



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
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HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

HON. JONATHAN R. QUAN
CHAIRMAN
ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

**GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION
2024 FOURTH QUARTER REPORT
SUBMITTED TO THE**

**GOVERNOR OF GUAM,
SPEAKER OF THE GUAM LEGISLATURE, AND
CHIEF JUSTICE OF GUAM
FEBRUARY 18, 2025**

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

PREFACE

The Guam Criminal Law and Procedure Review Commission (CLRC or Commission) submits its fourth quarter report for 2024 summarizing its activities as required by 1 GCA § 25.07(a). Because the CLRC began operations in January of 2023, quarterly reports align with the calendar year instead of the fiscal year. This fourth quarter report summarizes activities from October 1, 2024 through December 31, 2024.

CLRC STATUTORY AUTHORITY

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

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

CLRC STAFF AND MEMBERS

During the fourth quarter of 2024, the Commission consisted of the following members and staff.

Governor’s Appointees	Hon. Maria T. Cenzon, Hon. Anita A. Sukola, Ms. Valerie Reyes
Speaker’s Appointees	Attorney Phillip Tydingco, Attorney Michael Phillips, Attorney Christine Tenorio
Chief Justice’s Appointees	Hon. Jonathan R. Quan, Attorney F. Randall Cunliffe, Mr. Monty McDowell
Guam Bar President Appointees	Attorney Joseph B. McDonald, Attorney William B. Brennan
Statutory Members (or Designees)	Attorney General of Guam (Designee DAG Nathan Tennyson), Chief of Police (Designee Lt. Ron Taitano), Director of Corrections (Designee Maj. Antone F. Aguon), Executive Director of Public Defender Service Corp (Designee Deputy Director John Morrison)
Compiler of Laws	Attorney Geraldine Cepeda
Staff	Attorney Andrew Serge Quenga (Executive Director), Ms. Rennae Vanessa Meno (Administrative Support)

Ex-officio (auxiliary)	Hon. Sean Brown, Hon. Elizabeth Barrett-Anderson, Attorney Kat Siguenza, Attorney Leonardo Rapadas, Attorney Kristine B. Borja, Attorney Zachary Taimanglo, Attorney Valerie Nuesa
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SIGNIFICANT CLRC ACTIVITIES OCTOBER – DECEMBER, 2024

The Commission held a Plenary Meeting on December 3, 2024. Members deliberated on a range of agenda items, including recommendations to amend sections and chapters of the Criminal Code of Guam. The agenda, meeting packet, and a YouTube video link for this meeting are available on the CLRC website. During this meeting, the following presentations were made:

- The Subcommittee on Crimes Against Persons presented redline markups of its recommendations brought before the Commission at the plenary meeting of September 12, 2024 as requested by Commission Chairman Quan. All recommendations of this Subcommittee that were approved for moving to the final reading file are memorialized in Attachment 1, which includes proposed amendments with changes tracked.
- The Subcommittee on Drugs and Other Criminal Offenses presented its review of 9 GCA Chapter 68 – The Guam Uniformed Controlled Substances Act. The Subcommittee reported that it will not recommend changes for Article 1 (Definitions) and outlined its ongoing review of this chapter.
- The Subcommittee on Crimes Relating to Property presented its review of 9 GCA Chapter 69 and 10 GCA Chapter 60. All recommendations of this Subcommittee that were approved for moving to the final reading file are memorialized in Attachment 2, which includes proposed amendments with changes tracked.

On December 17, 2024, Chairman Quan presented an overview of the mandates and work of the CLRC to the incoming members of the 38th Guam Legislature. His presentation included a status report of chapters reviewed by the Subcommittees.

During the fourth quarter of 2024, the following member and staff changes occurred:

- The CLRC welcomed our new administrative assistant, Ms. Lisa Ibanez to the staff. Ms. Ibanez brings extensive experience in the codification of statutes as a former employee of the Compiler of Laws.
- The CLRC welcomed Attorney Zachary Taimanglo of the Public Defender Service Corporation and Attorney Valerie Nuesa of the Office of the Attorney General as new ex-officio members of the Subcommittee on Drugs and Other Criminal Offenses. Attorneys Taimanglo and Nuesa bring experience from the defense and prosecution bars.

- The CLRC said farewell to Criminal Procedure Subcommittee ex-officio member Attorney Brian Eggleston of the Public Defender Service Corporation, who relocated from Guam.

