



JUDICIARY OF GUAM

GUAM JUDICIAL CENTER
120 WEST O'BRIEN DRIVE, HAGÁTÑA, GUAM 96910-5174



F. PHILIP CARBULLIDO
Chief Justice

ALBERTO C. LAMORENA III
Presiding Judge

KRISTINA L. BAIRD
Administrator of the Courts

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
INITIAL PLANNING AND ORGANIZATIONAL MEETING
FRIDAY, JANUARY 13, 2023 | 12:00 PM
GUAM JUDICIAL CENTER
AND VIA VIDEOCONFERENCE**

AGENDA

I. CALL TO ORDER

- II. PROOF OF DUE NOTICE OF MEETING:** January 6, 2023
January 11, 2023

III. DETERMINATION OF QUORUM

IV. NEW BUSINESS

- A. Introduction of the Commission Chairman, Executive Director and Staff.
- B. Introduction of Commission Members and Subcommittee Chairpersons.
- C. Discussion of Statutory Mandates, Goals and Objectives of the Commission
- D. Presentation of the Draft Work Plan
- E. Tentative Meeting Dates for 2023
- F. Notice of Next Meeting: Thursday, February 9, 2023, Noon (Tentative)

V. COMMUNICATIONS

VI. PUBLIC COMMENT

VII. ADJOURNMENT

LOURDES A. LEON GUERRERO
GOVERNOR



JOSHUA F. TENORIO
LT. GOVERNOR

UFISINAN I MAGA'HĀGAN GUĀHAN
OFFICE OF THE GOVERNOR OF GUAM

Transmitted via email to: speaker@guamlegislature.org

November 9, 2022

HONORABLE THERESE M. TERLAJE

Speaker

I Mina'trentai Sais Na Liheslaturan Guåhan

36th Guam Legislature
Guam Congress Building
163 Chalan Santo Papa
Hagåtña, Guam 96910

Re: BILL NO. 311-36 (COR) - AN ACT TO ADD A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED

Hafa Adai Madame Speaker,

A person is not excused from complying with the law simply because they are not aware of the law. This near-universal principle of jurisprudence is captured in the ancient Latin maxim, “ignorantia legis neminem excusat,” translated as “ignorance of law excuses no one.” It imputes knowledge of all laws to all persons within the jurisdiction in which such laws apply. A natural corollary to this principle is that laws must be issued and accessible by ordinary means, that they are effectuated and enforced with a sufficient notice period, and that they are clear, consistent and complete.

In recognition of the government’s obligation to regularly update, modernize, and reconcile its laws, legislatures across the country have engaged in efforts to comprehensively rewrite their criminal code. Last year, the State of Hawaii passed a bill to modernize its criminal justice system, citing concerns such as mass incarcerations and a burgeoning pretrial detained population. In recent months, the District of Columbia began conducting hearings on the proposed revision of its 120-year-old criminal code, a draft that took sixteen (16) years to complete.

Like much of Guam law, our criminal code originated during the Naval Government. In the fifty (50) or so intervening years, specific statutes within the code have been amended or repealed,

To: Speaker Terlaje
Fr: Governor of Guam
Date: November 9, 2022
Re: Bill No. 311-36 (COR)

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resulting in a patchwork of laws that are not always clearly stated or internally consistent. Other laws are simply antiquated, and do not reflect the mores and conventions of modern Guam society.

Bill No. 311-36 authorizes the formation and seed funding of the Guam Criminal Law and Procedure Review Commission, which will be tasked with comprehensive review of Guam's substantive criminal law scheme. Led by the Judiciary of Guam, the Commission will be composed of key stakeholders including the Office of the Attorney General, the Public Defender Service Corporation, law enforcement agencies, and public members, and will ultimately provide substantive recommendations to the Legislature for substantial revisions to the criminal code. The Bill further contemplates periodic reviews moving forward, ensuring more consistent reconciliation of these laws and preventing the need for substantial upheaval.

Without question, this bill is long overdue. I thank Chief Justice F. Philip Carbullido for his leadership in this significant endeavor, and I look forward to the Commission's recommendations. I hereby sign Bill No. 311-36 into law as ***Public Law No. 36-119***.

