37th Guam Legislature

Senator Tom Fisher, 37th Guam Legislature

Ms. B. Ann Keith, Administrative Hearing Officer, Judiciary of Guam

Mr. Michael P. Quinata, Department of Corrections

Major Antone Aguon, Department of Corrections

Mr. John Paul Manuel

Mr. Chirag Bhojwani

Mr. Gerald Torres

Mr. Ray Bonita

II. PROOF OF DUE NOTICE OF MEETING

Due publication of the five-day and 48-hour Notices of Meeting of the Guam Criminal and Procedure Review Commission, as required under the Open Government Law, were published in the Guam Pacific Daily News. Acknowledgements are on file.

III. DETERMINATION OF QUORUM

The meeting determined a quorum with a majority of Members present. Member Lt. David Brantley (Designee of GPD Chief Stephen Ignacio) joined the meeting at 12:04 pm. Member Phillip Tydingco joined the meeting at 12:07 p.m. Member Robert Camacho joined the meeting at 12:09 p.m. Member Randy Cunliffe joined the meeting at 12:11 p.m.

Chief Justice Carbullido asked that all members turn-on their video for the meeting. He then thanked Executive Director Quenga for the roll call. Due to this being the first meeting, there were no minutes to approve.

Before continuing on with the Agenda, Chief Justice recognized the presence of Senator Frank Blas, Jr., staff from Senator Dwayne San Nicolas' Office, Senator Telo Taitague, Retired Judge Elizabeth Barrett-Anderson, Retired Judge Anita Sukola, and Senator Tom Fisher. Chief Justice Carbullido thanked Senator Frank Blas, Jr. for his foresight in introducing Bill 146 which sought to create this Commission to update Titles 8 & 9 of the Guam Code Annotated. The CLRC will conduct the first complete review of Guam's Criminal Codes and Criminal Procedure Codes in nearly 50 years. Chief Justice Carbullido stated that the work of the Commission will provide the infrastructure for the modernization of Guam's Criminal Code and complement the Judiciary's separate work towards the revision of Guam's Criminal Procedural Rules. Once this Commission completes its work, a report will be prepared and sent to the Speaker of the Legislature, the Governor and Chief Justice. The Commission has a short 24-month timeline to completely review Titles 8 & 9 of the Guam Code Annotated. The Judiciary will provide the Commission all the tools necessary to get their work done on time.

Chief Justice Carbullido stated that he appointed Attorney Serge Quenga, the former Compiler of Laws as the Executive Director and Magistrate Judge Jonathan Quan, a former prosecutor and former practitioner in private practice as the Chair of the Commission, together with the Compiler of Laws, Geri Cepeda. This team from the Judiciary will provide members with the support necessary to complete their review and present recommendations to the Legislature in 24 months, hopefully before the end of the 37th Guam Legislature. The Judiciary has also provided an office for the Commission staff at the San Ramon Building.

IV. NEW BUSINESS

A. Introduction of the Commission Chairman, Executive Director and Staff

The Chief Justice thanked the Legislature and Senator Frank Blas, Jr. for entrusting the Judiciary with this very important work. He went on to introduce the chairperson of the Commission, Magistrate Judge Jonathan Quan.

Chairperson Quan thanked Chief Justice Carbullido and then addressed the members, judicial officers, senators and all in attendance. He stated that all members were sent electronic copies of the packet for today's meeting. Everything covered at the meeting is contained in the packet. He said he was grateful that all members answered the call to serve on this Commission. Moving forward with Item IV B of the Agenda, he asked the Executive Director to introduce all members and to identify the Subcommission chairpersons.

B. Introduction of Commission Members and Subcommission Chairpersons

The Executive Director introduced the 15 members of the Guam Criminal Law and Procedure Review Commission and the authorities who appointed them as shown in the presentation materials.

Executive Director Quenga indicated that under Public Law 36-119, the Chair created four Subcommissions to focus on different areas of law (Crimes Against Persons, Crimes Relating to Property, Drugs & Other Criminal Defenses, and Criminal Procedure) and the Chair named the Chairperson and members of each Subcommission as shown in the presentation materials.¹

Executive Director thanked Chief Justice Carbullido for appointing him as Executive Director of the Commission and for providing facilities at the San Ramon Building. He also thanked the Administrator of the Courts Kristina Baird, Procurement & Facilities Administrator Carl Dominguez, MIS Administrator Robert Rabago and their hard working teams. He then turned the floor back to Chairperson Quan.

Chairperson Quan stated that any member may attend any other Subcommssion meeting but may not vote, only participate. He asked that members coordinate with the chairperson of that

¹ During the meeting, the Executive Director misspoke on the Chair of the Subcommission on Crimes Relating to Property. The presentation slides named the correct Chair. Corrections were noted to the members concerned after the meeting.

Subcommission. Meeting dates and times will be posted on the forthcoming Commission website being developed. He stated that Chief Justice and himself welcome all members to the Commission. There being no questions thus far, Chairperson Quan moved on to agenda item IV C.

C. Discussion of Statutory Mandates, Goals and Objectives of the Commission

Chairperson Quan informed the attendees of the following:

Duties of the CLRC: Public Law 36-119 mandates that the CLRC review the laws that address the criminal laws and criminal procedures of Guam and recommend enactments, amendments, and repeals to *I Liheslaturan Guahan*. Specifically, the CLRC shall conduct a comprehensive and systematic review of Guam laws, including the Guam Criminal and Correctional Code codified in Title 9 and the Guam Criminal Procedure Code codified in Title 8 of the Guam Code Annotated (GCA), and other provisions in the statutory code and session laws of Guam related to criminal law or procedure. Chairperson Quan stated that in this statutory mandated review, the CLRC shall prioritize work on Title 9 first and at the conclusion of its review, the CLRC shall submit comprehensive criminal code reform recommendations to the Chief Justice, *I Maga'hagan Guahan*, and the Speaker of *I Liheslaturan Guahan*. Thereafter, the CLRC shall, subject to additional appropriations, conduct periodic reviews of Guam's criminal laws, but not less than every five years.