CONCLUSION

During the fourth quarter of 2024, the Commission continued to make progress in the review of the Criminal Code of Guam. The work of the CLRC continues to the best of the ability of each member. Our Subcommissions face a daunting task—reviewing thousands of criminal statutes throughout the Guam Code Annotated. Apart from the very small full-time staff of the CLRC, each member dedicates significant time to reviewing their assigned chapters and sections of the Criminal Code and discussing any proposed changes in working sessions with their respective Subcommissions. Our appointed and ex-officio volunteer members include full-time attorneys with active caseloads, high-ranking government law enforcement officials, and private citizens with full-time work obligations. Chairman Quan and I thank all members for their commitment and diligence to the work of the Commission.



Magistrate Judge Jonathan R. Quan
Chairman



Andrew Serge Quenga
Executive Director

ATTACHMENT 1

**RECOMMENDATIONS OF THE SUBCOMMISSION ON CRIMES AGAINST PERSONS
PRESENTED AT THE PLENARY MEETING OF DECEMBER 3, 2024**

TITLE 9 GUAM CODE ANNOTATED

§ 19.50. Terroristic Conduct; Defined & Punished.

(a) A person is guilty of terroristic conduct if he threatens to commit any crime of violence with intent to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such inconvenience.

...

CLRC COMMENT: Punctuation clarification. Only (a) is amended with no other changes to this section.

§ 19.81. Interfering with the Reporting of Family Violence; Defined & Punished.

...

(c) Interference with the reporting of family violence is a ~~felony of the third degree~~ misdemeanor.

CLRC COMMENT: Amend to reduce offense level for interference to a misdemeanor. Only (c) is amended with no other changes to this section. For consistency, 9 GCA § 30.300(c) is similarly amended:

§ 30.300. Interfering with the Reporting of Family Violence.

...

(c) Interference with the reporting of family violence is a ~~felony of the third degree~~ misdemeanor.

§ 22.20. Kidnapping; Defined & Punished.

(a) A person is guilty of kidnapping if he unlawfully removes another from his place of residence or business, or a substantial distance from the vicinity where he is found, or if he unlawfully confines another for a substantial period, with any of the following purposes:

...

(2) to facilitate commission of any ~~felony~~ crime or flight thereafter;

...

CLRC COMMENT: Statute as written is difficult to enforce if the felony is unknown. Amendment broadens the effect of the statute. Amendment follows other MPC jurisdictions that have changed "felony" to "crime" (e.g. New Jersey).

§ 25.10. Definitions.

(a) As used in this Chapter:

...

(12) "Affinity" means family members related by marriage. The method of computing degrees of affinity is the same method as computing degrees of consanguinity.

(13) "Consanguinity or relationship by blood (related by blood)" as used in this Chapter, means relationship between persons arising by descent from a common ancestor or a relationship by birth rather than by marriage. The degree of consanguinity is determined by counting upward from one of the persons in question to the nearest common ancestor, and then down to the other person, calling it one degree for each generation in the ascending as well as the descending line.

CLRC COMMENT: Amend to add new definitions of terms used in this Chapter.

§ 25A102. Indecent Electronic Display to a Child.

...

~~(c) It shall not constitute a defense against any charge or violation of this Section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this Section.~~

CLRC COMMENT: Delete (c) and reenact as new § 25A106 to apply the new section to the chapter.

9 GCA § 25A103. Electronic Enticement of a Child as a Third Degree Felony.

(a) Any person who, using a computer online service, internet service, or any other device capable of electronic data storage or transmission to solicit, lure, or entice, or attempt to solicit, lure, or entice:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen (18) years;

~~(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or~~

~~(C)~~ with another person who represents him or herself to be under the age of eighteen (18) years,

...

~~(d) It shall not constitute a defense against any charge or violation of this Section that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this Section.~~

CLRC COMMENT: Delete (a)(1)(B) as reckless disregard is covered under knowing. Delete (d) and reenact as new § 25A106 to apply the new section to the chapter.

§ 25A104. Electronic Enticement of a Child as a Second Degree Felony.

(a) Any person who, using a computer online service, internet service, or any other device capable of electronic data storage or transmission:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen (18) years;

~~(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or~~

...

CLRC COMMENT: Delete (a)(1)(B) as reckless disregard is covered under knowing.