Senseremente,



LOURDES A. LEON GUERRERO

Maga'hågan Guåhan
Governor of Guam

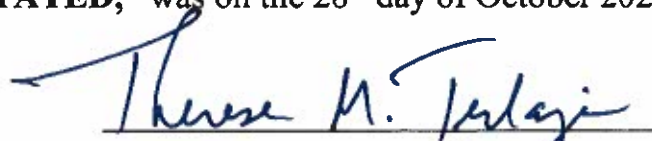
Enclosure: Bill No. 311-36 (COR) - nka *P.L. No. 36-119*

cc via email: *Honorable Lourdes A. Leon Guerrero, Governor of Guam*
Compiler of Laws


I MINA'TRENTAI SAIS NA LIHESLATURAN GUÅHAN
2022 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO *I MAGA'HÅGAN GUÅHAN*

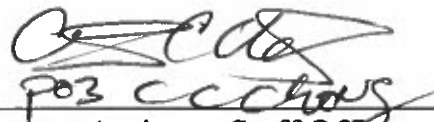
This is to certify that **Bill No. 311-36 (COR)**, “AN ACT TO *ADD A NEW CHAPTER 25 TO TITLE 1, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING A GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION FOR THE PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF THE GUAM CODE ANNOTATED,*” was on the 28th day of October 2022, duly and regularly passed.


Therese M. Terlaje
Speaker

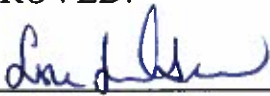
Attested:


Amanda L. Shelton
Legislative Secretary

This Act was received by *I Maga'hågan Guåhan* this 28TH day of Oct.,
2022, at 6:19 o'clock P.M.


Assistant Staff Officer
Maga'håga's Office

APPROVED:


Lourdes A. Leon Guerrero
I Maga'hågan Guåhan

Date: 11/09/2022

Public Law No. 36-119

I MINA'TRENTAI SAIS NA LIHESLATURAN GUAHAN
2022 (SECOND) Regular Session

Bill No. 311-36 (COR)

As amended by the Committee on General
Government Operations, Appropriations, and Housing;
and further amended in the Committee of the Whole.

Introduced by:

Frank Blas Jr.
Joe S. San Agustin
Therese M. Terlaje
Joanne Brown
Telo T. Taitague
Tina Rose Muna Barnes
Sabina Flores Perez
Clynton E. Ridgell
Mary Camacho Torres
V. Anthony Ada
Christopher M. Dueñas
James C. Moylan
Telena Cruz Nelson
Amanda L. Shelton
Jose “Pedo” Terlaje

**AN ACT TO *ADD* A NEW CHAPTER 25 TO TITLE 1,
GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING A GUAM CRIMINAL LAW AND
PROCEDURE REVIEW COMMISSION FOR THE
PURPOSE OF UPDATING TITLE 8 AND TITLE 9 OF
THE GUAM CODE ANNOTATED.**

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that it has been nearly fifty (50) years since the last comprehensive review of Guam’s
4 laws on crimes and criminal procedure through the work of the Guam Law Revision
5 Commission created by Public Law 12-93 (1974). The work of the Law Revision

1 Commission resulted in the enactment of Public Law 13-185, which established the
2 Criminal and Correctional Code (1976); Public Law 13-186, which established the
3 Criminal Procedure Code (1976); and Public Law 13-187, which amended existing
4 Guam laws to conform with the terminology of the two (2) newly-adopted codes
5 (1976). In 1980, the Fifteenth (15th) Guam Legislature adopted the new Guam Code
6 Annotated (GCA) as Guam's statutory code, establishing Title 8 of the GCA as the
7 Criminal Procedure Code, and Title 9 of the GCA as the Criminal and Correctional
8 Code.

9 *I Liheslaturan Guåhan* further finds that since the comprehensive review of
10 the Guam Law Revision Commission, the amendments, additions, and repeals of
11 Guam's criminal laws have been on a piecemeal basis, and as a result, the laws and
12 procedures used to prosecute criminal behavior may, in some cases, be unnecessary,
13 unclear, duplicative, overly broad, or otherwise, insufficient to serve the purpose of
14 the law.