Reporting Requirements: Quarterly progress reports shall be submitted to the Chief Justice, *I Maga'hagan Guahan*, and the Speaker of *I Liheslaturan Guahan*. Reports are to include comprehensive criminal code reform recommendations and proposed legislation for the revision of Title 8 and Title 9 of the GCA.

D. Presentation of the Draft Workplan

Executive Director Quenga stated that under the draft workplan, Subcommissions will be expected to meet and timely submit progress reports and recommendations to the Plenary Commission. Subcommissions may hold virtual or in-person meetings. A CLRC website will be developed where information will be posted on updates and schedule of meetings. The packets provided for the meeting today include Public Law 36-119, GCA Title 8 & 9, Commission roster and Subcommission roster, the draft workplan, proposed dates for 2023 and today's Powerpoint slide presentation.

Executive Director Quenga went on further to explain the CLRC Subcommission Assignments with the name of the chairperson, members and title and chapter for review. The forums are included in the draft workplan for a more thorough review. Each Subcommission will focus on an area of crime and will be provided an electronic version of the template for recommended changes, if any, and also the quarterly report template. For the review process, there will be three phases: Phase 1 – First Pass (Initial Review); Phase 2 – Second Pass (Proposed Amendments); Phase 3 – Plenary Commission Review. A Final Report will be submitted by the Plenary Commission after being voted on.

E. Tentative Meeting Dates for 2023

Compiler of Laws Geri Cepeda went over the tentative meeting dates scheduled for 2023 which are: February 9, April 6, June 1, August 3, October 5 and December 7.

V. Notice of Next Meeting (Thursday, February 9, 2023) Communications

Chairperson Quan asked that the members review the packets and to email or call him, the Executive Director or the Compiler of Laws for any clarification on this discussion. He also said that next week the chairs of the Subcommissions will be contacted and will provide more information on meetings and materials needed for review. The next CLRC Plenary Commission meeting will be on Thursday, February 9, 2023 as 12:00 p.m.

VI. Public Comment

Chairperson Quan asked if there were any public comments. There being none, he turned over the floor to the Chief Justice.

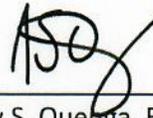
VII. Adjournment

In closing, the Chief Justice commented that there is a tremendous amount of work to be done and was extremely pleased with the representatives appointed by the Governor, Speaker and himself in reference to the knowledge, expertise and background. He offered to everyone that this task is possible within two years, although tedious. He asked the Executive Director to come up with statutes recently reviewed by other jurisdictions. He thanked everyone for stepping up to the plate and agreeing to participate in this undertaking which hasn't happened in over 50 years.

Chief Justice Carbullido gave Senator Frank Blas, Jr. the opportunity to give his closing comments. Senator Blas said he looked forward in the Legislature to be able to look at the recommendations to see how to improve the statues in both the procedures and crimes. He thanked everyone and said the subject matter experts are there.

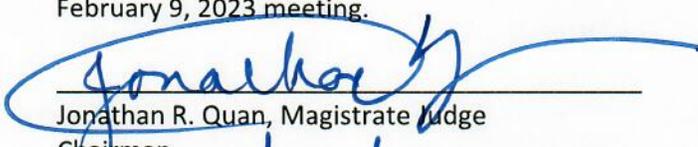
There being no other discussion, the Initial Plenary Commission Meeting of the CLRC was adjourned by Chief Justice Carbullido at 12:45 p.m.

Respectfully submitted this 9th day of February, 2023.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the January 13, 2023 meeting were approved by the Commission at the February 9, 2023 meeting.



Jonathan R. Quan, Magistrate Judge

Chairman

Dated: 2/23/23

Criminal Law and Procedure Revision Commission
Draft Work Plan
Ver. 1.13.23

I. Criminal Law and Procedure Revision Commission (CLRC) Mandate

A. Duties and Responsibilities of the CLRC

The CLRC is mandated to review the laws that address the criminal procedures and criminal laws of Guam and to recommend enactments, amendments, and repeals to of *I Liheslaturan Guåhan*. More specifically, the CLRC shall conduct a comprehensive and systematic review of Guam laws, including the Guam Criminal Procedure Code codified in Title 8 of the Guam Code Annotated (GCA), the Guam Criminal and Correctional Code codified in Title 9 of the GCA, and other provisions in the statutory code and session laws of Guam relating to criminal law or procedure.

In this statutorily mandated review, the CLRC shall prioritize work on Title 9 GCA.

At the conclusion of its review, the CLRC shall submit comprehensive criminal code reform recommendations to the Chief Justice, *I Maga'hagan Guåhan*, and the Speaker of *I Liheslaturan Guåhan*. Thereafter, the CLRC shall, subject to additional appropriations, conduct periodic reviews of Guam's criminal laws, but not less than every five (5) years.

B. Reporting requirements

1. Quarterly Progress reports submitted to the Chief Justice, *I Maga'hagan Guåhan*, and the Speaker of *I Liheslaturan Guåhan*.

2. Comprehensive criminal code reform recommendations as required by 1 GCA § 25.03(a), which shall include proposed legislation for the revision of Title 8 and Title 9 of the GCA, and other provisions in the statutory code relating to criminal law and procedure.

II. Draft Work Plan

A. Subcommissions

The comprehensive review and reform of Guam's criminal laws will be managed through the following subcommissions:

1. Crimes Against Persons
2. Crimes Relating to Property
3. Drug and Other Criminal Crimes
4. Criminal Procedure

Each subcommission will be responsible for reviewing specific chapters of the GCA, as assigned by the Chair. See Attachment A (Subcommission assignments). The entire GCA, in Word and pdf format, will be provided to all members.

