



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
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HON. ROBERT J. TORRES
CHIEF JUSTICE

HON. ALBERTO C. LAMORENA, III
PRESIDING JUDGE

HON. JONATHAN R. QUAN
CHAIRMAN

ANDREW SERGE QUENGA
EXECUTIVE DIRECTOR

GUAM CRIMINAL LAW AND PROCEDURE REVIEW COMMISSION (CLRC) PLENARY MEETING | THURSDAY, MAY 29, 2025 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chairman Jonathan Quan at 12:38 PM.

II. PROOF OF DUE NOTICE OF MEETING

Chairman Quan noted that public notices of the meeting were published pursuant to the Open Government Law and are included in the meeting packet.

III. DETERMINATION OF QUORUM

CLRC Administrative Support Lisa Ibanez called the roll.

CLRC Members:

Hon. Jonathan R. Quan, Present, Judiciary of Guam
Hon. Maria T. Cenzone, Present on Zoom, Florida
Hon. Anita A. Sukola, Presence on Zoom noted by Chairman
Atty. William Bucky Brennan, Present on Zoom, Hagåtña
DOC Director Fred Bordallo, Present, Judiciary of Guam
Chief of Police Designee Sgt. Michael Elliott, Present on Zoom, Tamuning
Atty Joseph B McDonald, Present on Zoom, Anaheim CA
Atty. F. Randall Cunliffe, (No response during roll call)
Mr. Monty McDowell, Present, Judiciary of Guam
Public Defender Designee Dep. Dir. John Morrison, Present, Judiciary of Guam
Attorney General Designee AAG Emily Rees, Present, Judiciary of Guam
Atty. Mike Phillips, (No response during roll call)
Ms. Valerie Reyes, (No response during roll call)
Atty. Christine Tenorio, Present on Zoom, Hagåtña
Atty. Phillip Tydingco, (No response during roll call)

Ex-Officio, (Non-Voting Members)

Executive Director Andrew S. Quenga, Present, Judiciary of Guam
Compiler of Laws Geraldine Cepeda, Present, Judiciary of Guam

Chairman Quan acknowledged a quorum present.

IV. DISPOSAL OF MINUTES: February 6, 2025, and April 10, 2025

The minutes from the previous Plenary Meetings of February 6 and April 10, 2025, were approved without objection.

V. OLD BUSINESS

A. Subcommittee Status Update and Report of the Executive Director.

Executive Director Quenga provided an informational report.

- The 2025 First Quarter Report of the CLRC was recently released and is available on the CLRC webpage.
- Out of forty-six (46) chapters in Title 9, twenty-four (24) have been fully reviewed and included in the Interim Report. Fourteen (14) chapters are under review, and eight (8) are pending
- Title 8 review will commence following the completion of Title 9.

B. Subcommittee on Criminal Procedure Subcommittee Continued Presentation on 9 GCA § 52.10.

Executive Director Quenga presented a clarification on § 52.10(e), which was inadvertently omitted from the April 2025 meeting presentation. His PowerPoint presentation is included here as Attachment 1.

- § 52.10(e). [Definition of statement]. Amend as shown in as shown in Attachment 1, Slides 3-4.

Discussion: Recommend deleting the term “non-trivial,” adding the term “includes,” and deleting the phrase “is a statement” for consistency with source Model Penal Code § 241.0(2). The term “non-trivial” is not in the MPC and potentially conflicts with materiality of a “statement” as the term used in §§ 52.15 and 52.20.

Chairman Quan called for a motion to approve this recommendation. Approved without objection.

VI. NEW BUSINESS

A. Presentation, Consideration and Vote of Interim Report Final Recommendations.

The Executive Director read background information on the Interim Report into the record:

- The report, along with related materials, was distributed to all members of the Commission on May 15 and posted on the CLRC webpage to provide sufficient time for review prior to this Plenary Meeting.
- The Draft Interim Report presents the Commission’s recommendations that were approved through the first phase of the Commission’s review process. These

recommendations are now presented to the plenary Commission for its final review and approval. Only those chapters that have been fully reviewed and approved will be included in the Final Interim Report. Chapters that are still under review or require further deliberation will be brought forward in a future report.