15 Since this review, there have been amendments to 48 U.S.C. § 1421 et seq. of
16 the Organic Act of Guam to recognize the authority of the Supreme Court of Guam
17 as a separate and co-equal branch of the government of Guam, and to give the
18 Supreme Court the authority to “make and promulgate rules governing the
19 administration of the judiciary and the practice and procedure in the courts of the
20 judicial branch of Guam[.]” [48 U.S.C.A. § 1424-1(a)(6)].

21 Therefore, it is the intent of this legislation to create a commission composed
22 of key stakeholders and experts to review the laws that address the criminal
23 procedures and criminal laws of Guam and to recommend enactments, amendments
24 and repeals to *I Liheslaturan Guåhan* for action.

25 **Section 2.** A new Chapter 25 is *added* to Title 1, Guam Code Annotated, to
26 read:

27 **“CHAPTER 25**

1 **GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION**

2 § 25.01. Short Title.

3 § 25.02. Establishment; No Derogation of Organic Act Authority.

4 § 25.03. Duties and Responsibilities.

5 § 25.04. Composition.

6 § 25.05. Executive Director.

7 § 25.06. Meetings.

8 § 25.07. Reporting Requirements.

9 § 25.08. Administrative Support.

10 **§ 25.01. Short Title.**

11 This Act shall be known as the *Guam Criminal Law and Procedure Review*
12 *Commission Act.*

13 **§ 25.02. Establishment; No Derogation of Organic Act Authority.**

14 (a) There is created the Guam Criminal Law and Procedure Review
15 Commission (Commission) to review the laws that address the criminal procedures
16 and criminal laws of Guam; and to recommend enactments, amendments, and
17 repeals to *I Liheslaturan Guåhan* for action.

18 (b) Neither this Act, nor the duties and responsibilities of the Commission
19 established here, shall derogate, limit, or circumvent the authority of the Supreme
20 Court of Guam to make and promulgate rules governing the administration of the
21 judiciary and the practice and procedure in the courts of the judicial branch of Guam
22 granted by 48 U.S.C.A. § 1424-1(a)(6).

23 **§ 25.03. Duties and Responsibilities.**

24 (a) The Commission shall conduct a comprehensive and systematic review
25 of Guam laws, including the Guam Criminal Procedure Code codified in Title 8 of
26 the Guam Code Annotated (GCA), the Guam Criminal and Correctional Code
27 codified in Title 9 of the GCA, and other provisions in the statutory code and session

1 laws of Guam relating to criminal law or procedure.

2 (b) In preparing the criminal code reform recommendations required by
3 Subsection (a) of this Section, the Commission may:

4 (1) review criminal codes and code reform efforts in other
5 jurisdictions, the American Law Institute Model Penal Code, including
6 recently proposed amendments, and other criminal law resources;

7 (2) consult with other Guam, federal, and state departments and
8 agencies, conduct community outreach, and engage in other activities to
9 advance the Commission's statutory duties; and

10 (3) prioritize the review of Title 9.

11 (c) At the conclusion of its review, the Commission shall submit
12 comprehensive criminal code reform recommendations to the Chief Justice of the
13 Supreme Court of Guam, *I Maga'hågan Guåhan*, and the Speaker of *I Liheslaturan*
14 *Guåhan* within twenty-four (24) months of the initial meeting described in § 25.06
15 of this Chapter.

16 (d) The Commission may contract for any professional services if such
17 services cannot be satisfactorily performed by its employees.

18 (e) The Commission shall study and report on any relevant topic which *I*
19 *Liheslaturan Guåhan*, by resolution, shall refer to the Commission for action.

20 (f) After completion of the review and submission of the recommendations
21 required in this Section, the Commission shall, subject to additional appropriations
22 by *I Liheslaturan Guåhan*, conduct periodic reviews, but not less than every five (5)
23 years, of Guam's criminal laws under the provisions set forth in this Chapter to
24 recommend amendments or repeals to bring the criminal laws of Guam into harmony
25 with modern conditions.