A subcommission may hold virtual or in-person meetings, and its work will be guided by the process detailed below in Part B (Review Process). Spreadsheets will be provided to assist in tracking the review of each chapter and provision. See Attachment B (Title 9 list). Each

subcommission is expected to regularly provide progress reports to entire CLRC (hereinafter “Plenary Commission”). See Attachment C (Subcommission report template). These subcommission reports will be used in preparing for quarterly reports mandated by 1 GCA § 25.07(a).

B. Review Process

Phase 1. First Pass

Subcommission shall conduct an initial review of existing statutes. In this Phase 1, PL 36-119 contemplates that Members will base their review of Guam criminal statutes on the Model Penal Code and U.S. jurisdictions with recently reformed or revised criminal codes such as Hawaii and the District of Columbia where recent revisions have been done. Commission staff will provide members with copies of relevant sections of laws from those authorities. Members may also reach out to local and federal agencies, conduct community outreach and engage in similar activity in considering changes to existing criminal laws.

Specifically, the subcommission should identify provisions that are:

- Archaic or unused.
- Have been found to be unconstitutional or inorganic.
- Address common law offenses.
- Contain outdated language.

After the initial review, the subcommission may make the following recommendations for each provision:

- No change. These provisions do not require any amendment.
- Repeal. These should be removed from the GCA. Examples for recommending repeal may include: a statute being found unconstitutional or inorganic, contradictory or duplicative of other statutes, common law, and other reasons.
- Amend. These provisions should remain in the GCA, but requires amending language. Recommendations for amendment would proceed to Phase 2, Second Pass.

The subcommission should provide reasons for its recommendation, which would be memorialized in a Subcommission Report submitted to the Plenary Commission.

Phase 2. Second Pass

Provisions that a subcommission recommends for amendments would proceed to the Phase 2, which calls for close and critical scrutiny.

First, the subcommission would consider the factors set forth in 1 GCA § 25.07(b). That is, the subcommission should examine existing provisions to determine whether they:

- Use clear and plain language
- Apply consistent definitions
- Describe all elements, including mental states, that must be proven

- Provide for proportionate penalties

Second, the subcommission would progress intensive review and craft amendatory language. Changes should be recorded in the corresponding Excel spreadsheet. Each subcommission should maintain records of its discussions and work product. The subcommission will be provided with the Word versions of the GCA, in order to indicate the proposed changes (redline or “track changes” format) for inclusion in the Subcommission Report. When making proposed changes, the subcommission should use the naming guidance provided. See Attachment D (Document Naming Guide).

At the conclusion of Phase 2 review, the Subcommission would recommend proposed language to:

- Amend, with changes reflected in redline; or
- Reorganize, within Title 9 or another GCA Title, Chapter, or Article.

Recommendations should be memorialized in a Subcommission Report submitted to the Plenary Commission.

Phase 3. Plenary Commission Approval

Subcommissions present their recommendations at Plenary Commission meetings for discussion and comment. The voting members of the Plenary Commission will determine whether to accept the recommendations as-is, or continue to work on the recommendation, for example, to respond to comments and suggestions raised by other members. Recommendations that have been accepted will move into a “voting file” that would be acted upon at the conclusion of all the subcommission’s work or at the end of the 24-month period.

III. Tentative Meetings for 2023

Tentative meetings dates for 2023:

- Plenary Meeting 1 February 9
- Plenary Meeting 2 April 6
- Plenary Meeting 3 June 1
- Plenary Meeting 4 August 3
- Plenary Meeting 5 October 5
- Plenary Meeting 6 December 7

The Plenary Commission meets every 1st Thursday, every other month, to hear recommendations from subcommissions.

IV. Committee Roster and Contact Information

The names, titles, contact information (including email, office phone, mobile phone, etc.) will be provided. Members are requested to provide information for any other person who should be copied in communications.

Attachment A

Criminal Law and Procedure Revision Commission
Subcommission Assignments

1. Crimes Against Persons

Chair: Attorney Joseph McDonald

Members: GPD Chief Steve Ignacio, Attorney Stephen Hattori, Compiler Geri Cepeda

Review: Title 9, Chapters 16, 19, 25 and others

2. Crimes Relating to Property

Chair: Attorney Phil Tydingco

Members: Attorney Randy Cunliffe, Mr. Monty McDowell, Attorney William (Bucky) Brennan

Review: Title 9, Chapters 34, 43, 37, and others

3. Drug and Other Criminal Offenses

Chair: Hon. Elizabeth Barrett-Anderson

Members: Attorney Mike Phillips, Attorney Christine Tenorio, DOC Director Robert Camacho, Ms. Valerie Reyes

Review: Title 9, Chapter 67 and others

4. Criminal Procedure

Chair: Hon. Anita A. Sukola

Members: Asst. Attorney General Marianne Woloschuk, Executive Director Serge Quenga