- The Interim Report consists of a narrative describing the process of review undertaken by the subcommissions, which conduct detailed analyses of the statutes. The report also attaches the Commission's enabling legislation (1 GCA Chapter 25), a table that tracks all Commission recommendations by chapter and section; and a blackline version of the approved recommendations, which uses underlining and strikethroughs to indicate changes to the statutory language. Each blackline entry is accompanied by Commission comments to explain the rationale for the recommended changes.
- The primary work of the Commission takes place within its subcommissions, where members participate in working sessions to review and discuss proposed changes. Guam is a Model Penal Code (MPC) jurisdiction. The Review was based on the MPC and other MPC jurisdictions, as well as on recently updated criminal codes in Hawaii and the District of Columbia. The subcommissions identify provisions that are archaic, unused, unconstitutional, inorganic, or otherwise outdated, and they develop recommendations to amend, repeal, or retain the affected language as appropriate.
- The Commission membership includes current and former prosecutors, public defenders, judges, former judges, and experienced lay members who bring decades of practical expertise with Guam's criminal laws.
- Under the Commission's enabling legislation, final approval of the Interim Report requires at least eight affirmative votes. If approved at this meeting, the Final Interim Report will be formally submitted to the Guam Legislature in accordance with Public Law 36-119.

Chairman Quan called for a motion to approve the Interim Report for discussion purposes. The motion was approved without objection. Chairman Quan called for discussion.

Member, Mr. Monty McDowell, expressed his hope that the current legislature will support and enact the Commission's recommendations. As a non-attorney member, he commended the attorneys on the Commission for their contributions and dedication, highlighting the quality of the work produced. He stated that legislative approval of the current recommendations would inspire confidence to complete the remaining work of the Commission.

Member, Attorney William Brennan, in anticipation of legislative hearings concerning the Commission's work-product, questioned if it would be prudent to have the Executive Director and non-judicial officer subcommission chairs appear at legislative hearings on behalf of judicial officer members to avoid advocacy issues.

Chairman Quan acknowledged the importance of Attorney Brennan's comment and stated it would be addressed at a later point. Chairman Quan called any further comments.

With no further comments offered, Chairman Quan called for a motion to approve the Interim Report. A motion to approve was made by member Mr. Monty McDowell, and seconded by member, DOC Director, Fred Bordallo. Chairman Quan requested a roll-call vote by CLRC Administrative Assistant, Ms. Lisa Ibanez.

Ms. Lisa Ibanez called for the vote of each member present. Voting to approve the Interim Report were members:

- Hon. Anita Sukola,
- Attorney William Brennan,
- DOC Chief Fred Bordallo,
- GPD Sgt. Michael Elliott,
- Attorney Joseph McDonald,
- Mr. Monty McDowell,
- Attorney John Morrison,
- Assistant Attorney General Emily Rees,
- Attorney Christine Tenorio, and
- Chairman Hon. Jonathan Quan.

The Hon. Maria Cenzone abstained from voting, noting the potential advocacy issues raised by Attorney William Brennan and concerns of her own.

There were no votes in opposition to the Interim Report.

Ms. Lisa Ibanez confirmed ten (10) yes votes and one (1) abstention.

Chairman Quan stated a written resolution memorializing the approval of the Interim Report will be issued and that the Interim Report will be finalized and transmitted within two weeks. He thanked all members and non-voting members as well as CLRC staff and his chamber staff.

D. Notice of next meeting: Thursday, July 31, 2025, Noon (Tentative)

Chairman Quan informed Members that the next Plenary meeting is tentatively scheduled for Thursday, July 31, 2025, at 12:00 noon.

VII. Communications

None.

VIII. Public Comment

None.


IX. Adjournment

Chairman Quan adjourned the meeting without objection.

IX. Adjournment


Chairman Quan adjourned the meeting without objection.