26 **§ 25.04. Composition.**

27 (a) The Commission shall be composed as follows:

1 (1) three (3) members appointed by the Chief Justice, of whom one
2 (1) shall be a member of the general public with experience and interest in the
3 services provided by community-based and public interest organizations
4 relating to the criminal justice system;

5 (2) three (3) members appointed by *I Maga'hågan Guåhan*, of whom
6 one (1) shall be a member of the general public with experience and interest
7 in the services provided by community-based and public interest
8 organizations relating to the criminal justice system;

9 (3) three (3) members appointed by the Speaker of *I Liheslaturan*
10 *Guåhan*, of whom one (1) shall be a member of the general public with
11 experience and interest in the services provided by community-based and
12 public interest organizations relating to the criminal justice system, and may
13 hold a degree in Human Services or a related field, including the Social
14 Sciences;

15 (4) the Attorney General of Guam, or his or her designee;

16 (5) the Executive Director of the Public Defender Service
17 Corporation, or his or her designee;

18 (6) the Chief of the Guam Police Department, or his or her designee;

19 (7) the Director of the Department of Corrections, or his or her
20 designee;

21 (8) the Compiler of Laws, who shall serve as an ex-officio non-
22 voting member; and

23 (9) the Executive Director of the Commission, who shall serve as an
24 ex-officio non-voting member.

25 (10) two (2) members of the Guam Bar Association appointed by the
26 President of the Guam Bar Association.

27 (b) As a result of their participation in the Commission, members shall not

1 be subject to legislative confirmation, and shall not be subject to the public official
2 reporting requirements in 4 GCA, Chapter 13.

3 (c) Commission members shall be appointed or designated within sixty
4 (60) days of enactment of this Chapter, and shall serve until the submission of the
5 report described in § 25.07 of this Chapter, unless replaced by the appointing or
6 designating authority. Any vacancy in Commission membership shall be filled
7 expeditiously by the appointing or designating authority, so as to not impede the
8 work of the Commission.

9 (d) The Chair of the Commission shall be an appointee of the Chief Justice,
10 and shall be a judicial officer.

11 (e) The Chair of the Commission shall have the authority to create different
12 subcommittees from among its members to focus on different areas of law and to
13 report back to the entire Commission on findings and recommendations, and the
14 Chair of the Commission shall appoint a chairperson for each subcommittee.

15 (f) The appointees in this Section who are employees of any branch of the
16 government of Guam may participate in the duties and responsibilities of the
17 Commission if such participation is compatible with the ethical duties of their
18 respective offices and positions.

19 **§ 25.05. Executive Director.**

20 (a) There is created the position of Executive Director of the Commission,
21 who shall be responsible for and oversee the operations of the Commission; develop
22 and institute internal policies, procedures, and processes to ensure efficient
23 operations; and assume such duties and responsibilities as delegated and assigned by
24 the Commission.

25 (b) In addition to any other qualifications which may be established, the
26 Executive Director shall be an attorney licensed to practice in Guam; and shall be in
27 good standing in every jurisdiction where he or she is licensed to practice law.

1 (c) The Executive Director shall be appointed by the Chief Justice, and
2 shall be a full-time, unclassified employee of the Judiciary compensated and subject
3 to removal in accordance with Judiciary of Guam Personnel Rules and Regulations
4 adopted and promulgated by the Judicial Council, and shall be administratively
5 supported by the Judiciary.

6 (d) In the exercise of his or her responsibilities under this Chapter, the
7 Executive Director may:

8 (1) work closely with the Compiler of Laws in all aspects of
9 searching and researching the GCA and the laws of Guam;

10 (2) request and utilize the services of any bar association, legislative
11 committee, legislative office, profession, or other organization in any matter
12 suitable for fulfilling the purposes of this Chapter;

13 (3) have access to any legislative, executive, or judicial reports,
14 opinions, orders, or documents necessary to carry out the purposes of this
15 Chapter; and

16 (4) conduct meetings, formal or informal, with attorneys,
17 representatives from government entities, private sector businesses,
18 community-based organizations, and others interested in the results and work
19 of the Commission.

20 **§ 25.06. Meetings.**

21 (a) Initial Meeting. The Commission shall hold an initial planning and
22 organizational meeting within thirty (30) days of the appointment of the Executive
23 Director. Thereafter, the Commission shall hold regular meetings as necessary to
24 fulfill the statutory responsibilities of the Commission.