Review: Title 8

Attachment B

Criminal Law and Procedure Revision Commission

Title 9 list

| Chapter number | Chapter and Article name | Section numbers |
|----------------|--|---------------------|
| 1 | Preliminary Provisions. Definitions. | |
| | Article 1. Preliminary Provisions; Construction. | §§ 1.10-1.50 |
| | Article 2. Definitions. | §§ 1.60-1.80 |
| 2 | n/a | |
| 3 | n/a | |
| 4 | General Principles of Liability. | §§ 4.10-4.80 |
| 5 | n/a | |
| 6 | n/a | |
| 7 | Exemptions and Defenses. | |
| | Article 1. Exemptions. | § 7.10 |
| | Article 2. Mental Responsibility. | §§ 7.16-7.52 |
| | Article 3. Defenses. | §§ 7.55-7.73 |
| | Article 4. Justification. | §§ 7.76-7.98 |
| | Article 5. Castle Doctrine Act. | §§ 7.111-7.113 |
| 8 | n/a | |
| 9 | n/a | |
| 10 | n/a | |
| 11 | n/a | |
| 12 | n/a | |
| 13 | Attempt, Solicitation, Conspiracy. | §§ 13.10-13.60 |
| 14 | n/a | |
| 15 | n/a | |
| 16 | Criminal Homicide. | §§ 16.10-16.60 |
| 17 | Unborn Victims of Violence Act. | §§ 17.01- 17.10 |
| 18 | n/a | |
| 19 | Assault, Reckless Endangering, Terrorizing. | §§ 19.10-19.70 |
| 20 | n/a | |
| 21 | n/a | |
| 22 | Kidnapping and Related Offenses. | §§ 22.10-22.60 |
| 23 | n/a | |
| 24 | n/a | |
| 25 | Sexual Offenses. | §§ 25.10-25.45 |
| 25A | Solicitation of Children and Child Pornography. | |
| | Article 1. Electronic Display and Enticement. | §§ 25A101 – 25A0105 |
| | Article 2. Child Pornography. | §§ 25A201 - 25A204 |
| 26 | Human Trafficking and Criminal Exploitation. | |
| | Article 1. Prosecution. | §§ 26.01 - 26.09 |
| | Article 2. Prevention of Trafficking. | §§ 26.20 - 26.24 |
| | Article 3. Protection of Victims. | §§ 26.30 - 26.41 |
| 27 | n/a | |
| 28 | Public Indecency. | |
| | Article 1. Prostitution. | §§ 28.10-28.35 |
| | Article 2. Obscenity and Related Offenses. | §§ 28.40-28.102 |
| 29 | n/a | |
| 30 | Family Violence. | §§ 30.10-30.300 |
| 31 | Offenses Against the Family. | §§ 31.10-31.70 |

| | | |
|----|---|------------------|
| 32 | Financial Exploitation of the Ederly and Individuals with Disabilities. | §§ 32.10-32.50. |
| 33 | n/a | |
| 34 | Arson, Negligent Burning, Criminal Mischief. | §§ 34.10-34.90 |
| 35 | n/a | |
| 36 | n/a | |
| 37 | Burglary and Home Invasion. | |
| | Article 1. Burglary. | §§37.10-37.40 |
| | Article 2. Home Invasion. | §§ 37.80-37-110 |
| | Article 3. Carjacking. | §§ 37.310-37.360 |
| 38 | n/a | |
| 39 | n/a | |
| 40 | Robbery. | §§ 40.10-40.50 |
| 41 | n/a | |
| 42 | n/a | |
| 43 | Theft and Related Offenses. | |
| | Article 1. Definitions. | §§ 43.10-43.74 |
| | Article 2. Retail Theft. | §§ 43.80-43.95 |
| | Article 3. Anti-Skimming Act. | §§ 43.96 - 43.99 |
| 44 | n/a | |
| 45 | n/a | |
| 46 | Forgery, Fraudulent Practices and Telephone Records. | |
| | Article 1. Forgery and Fraudulent Practices. | §§ 46.10-46.80 |
| | Article 2. Telephone Records; Obtaining, Selling, or Receiving Without Consent. | §§ 46.90-46-94 |
| | Article 3. Mortgage Fraud. | §§ 46.100-46.104 |
| | Article 4. Anti-Phishing Act. | §§ 46.400-46.407 |
| | Article 5. Computer Protection Act. | §§ 46.500-46.507 |
| | Article 6. Computer Spyware Protection Act. | §§ 46.601-46.608 |
| 47 | Trademark Counterfeiting Act. | §§ 47.10-47.80 |
| 48 | Notification of Breaches of Personal Information. | §§ 48.10-48.80 |
| 49 | Governmental Bribery, Other Unlawful Influence and Related Offenses. | §§ 49.10-49.90 |
| 50 | n/a | |
| 51 | n/a | |
| 52 | Perjury and Offense Against the Integrity of Official Proceedings. | §§ 52.10-52.65 |
| 53 | n/a | |
| 54 | n/a | |
| 55 | Interference With Government Operations and Law Enforcement. | §§ 55.10-55.65 |
| 56 | n/a | |
| 57 | n/a | |
| 58 | Escape and Related Offenses. | §§ 58.10-58.60 |
| 59 | n/a | |
| 60 | n/a | |
| 61 | Riot, Disorderly Conduct and Related Offenses. | §§ 61.10-61.70 |

| | | |
|----|--|-----------------------|
| 62 | n/a | |
| 63 | n/a | |
| 64 | Gambling. | |
| | Article 1. Gambling Generally. | §§ 64.10-64.22 |
| | Article 2. Authorized Activities. | §§ 64.30-64.70 |
| 65 | n/a | |
| 66 | n/a | |
| 67 | Guam Uniform Controlled Substances Act. | |
| | Article 1. Definitions. | §§ 67.101 |
| | Article 2. Standards and Schedules. | §§ 67.201-67.214 |
| | Article 3. Regulation of Manufacture, Distributions and Dispensing of Controlled Substances. | §§ 67.301-67.309 |
| | Article 4. Offenses and Penalties. | §§ 67.401.1- 67.414.1 |
| | Article 4A. Use of a Minor in a Drug Operation. | §§ 67.4A01-67.4A07 |
| | Article 5. Enforcement and Administrative Provisions. | §§ 67.501-67.508 |
| | Article 6. Importation and Exportation. | §§ 67.600-67.608 |
| | Article 7. Miscellaneous. | §§ 67.701-67.708 |
| | Article 8. Salvia Divinorum. | § 67.801 [Repealed] |
| 68 | n/a | |
| 69 | Antitrust Law. | §§ 69.10-69.70 |
| 70 | Miscellaneous Crimes. | |
| | Article 1. Protecting Animal Welfare and Safety (PAWS) Act (Pugua's Law). | §§ 70.10-70.85 |
| | Article 2. Discrimination in Housing Accommodations. | §§ 70.210-70.270 |
| | Article 3. The Guam Social Host Act. | §§ 70.310-70.330 |
| | Article 4. Miscellaneous Criminal Offenses. | § 70.410-70.450 |
| 71 | The Guam Gun-Free School Zone Act of 2004. | §§ 71.10-71.90 |
| 72 | n/a | |
| 73 | n/a | |
| 74 | n/a | |
| 75 | n/a | |
| 76 | n/a | |
| 77 | n/a | |
| 78 | n/a | |
| 78 | n/a | |
| 80 | Disposition of Offenders. | |
| | Article 1. General Provisions. | §§ 80.00-80.22 |
| | Article 2. Imprisonment. | §§ 80.30-80.50 |
| | Article 3. Fines and Restitution. | §§ 80.50-80.58 |
| | Article 4. Probation. | §§ 80.60-80.68 |
| | Article 5. Parole. | §§ 80.70-80.88 |
| | Article 6. Alternative Community Service. | §§ 80.90-80.94 |
| | Article 7. Hormone or Anti-Androgen Pilot Treatment Program for Convicted Sex Offenders. | §§ 80.101-80.106 |