9 GCA § 25A105. Electronic Enticement of a Child as a First Degree Felony.

(a) Any person who, using a computer online service, internet service, or any other device capable of electronic data storage or transmission:

(1) intentionally or knowingly communicates:

(A) with a minor known by the person to be under the age of eighteen (18) years;

~~(B) with another person, in reckless disregard of the risk that the other person is under the age of eighteen (18) years, and the other person is under the age of eighteen (18) years; or~~

...

CLRC COMMENT: Delete (a)(1)(B) as reckless disregard is covered under knowing.

9 GCA § 25A106. Electronic Enticement; No Defense.

It shall not constitute a defense against any charge or violation of this Chapter that a law enforcement officer, peace officer, or other person working at the direction of law enforcement was involved in the detection or investigation of a violation of this Chapter.

CLRC COMMENT: Reenacted and consolidated from 25A102(c) and 25A103(d).

§ 26.41. Protection of Trafficking and Domestic Violence Shelters.

(a) Any person who ~~maliciously or~~ with criminal negligence publishes, disseminates, or otherwise discloses the location of any trafficking victim, any trafficking shelter or domestic violence shelter or any place designated as a trafficking shelter or domestic violence shelter, without the authorization of that trafficking victim, trafficking shelter or domestic violence shelter, is guilty of a misdemeanor.

...

CLRC COMMENT: Delete “maliciously” to conform with the Model Penal Code, which does not use this term.

§ 31.30. Child Abuse; Defined & Punished.

(a) A person is guilty of child abuse when:

(1) he subjects a child to cruel mistreatment; or

(2) inflicts upon a child unjustifiable physical pain or mental suffering; or

~~(2)~~(3) having a child in his care or custody or under his control, he:

(A) deserts that child with intent to abandon him;

~~(B) subjects that child to cruel mistreatment; or~~

~~(C)(B)~~ unreasonably causes or permits the physical or, emotional health of that child to be endangered or unreasonably causes or permits that child to be placed in a situation where his or her person or health may be endangered; or

(C) neglects that child.

...

(d) As used in this Section, neglect of a child shall consist in any of the following acts by anyone having the custody or control of the child:

(1) willfully failing to provide proper and sufficient food, clothing, maintenance, regular school education as required by law, medical attendance or surgical treatment, and a clean and proper home; or

(2) failure to do or permit to be done any act necessary for the child's physical or moral well-being.

CLRC COMMENT: New (a)(2) is from California, clarifies when child abuse occurs and is consistent with 9 GCA § 7.94 which allows corporal punishment of a child. Delete (a)(3)(B) which is already stated in (a)(1). New (a)(3)(C) and (d), from New Jersey, adds and defines "neglect."

ATTACHMENT 2
RECOMMENDATIONS OF THE SUBCOMMISSION ON CRIMES RELATING TO PROPERTY
PRESENTED AT THE PLENARY MEETING OF DECEMBER 3, 2024

TITLE 9 GUAM CODE ANNOTATED

§ 69.40. Criminal Penalty.

~~(a) Any person in violation of §§ 69.15 or 69.20 of this chapter is guilty of a felony of the second degree. An indictment must be found or information or complaint filed within five (5) years from the date of the violation or from the date of the last overt act committed pursuant a conspiratorial plan.~~

~~(b) No criminal action may be brought against any person for the same violation for which such person has been convicted in a criminal proceeding for a violation of the Federal antitrust laws.~~

CLRC COMMENT: Subsection (a) amended to remove the specific statute of limitations and allow the general statute of limitations for felonies (three years) in 8 GCA § 10.20 to govern. Subsection (b) is unnecessary and stricken as the double jeopardy clause in U.S. Constitution prohibits prosecution for the same offense by a territory and the United States. *See Puerto Rico v. Sanchez Valle*, 579 U.S. 59 (2016).

~~**§ 69.45. Civil Penalty and Injunctive Enforcement.**~~

~~**§ 69.50. Judgment in Favor of Territory if Prima Facie Evidence.**~~

~~**§ 69.55. Limitation of Actions.**~~

~~**§ 69.60. Remedies Cumulative.**~~

CLRC COMMENT: Sections 69.45, 69.50, 69.55 and 69.60 contain civil remedies and may be repealed and reenacted to the Civil Code after consultation with the Compiler of Laws.