25 (b) Plenary Meetings. The Commission shall hold a plenary meeting,
26 consisting of all members of the Commission, at least once every six (6) months.

27 (1) A majority of all Commission members shall constitute a quorum

1 for a plenary meeting.

2 (2) A formal vote on the recommendations in the final report under
3 § 25.07(b) of this Chapter shall be conducted only during plenary meetings.

4 (3) A recommendation must receive at least eight (8) votes in favor
5 in a plenary meeting to be included in the final report under § 25.07(b).

6 (4) Plenary meetings shall be subject to the Open Government
7 Law, codified at 5 GCA Chapter 8.

8 (5) Plenary meetings shall be scheduled by the Chair of the
9 Commission.

10 (c) Subcommittee Meetings. Members of subcommissions shall meet
11 regularly to fulfill the statutory duties of the Commission.

12 (1) Subcommittee meetings shall serve as working sessions for
13 members to conduct discussions to further the Commission's duties and
14 responsibilities under § 25.03 of this Chapter. A subcommission shall prepare
15 its findings and recommendations, and present them to the entire Commission
16 for consideration.

17 (2) Subcommittee meetings shall not be subject to the Open
18 Government Law, codified at 5 GCA, Chapter 8.

19 (3) There is no quorum requirement for subcommission meetings.

20 (4) Subcommittee meetings may be scheduled by the Chair of the
21 Commission, the Executive Director, or a subcommission chairperson.

22 (d) Commission meetings may be conducted in-person or virtually, and
23 members may attend in-person, by videoconference, or by teleconference.

24 **§ 25.07. Reporting Requirements.**

25 (a) Progress Reports. The Commission shall submit progress reports to the
26 Chief Justice, *I Maga'hāgan Guāhan*, and the Speaker of *I Liheslaturan Guāhan*
27 each quarter; and these reports shall be a summary of Commission activities during

1 the prior quarter.

2 (b) Final Report. The Commission shall submit comprehensive criminal
3 code reform recommendations as required by § 25.03(c) of this Chapter, which shall
4 include proposed legislation for the revision of Title 8 and Title 9 of the GCA, and
5 other provisions in the statutory code relating to criminal law and procedure. The
6 report and proposed legislation should:

7 (1) use clear and plain language;

8 (2) apply consistent definitions;

9 (3) describe all elements, including mental states, that must be
10 proven;

11 (4) reduce unnecessary overlap and gaps between criminal offenses;

12 (5) eliminate archaic and unused offenses;

13 (6) adjust penalties, fines, and the gradation of offenses to provide
14 for proportionate penalties;

15 (7) organize existing criminal statutes in a logical order;

16 (8) identify any crimes defined in common law that should be
17 codified, and propose recommended language for codification;

18 (9) identify criminal statutes held to be unconstitutional and
19 recommend their removal or amendment;

20 (10) propose such other amendments as the Commission believes are
21 necessary; and

22 (11) articulate specific steps for implementing the recommendations.

23 **§ 25.08. Administrative Support.**

24 (a) Administrative support for the Commission shall be provided through
25 the Judiciary of Guam for any assistance required by the Commission, or hearing to
26 be held under this Chapter.

27 (b) The Judiciary shall provide technical, clerical, and administrative

1 support to the Commission. In exercising the responsibilities in this Chapter, the
2 Judiciary may:

- 3 (1) accept grants, contributions, and appropriations;
- 4 (2) employ such professional or clerical staff as necessary for the
5 operations of the Commission, under the Personnel Rules and Regulations of
6 the Judicial Branch promulgated by the Judicial Council; and
- 7 (3) enter into contracts as necessary for the operations of the
8 Commission, under the law and the rules and regulations promulgated by the
9 Judicial Council.

10 (c) The Office of the Compiler of Laws shall provide technical and other
11 assistance to the Commission, to the extent such assistance does not conflict with
12 the duties of the Compiler of Laws as set forth in 1 GCA, Chapter 16 and Judiciary
13 of Guam Personnel Rules and Regulations. The Compiler of Laws shall ensure that
14 assistance provided to the Commission does not conflict with his or her duties to the
15 Guam Code Advisory Commission under 1 GCA, Chapter 16, § 1611.”