| | | |
|----|--|------------------|
| 81 | Reduction of Sentences. | § 81.10 |
| 82 | Loss and Restoration of Rights Incident to Conviction or Imprisonment. | §§ 82.10-82.25 |
| 83 | Youth Correction Act. | §§ 83.10-83.95 |
| 84 | Rehabilitative and Developmental Program. | §§ 84.10-84.49 |
| 85 | Guam Parole Board. | §§ 85.10-85.72 |
| 86 | Compensation for Damages From Criminal Activities. | (Omitted) |
| 87 | Victim Notification. | (Omitted) |
| 88 | Criminal Justice Substance Abuse Act. | §§ 88.10-88.60 |
| 89 | Crimes Against Minors and Sex Offender Registry. | §§ 89.01-89.16 |
| 90 | Corrections. | |
| | Article 1. Department of Corrections. | §§ 90.10-90.49 |
| | Article 2. Western Interstate Corrections Compact. | §§ 90.50-90.66 |
| | Article 3. Interstate Compact on Juveniles. | §§ 90.80-90.84 |
| | Article 4. Prison Industries. | §§ 90.90-90.91 |
| | Article 5. Transfer Pursuant to Treaty. | § 90.100 |
| | Article 6. Civilian Corrections Reserve Program. | §§ 90.200-90.206 |
| | Article 7. The Department of Corrections Modernization Act of 2021 | §§ 90.301-90.314 |
| 91 | Infant Child's Right to Life Act. | §§ 91.01 - 91.06 |
| 92 | Safe Streets Act of 2018. | |
| | Article 1. Offenses Involving Alcohol and Controlled Substances. | §§ 92101-92126 |
| | Article 2. Implied Consent and Suspension or Revocation of Driving Privileges and License. | §§ 92201-92206 |
| | Article 3. Ignition Interlock Devices. | §§ 92301-92302 |
| 93 | Criminal Sexual Conduct Assessment and Rehabilitation Act. | §§ 93.10-93.50 |

Attachment C

Criminal Law and Procedure Revision Commission
Subcommission Quarterly Report Template

Subcommission Name:

Chair:

Members:

Dates of subcommission meetings:

Past activity:

1. List of Chapter (and Article, if applicable) reviewed.
2. Brief summary of subcommission's findings/conclusions for each Chapter/Article, using the Excel spreadsheet for guidance.
3. Brief recommendation for each Chapter/Article already reviewed.

Current and future activity:

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

Attachment D

Criminal Law and Procedure Revision Commission
Document Naming Guide

| Type of document | Document name information | Example |
|---|--|---|
| Original GCA | GCA identifier (Title gc chapter) | 9gc004 |
| Internal subcommission working drafts | GCA identifier (Title gc chapter) Date/time of edit Initials of subcommission member | 9gc030_02-09-2023_eba 9gc030_02-09-2023_3pm_ct |
| First draft submitted to Plenary Commission | GCA identifier (Title gc chapter) Mtg when first draft submitted | 9gc030_03-15-2023 |
| Second/subsequent draft submitted to Plenary Commission | GCA identifier (Title gc chapter) Mtg when draft submitted for reconsideration Draft number (v02, v03) | 9gc030_04-14-2023_v02 |
| Draft approved by Plenary commission | GCA identifier (Title gc chapter) Mtg when draft approved | 9gc030_05-15-2023_approved |

Notes:

Dates must be in (MM-DD-YYYY)

Subcommission internal drafts – use date/time of edit

Drafts submitted to Plenary Commission – use date of meeting and draft number

No spaces in name of document

PROCESS TO PROPOSE AN AMENDMENT TO A STATUTE

SUMMARY OF STEPS

- 1.) PRESENT THE CURRENT VERSION OF THE STATUTE.
- 2.) PRESENT THE PROPOSED AMENDED STATUTE.
- 3.) REASON FOR AMENDMENT. The Sub-Commission must indicate in writing the reason for the proposed amendment.
- 4.) REVIEW OF EXISTING CASE LAW. The Sub-Commission will review the following to ensure the proposed amendment does not conflict with existing, applicable case law.
 - (A) U.S. Supreme Court Case Law,
 - (B) Supreme Court of Guam Case Law,
 - (C) District Court Appellate Division Case Law and
 - (D) Superior Court of Guam Case Law.
- 5.) REVIEW OF STATUTORY SOURCE. If the information is available, the Sub-Commission should identify:
 - (A) What jurisdiction or state the statute being reviewed came from.
 - (B) What year Guam adopted the statute.
 - (C) If the originating jurisdiction or state still uses the original statute (if it is still “on their books”).
 - (D) If the statute is no longer being used by the originating jurisdiction or state, then when was it amended or repealed.
 - (E) If the statute was amended by the originating jurisdiction or state, please provide the amended statute below, the citation and the date of amendment.
 - (F) If “UNABLE TO DETERMINE” the source of the Guam Statute, please so indicate.

6.) MODEL PENAL CODE REVIEW. The Sub-Commission will review the Model Penal Code for guidance.