Respectfully submitted this 31st day of July, 2025.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the May 29, 2025, meeting were approved by the CLRC at the July 31st, 2025 plenary meeting.



Magistrate Judge Jonathan R. Quan, Chairman
Date: 7/31/25

ATTACHMENT 1

SUBCOMMISSION ON CRIMINAL
PROCEDURE

PRESENTATION

MAY 29, 2025



Presented Today

9 GCA Chapter § 52.10(e)

Chapter 52. Perjury and Offense Against the Integrity of Official Proceedings.

Section 52.10. Definitions.

Subsection (e) Inadvertently Omitted in Previous Presentation

1



§ 52.10. Definitions.

As used in this Chapter:

~~(a) official function and public servant have the meanings provided for those terms by § 49.10. [Cmt: Definitions added directly below.]~~

~~(ba) material statement~~ means a statement which affected or could have affected the course or outcome of a proceeding, regardless of its admissibility under rules of evidence.

~~(b) official function means the decision, opinion, recommendation, vote or other exercise of discretion or performance of duty of a public servant in a lawful or unlawful manner. [Cmt. From § 49.10]~~

~~(c) official proceeding~~ means a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer an oath or cause it to be administered, including any referee, hearing officer, commissioner, notary or other person taking testimony or deposition in connection with any such proceeding.

~~(d) public record means any record, document, thing belonging to, or received or kept by the Government of Guam or any governmental instrumentality within the Territory. [Cmt. Term "public record" is not used in this chapter]~~

~~(d) public servant means any officer, member, or employee of the legislative, executive, or judicial branches of Guam or of any governmental instrumentality within Guam, any juror, any persons exercising the functions of any such position, or any referee, arbitrator, hearing officer, or other person authorized by law to hear or determine any question or controversy. It includes a person who has been elected, appointed or designated to become a public servant, and, in the case of a juror, a person who has been drawn, empaneled, or designated to attend as a prospective grand or petit juror. [Cmt. From § 49.10]~~

[(e) inadvertently omitted in previous presentation]

~~(f) statement under oath~~ means

~~(1) a statement made pursuant to a swearing, an affirmation, or any other mode authorized by law of attesting to the truth of that which is stated; and~~

~~(2) a statement made on a form bearing notice, authorized by law, to the effect that false statements made therein are punishable.~~

~~(3) testimony means oral or written statements, documents or any other material which may be offered by a witness in an official proceeding. [Cmt. Moved to (g)]~~

~~(g) testimony means oral or written statements, documents or any other material which may be offered by a witness in an official proceeding.~~

2



§ 52.10. Definitions.

(e) statement means any ~~non-trivial~~ representation, but includes a representation of opinion, belief or other state of mind ~~is a statement~~ only if it clearly relates to a state of mind apart from or in addition to the facts which it otherwise represents.

Cmt:

- Amendments return this section closer to the language in source MPC § 241.0(2), which states:
"statement" means any representation, but includes a representation of opinion, belief or other state of mind only if the representation clearly relates to state of mind apart from or in addition to any facts which are the subject of the representation."



§ 52.10. Definitions.

(e) statement means any ~~non-trivial~~ representation, but includes a representation of opinion, belief or other state of mind ~~is a statement~~ only if it clearly relates to a state of mind apart from or in addition to the facts which it otherwise represents.

Cmt continued:

- The term "non-trivial" is not in MPC § 241.0(2) and creates a potential conflict with "statement" as used in sections 52.15 (Perjury) and 52.20 (False Statement Under Oath).

§ 52.15. Perjury; Defined & Punished.

(a) A person is guilty of perjury if, under oath in an official proceeding, he makes a false statement which is material and which he does not believe to be true.

(b) Whether a statement is material is a question of law.

(c) Perjury is a felony of the third degree.

§ 52.20. False Statement Under Oath; Defined & Punished.

A person is guilty of a misdemeanor if he makes a false statement under oath which he does not believe to be true and:

(a) the falsification occurs in an official proceeding; or

(b) the falsification is intended to mislead a public servant in performing his official function.