16 **Section 3. Funding.** There is appropriated Two Hundred Fifty Thousand
17 Dollars (\$250,000) from the Audited Fiscal Year 2022 General Fund surplus balance
18 to carry out the purposes of this Act.

19 **Section 4. Effective Date.** This Act shall be effective upon enactment.

20 **Section 5. Severability.** If any provision of this Act or its application to any
21 person or circumstance is found to be invalid or contrary to law, such invalidity shall
22 not affect other provisions or applications of this Act that can be given effect without
23 the invalid provision or application, and to this end the provisions of this Act are
24 severable.

Guam Criminal Law and Procedure Review Commission Members

	Email	Phone Number
Chief Justice Appointees		
Magistrate Judge Jonathan Quan	jq13.144@gmail.com jrquan@guamcourts.org	
Attorney F. Randall Cunliffe	cclaw3@teleguam.net	
Mr. Monty McDowell	monty.mcdowell@amiguam.com	
Governor Appointees		
Judge Elizabeth Barrett-Anderson	elanderson@aol.com	
Judge Anita A. Sukola	rixsukola@gmail.com	
Ms. Valerie Reyes (Lighthouse Recovery Center)	valerie.reyes@usw.salvationarmy.org	
Speaker Appointees		
Attorney Christine Tenorio	tenorio.cms@gmail.com cstenorio@gdoe.net	
Attorney Phillip Tydingco	phillitydingco@yahoo.com	
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GBA President Appointees		
Attorney Joseph McDonald	jbernard@mcdonald.law	
Attorney William Brennan	wbrennan@arriolafirm.com	
Attorney General of Guam		
AAG Marianne Woloschuk	mwoloschuk@oagguam.org	
Public Defender Service Corp.		
Director Stephen Hattori	sphattori@gmail.com sphattori@guampdsc.org	
Guam Police Department		
Chief Stephen Ignacio	stephen.ignacio@gpd.guam.gov susan.reyes@gpd.guam.gov	
Department of Corrections		
Director Robert Camacho (Primary)	robert.camacho@doc.guam.gov	
Major Antone F. Aguon (Alternate)	antone.aguon@doc.guam.gov	
Mr. Mark T. Perez (2 nd Alternate)	mark.perez@doc.guam.gov	
Chief Michael Quinata (Parole, Alternate)	michael.quinata@doc.guam.gov	
Ex Officio Members		
Executive Director Andrew Serge Quenga	aquenga@guamcourts.org	671.475.3278
Compiler of Laws Geraldine Cepeda	gcepeda@guamcourts.gov	671.477.7623

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



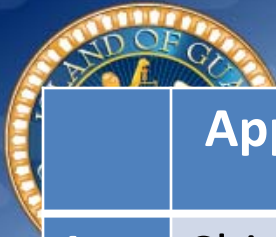
GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION

Initial Plenary Meeting
January 13, 2023, 12:00 p.m.
By Videoconference



Agenda

- I. Call to Order
- II. Proof of Due Notice of Meeting
- III. Determination of Quorum
- IV. New Business
 - A. Introduction of the Commission Chairman, Executive Director and Staff
 - B. Introduction of Commission Members and Subcommission Chairpersons
 - C. Discussion of Statutory Mandates, Goals and Objectives of the Commission
 - D. Presentation of the Draft Workplan
 - E. Tentative Meeting Dates for 2023
- V. Notice of Next Meeting (Thursday, February 9, 2023) Communications
- VI. Public Comment
- VII. Adjournment



	Appointing Authority	Appointee/Designee
1	Chief Justice	Magistrate Judge Jonathan Quan
2	Chief Justice	Attorney Randy Cunliffe
3	Chief Justice	Mr. Monty McDowell (Advance Management, Inc.)
4	Speaker	Attorney Phil Tydingco
5	Speaker	Attorney Christine Tenorio
6	Speaker	Attorney Mike Phillips
7	Governor	Honorable Elizabeth Barrett-Anderson
8	Governor	Honorable Anita A. Sukola
9	Governor	Ms. Valerie Reyes (Lighthouse Recovery Center)
10	GBA President	Attorney Joseph McDonald
11	GBA President	Attorney William Brennan
12	AG Designee	AAG Marianne Woloschuk
13	Director PDSC	Attorney Stephen Hattori
14	GPD Chief of Police	Stephen Ignacio
15	DOC Director	Robert Camacho