7.) REVIEW OF RECENTLY REVISED HAWAII OR D.C. CRIMINAL CODES. The Sub-Commission will review recently revised Hawaii or D.C. (or other jurisdictions) criminal code for guidance.

8.) AFFECTED STATUTES. The Sub-Commission will identify other Guam statutes, if any, that may be impacted by the proposed amendment.

9.) PROPOSED STATUTORY AMENDMENT TO BE SUBMITTED TO THE PLENARY COMMISSION. If the Sub-Commission reaches consensus that the proposed amendment be forwarded to the Plenary Commission for consideration, the Sub-Commission Chair must indicate so and sign and date the Worksheet.

Please be advised that the Sub-Commission's completed and signed "Proposed Statutory Amendment Worksheet" will be included in the Plenary Commission's submission to I Liheslaturan Guåhan, I Maga'Hagan Guåhan and the Chief Justice.

PROPOSED STATUTORY AMENDMENT WORK-SHEET

The Criminal Law Review Sub-Commission proposed to amend the following statute:

| | |
|--------|-------|
| Title: | GCA § |
|--------|-------|

1.) CURRENT VERSION OF THE STATUTE: Please provide the current version of the statute below as it appears in the Guam Code Annotated (inclusive of any annotations).

2.) PROPOSED AMENDED STATUTE: Please provide the proposed amended statute below as you intend it to appear in the Guam Code Annotated (inclusive of any annotations).

3.) REASON FOR THE PROPOSED AMENDMENT: Please indicate, with specificity, in the space below the reason for the proposed amendment. Why does the statute need to be changed? What specific conduct is being improperly penalized? What improper conduct is not being penalized under the current version of the statute?

4.) REVIEW OF EXISTING CASE LAW FOR CONFLICTS: Please indicate that the Sub-Commission has reviewed the various relevant case law (as listed below) to determine whether apparent conflicts exist.

| CONFLICTS EXIST?: | YES | NO |
|--|-----|-----|
| A.) U.S. Supreme Court Case Law: | [] | [] |
| B.) Supreme Court of Guam Case Law: | [] | [] |
| C.) District Court Appellate Division: | [] | [] |
| D.) Superior Court of Guam Case Law: | [] | [] |

IF CONFLICTS EXIST, PLEASE IDENTIFY THE CASE AND INCLUDE COMMENTS BELOW:

5.) STATUTORY SOURCE INFORMATION: (If unable to determine this information, please fill in “B.)” and “F.)” only.)

A.) The original statute came from [*Jurisdiction / State*]: _____.
It was enacted in that jurisdiction / state on _____ [m/d/yyyy].
Please provide the original statute (as it appears in the originating jurisdiction / state), inclusive of annotations, and its citation below:

CITATION: _____

ANY OTHER COMMENTS:

**THE PROPOSED STATUTORY AMENDMENT / REVISION OF TITLE _____ GCA §
_____ SHALL BE FORWARDED TO THE PLENARY COMMISSION.**

**YES
[]**

**NO
[]**

SUB-COMMISSION CHAIR

DATE: _____

PROCESS TO PROPOSE REPEAL OF A STATUTE

SUMMARY OF STEPS

- 1.) PRESENT THE CURRENT VERSION OF THE STATUTE.

- 2.) REASON FOR SUGGESTED REPEAL. The Sub-Commission must indicate in writing the reason for suggesting that the statute be repealed.

- 3.) REVIEW OF EXISTING CASE LAW. The Sub-Commission will review the following to ensure the proposed amendment does not conflict with existing, applicable case law.
 - (A) U.S. Supreme Court Case Law,
 - (B) Supreme Court of Guam Case Law,
 - (C) District Court Appellate Division Case Law and
 - (D) Superior Court of Guam Case Law.

- 4.) REVIEW OF STATUTORY SOURCE. If the information is available, the Sub-Commission should identify:
 - (A) What jurisdiction or state the statute being reviewed came from.
 - (B) What year Guam adopted the statute.
 - (C) If the originating jurisdiction or state still uses the original statute (if it is still “on their books”).
 - (D) If the statute is no longer being used by the originating jurisdiction or state, then when was it amended or repealed.
 - (E) If the statute was amended by the originating jurisdiction or state, please provide the amended statute below, the citation and the date of amendment.
 - (F) If “UNABLE TO DETERMINE” the source of the Guam Statute, please so indicate.

- 5.) MODEL PENAL CODE REVIEW. The Sub-Commission will review the Model Penal Code for guidance.

6.) REVIEW OF RECENTLY REVISED HAWAII OR D.C. CRIMINAL CODES. The Sub-Commission will review recently revised Hawaii or D.C. (or other jurisdictions) criminal code for guidance.

7.) AFFECTED STATUTES. The Sub-Commission must list the other statutes, if any, that will be impacted by the proposed repeal.

8.) PROPOSED REPEAL TO BE SUBMITTED TO THE PLENARY COMMISSION. If the Sub-Commission reaches consensus that a particular statute should be repealed, the Sub-Commission Chair must indicate so and sign and date the Worksheet. The Plenary Commission shall then consider the proposed repeal.

Please be advised that the Sub-Commission's completed and signed "Proposed Statutory Repeal Worksheet" will be included in the Plenary Commission's submission to I Liheslaturan Guåhan, I Maga'Hagan Guåhan and the Chief Justice.

PROPOSED STATUTORY REPEAL WORK-SHEET

The Criminal Law Review Sub-Commission proposed to REPEAL the following statute:

| | |
|--------|-------|
| Title: | GCA § |
|--------|-------|

1.) CURRENT VERSION OF THE STATUTE: Please provide the current version of the statute below as it appears in the GCA (inclusive of any annotations).

2.) REASON FOR THE PROPOSED AMENDMENT: Please indicate, with specificity, in the space below the reason for the proposed repeal. Why does the statute need to be repealed? What specific conduct is being improperly penalized under the current version of the statute?

Continued:

3.) REVIEW OF EXISTING CASE LAW FOR CONFLICTS: Please indicate that the Sub-Commission has reviewed the various relevant case law (as listed below) to determine whether apparent conflicts exist.

| CONFLICTS EXIST?: | YES | NO |
|--|------------|-----------|
| A.) U.S. Supreme Court Case Law: | [] | [] |
| B.) Supreme Court of Guam Case Law: | [] | [] |
| C.) District Court Appellate Division: | [] | [] |
| D.) Superior Court of Guam Case Law: | [] | [] |

IF CONFLICTS EXIST, PLEASE IDENTIFY THE CASE AND INCLUDE COMMENTS BELOW:

7.) AFFECTED GUAM STATUTES (IF ANY): Please identify below Guam statutes, if any, that may be impacted by the proposed amendment and provide comments.

| |
|-----------------------------|
| 1. Title _____ GCA § _____. |
| 2. Title _____ GCA § _____. |

ANY OTHER COMMENTS:

| |
|--|
| |
|--|

THE PROPOSED REPEAL OF TITLE _____ GCA § _____ SHALL BE FORWARDED TO THE PLENARY COMMISSION.

YES
[]

NO
[]

SUB-COMMISSION CHAIR

DATE: _____

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: _____

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: _____

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 _____



GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

Second Plenary Meeting
February 9, 2023, 12:00 p.m.
By Videoconference



Agenda

- I. Call to Order
- II. Proof of Due Notice of Meeting
- III. Determination of Quorum
- IV. Reading and Disposal of Minutes
- V. New Business
 - A. Subcommittee Chairs and Membership
 - B. Authorization Process for Appointment of Subcommittee Ex-Officio Members
 - C. Process for Subcommittee Review and Recommendations for Non-action, Amendment and Repeal
 - D. Proposed Subcommittee Assignments and Timelines
 - E. Commission Reporting Requirements
 - F. Proposed Timelines and Proposed 2023 Meeting Schedules
- V. Notice of Next Meeting (April 6, 2023)
- VI. Communications
- VII. Public Comment
- VIII. Adjournment



Subcommissions

Crimes Against Persons

Attorney Joseph McDonald,
Chair

GPD Chief Steve Ignacio

Attorney Stephen Hattori

Attorney Christine Tenorio

Crimes Relating to Property

Attorney Phil Tydingco, Chair

Mr. Monty McDowell

Attorney Randy Cunliffe

Attorney William Bucky Brennan

Drug and Other Criminal Offenses

Hon. Elizabeth Barrett-Anderson, Chair

Attorney Michael Phillips

Compiler of Laws Geri Cepeda

DOC Director Robert Camacho

Ms. Valerie Reyes

Criminal Procedure

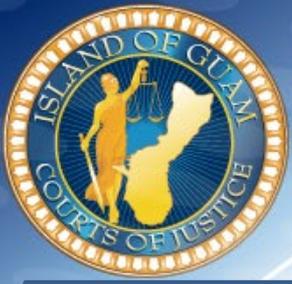
Hon. Anita A. Sukola, Chair

AAG Marianne Woloscuk

Executive Director Serge Quenga



Subcommission Ex-Officio Members



Process to Recommend Amending or Repealing a Statute

Amend

1. Present Current Statute
2. Present Proposed Amendment
3. State the Reason for the Amendment
4. Review Existing Case Law
5. Review Statutory Source
6. Document Model Penal Code Review
7. Review Hawaii, D.C or other Revised Codes
8. List Affected Statutes
9. Submit Amendment to Plenary Commission

Repeal

1. Present Current Statute
2. State Reason for the Repeal
3. Review Existing Case Law
4. Review Statutory Source
5. Model Penal Code Review
6. Review Hawaii, D.C. or other Revised Codes
7. List Affected Statutes
8. Submit Repeal to Plenary Commission



Sources for Researching

- Model Penal Code (pdf)
- Guam Law Library:
 - 1977 Criminal and Correctional Code (hardcover)
 - Drafts of the Model Penal Code, New Jersey Criminal Code and Massachusetts Criminal Code (print)
 - Guam Law Revision Commission Recommendations - Staff Draft (May 1975) (pdf)



Online Resources

- Massachusetts General Laws
 - <https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI>
- New Jersey General and Permanent Statutes
 - <https://lis.njleg.state.nj.us/nxt/gateway.dll?f=templates&fn=default.htm&vid=Publish:10.1048/Enu>
- Hawaii Penal Code
 - <https://www.capitol.hawaii.gov/hrsall/ChaptersByVolume.aspx?id=14>



PROPOSED STATUTORY AMENDMENT WORK-SHEET

The Criminal Law Review Sub-Commission proposed to amend the following statute:

| | |
|----------|-------------|
| Title: 9 | GCA § 61.50 |
|----------|-------------|

1.) CURRENT VERSION OF THE STATUTE: Please provide the current version of the statute below as it appears in the Guam Code Annotated (inclusive of any annotations).

§ 61.50. Disinterring a Corpse; Punished.

A person commits a misdemeanor if he intentionally and unlawfully disinters, removes, conceals, mutilates or destroys a human corpse or any part thereof.

SOURCE: G.P.C. §§ 290, 291, 295; M.P.C. § 250.10; *Mass. ~~ch.~~ 269, § 10.

2.) PROPOSED AMENDED STATUTE: Please provide the proposed amended statute below as you intend it to appear in the Guam Code Annotated (inclusive of any annotations).

§ 61.50. Disinterring a Corpse; Punished.

Except as authorized by law, A a person commits a misdemeanor if he or she intentionally, knowingly, recklessly, or with criminal negligence—and unlawfully disinters, removes, conceals, mutilates or destroys a human corpse or any part thereof, or if he or she intentionally or knowingly aids in such disinterment, removal, concealment, mutilation, or destruction, either before or after the fact.