Subcommissions

Crimes Against Persons

Attorney Joseph McDonald, Chair

GPD Chief Steve Ignacio

Attorney Stephen Hattori

Compiler of Laws Geri Cepeda

Crimes Relating to Property

Attorney Phil Tydingco, Chair

Mr. Monty McDowell

Attorney Randy Cunliffe

Attorney William (Bucky) Brennan

Drug & Other Criminal Offenses

Hon. Elizabeth Barrett-Anderson, Chair

Attorney Mike Phillips

Attorney Christine Tenorio

DOC Director Robert Camacho

Ms. Valerie Reyes

Criminal Procedure

Hon. Anita A. Sukola, Chair

AAG Marianne Woloschuk

Executive Director Serge Quenga



Public Law 36-119

- Added new Chapter 25 to Title 1 GCA

§ 25.02. Establishment; No Derogation of Organic Act Authority.

(a) There is created the Guam Criminal Law and Procedure Review Commission (Commission) to review the laws that address the criminal procedures and criminal laws of Guam; and to recommend enactments, amendments, and repeals to *I Liheslaturan Guåhan* for action.

§ 25.03. Duties and Responsibilities.

(a) The Commission 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



Statutory Mandates

- Quarterly reports to be submitted to the Chief Justice, *I Maga'hagan Guåhan*, and the Speaker of *I Liheslaturan Guåhan*
- 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



Draft Work Plan

- Subcommission expectations:
 - Hold virtual or in-person meetings
 - Provide progress reports to Plenary Commission
 - Present recommendations to Plenary Commission
- Subcommission packet
 - Public Law 36-119
 - GCA Title 8 and 9 – Word and pdf
 - Commission roster and subcommission roster
 - Draft Work Plan
 - Proposed Dates for 2023



Sample: Chapter Assignments

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



Sample: Table of Recommended Changes

Chapter number	Section number	Title	Recommend: (No change/ Repeal/Amend)	Suggested changes (if any)
16	Criminal Homicide.	§§ 16.10-16.60		
	§ 16.10.	Definitions Applicable to Chapter.		
	§ 16.20.	Criminal Homicide Defined.		
	§ 16.30.	Aggravated Murder Defined.		
	§ 16.40.	Murder Defined.		
	§ 16.50.	Manslaughter Defined and Classified.		
	§ 16.60.	Negligent Homicide Defined and Classified.		
19	Assault, Reckless Endangering, Terrorizing.	§§ 19.10-19.70		
	§ 19.10.	General Definitions.		
	§ 19.20.	Aggravated Assault; Defined and Punished.		
	§ 19.30.	Assault; Defined and Punished.		
	§ 19.40.	Reckless Conduct; Defined and Punished.		
	§ 19.50.	Terroristic Conduct; Defined and Punished.		
	§ 19.60.	Terrorizing; Defined and Punished.		



Sample: Quarterly Report Template

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.
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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.



Review Process

- Phase 1: First Pass
 - Initial review of existing statutes, compare to MPC and other jurisdictions with recent criminal code reforms, community involvement
 - Recommend: (1) No change; (2) Repeal or (3) Amend
- Phase 2: Second Pass
 - Close and critical scrutiny for amendments
 - Recommend: Proposed amended language
- Phase 3: Plenary Commission Review
 - Subcommissions present recommendations to Plenary Commission
 - Plenary Commission may accept or request continued review



Final vote

- Review of all Subcommittee recommendations approved Plenary Commission
- 1 GCA § 25.07(b)

(b) Final Report. The Commission shall submit comprehensive criminal code reform recommendations as required by § 25.03(c) of this Chapter, 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. The



Tentative Meetings 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

**1st Thursday, every other month*



Agenda

- I. Call to Order
- II. Proof of Due Notice of Meeting
- III. Determination of Quorum
- IV. New Business
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Thank you!