SOURCE: G.P.C. §§ 290, 291, 295; M.P.C. § 250.10; *Mass. ch. 269, § 10.

NEW: Mass. Gen. Laws ch. 272, § 71.

3.) REASON FOR THE PROPOSED AMENDMENT: Please indicate, with specificity, in the space below the reason for the proposed amendment. Why does the statute need to be changed? What specific conduct is being improperly penalized? What improper conduct is not being penalized under the current version of the statute?

The exception is added to recognize the lawful disinterment of corpse.
The mental states were added to include knowing, reckless, and criminally negligent conduct.
New language was added regarding aiding/abetting.



4.) REVIEW OF EXISTING CASE LAW FOR CONFLICTS: Please indicate that the Sub-Commission has reviewed the various relevant case law (as listed below) to determine whether apparent conflicts exist.

| CONFLICTS EXIST?: | YES | NO |
|--|------------|-----------|
| A.) U.S. Supreme Court Case Law: | [x] | [] |
| B.) Supreme Court of Guam Case Law: | [x] | [] |
| C.) District Court Appellate Division: | [x] | [] |
| D.) Superior Court of Guam Case Law: | [x] | [] |

IF CONFLICTS EXIST, PLEASE IDENTIFY THE CASE AND INCLUDE COMMENTS BELOW:

N/A

5.) STATUTORY SOURCE INFORMATION: (If unable to determine this information, please fill in "B.)" and "F.)" only.)

A.) The original statute came from [*Jurisdiction / State*]: Massachusetts. It was enacted in that jurisdiction / state on Mass. Criminal Law Revision Commission, Criminal Code of Mass. (Proposed 1972) [m/d/yyyy]. Please provide the original statute (as it appears in the originating jurisdiction / state), inclusive of annotations, and its citation below:

CITATION: Mass. ch. 269, § 10

C. 269

MASSACHUSETTS CRIMINAL CODE

§ 9

worship or burial. If over \$100 in value is intentionally done to property of another, real or personal, the crime will be at least a class D felony under c 266 § 7 of the Code.

§ 10. Abuse of Corpse.

A person is guilty of abuse of corpse, a class B misdemeanor, if he wilfully and unlawfully dis-inters, digs up, removes, conceals, mutilates or destroys a human corpse or any part thereof.

Revision Commission Note—

Present Gl. c 272 § 71 proscribes violation of sepulture by 3 years imprisonment. This is carried forward into § 10 of the Code as a class B misdemeanor. But the present crimes under Gl. c 272 § 70 (attachment of dead body by sheriff) and § 72 (buying or selling dead body) appear antiquated, and indeed unnecessary since § 10 covers one who "wilfully and unlawfully removes [or] conceals" a human corpse.



Guam Penal Code

§ 290. Unlawful mutilation or removal of dead bodies. Every person who mutilates, disinters, or removes from the place of sepulcher, the dead body of a human being without authority of law, is guilty of a felony. [Enacted 1953.]

§ 291. Unlawful removal of dead body from grave for dissection, etc. Every person who removes any part or the whole body of a dead human being from any grave or other place where the same has been buried, or from any place where the same is deposited while awaiting burial, with intent to sell the same or to dissect it, without authority of law, or from malice or wantonness, or for any other reason, is punishable by imprisonment for not less than 1 or more than 5 years. [Enacted 1953.]

§ 295. Arresting or attaching a dead body. Every person who arrests or attaches any dead body of a human being, upon any debt or demand whatever, or detains or claims to detain it for any debt or demand, or upon any pretended lien or charge, is guilty of a misdemeanor. [Enacted 1953.]

B.) The Guam statute became law on 1953 (m/d/yyyy)

YES NO

C.) Is the statute still “on the books” of the originating jurisdiction? [] []

D.) If the answer to “C.)” above is “NO,” then the originating statute was repealed / amended on:

Unknown (m/d/yyyy) [] **Not Applicable**

E.) If originating jurisdiction / state repealed the original statute, please indicate by placing a checkmark here → []

If the originating jurisdiction amended the statute, please provide the amended statute below, inclusive of annotations, and its citation.

CITATION: Mass. ch. 272, § 71

Disinterring bodies

Section 71. Whoever, not being lawfully authorized by the proper authorities, wilfully digs up, disinters, removes or conveys away a human body, or the remains thereof, or knowingly aids in such disinterment, removal or conveying away, and whoever is accessory thereto either before or after the fact, shall be punished by imprisonment in the state prison for not more than three years or in jail for not more than two and one-half years or by a fine of not more than four thousand dollars.

8.) AFFECTED GUAM STATUTES (IF ANY): Please identify below Guam statutes, if any, that may be impacted by the proposed amendment and provide comments.

1. Title _____ GCA § _____.

2. Title _____ GCA § _____.

ANY OTHER COMMENTS:

**THE PROPOSED STATUTORY AMENDMENT / REVISION OF TITLE _____ GCA §
SHALL BE FORWARDED TO THE PLENARY COMMISSION.**

YES

[]

NO

[]

SUBCOMMISSION CHAIR

DATE: _____



Subcommission Assignments



Subcommission Reports and Quarterly Reports

- Subcommission Report March 17
 - 1st Quarterly Report March 31
- Subcommission Report June 16
 - 2nd Quarterly Report June 30
- Subcommission Report Sept. 15
 - 3rd Quarterly Report Sept. 29
- Subcommission Report Dec. 15
 - 4th Quarterly Report Dec. 29



Proposed 2023 Timeline Plenary Meeting Schedule

- Second Plenary Meeting February 9
- Third Plenary Meeting April 6
- Fourth Plenary Meeting June 1
- Fifth Plenary Meeting August 3
- Sixth Plenary Meeting October 5
- Seventh Plenary Meeting December 7



**Notice of Next Meeting
Thursday, April 6, 2023, Noon
(Tentative)**



Agenda

- I. Call to Order
- II. Proof of Due Notice of Meeting
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Thank you!