



Judiciary of Guam

Guam Criminal Law and Procedure Review Commission
Guam Judicial Center • 120 West O'Brien Dr • Hagåtña, Gu. 96910
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HON. KATHERINE A. MARAMAN
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, JANUARY 29, 2026 MINUTES

I. CALL TO ORDER

The meeting was called to order by Chair Jonathan R. Quan at 12:04 PM. The meeting was held in person in the Judge Joaquin V. Manibusan Sr. Memorial Courtroom at the Judicial Center and via Zoom. The session was livestreamed on the Judiciary of Guam's YouTube channel.

II. PROOF OF DUE NOTICE OF MEETING

The Chair confirmed due notice of the meeting in compliance with the Open Government Law. Notices were published in local newspapers and included in the meeting packet.

III. DETERMINATION OF QUORUM

Roll call was conducted by Administrative Assistant Lisa Ibanez. Eleven members were confirmed present, establishing a quorum.

- Hon. Jonathan R. Quan – Present, Judiciary of Guam
- Hon. Maria T. Cenzone – No response
- Hon. Anita A. Sukola – Present, California
- Atty. William B. Brennan – Present, Hagåtña
- DOC Designee Maj. Antone Aguon – Present, Mangilao
- Chief of Police Designee Sgt. Michael Elliott – Present, Tiyan
- Atty. Joseph McDonald – Present, Judiciary of Guam
- Atty. Randall Cunliffe – Present, Hagåtña
- Mr. Monty McDowell – Present, Judiciary of Guam
- Public Defender Designee Atty. John Morrison – Present, Sinajaña
- Attorney General Designee Atty. Valerie Nuesa – Present, Hagåtña
- Attorney Michael Phillips – No response
- Miss Valerie Reyes – No response
- Attorney Christine Tenorio – Present, Hagåtña
- Atty. Philip Tydingco – No response

- Ex-Officio (Non-Voting Members):
- Executive Director Serge Quenga – Present, Judiciary of Guam
- Compiler of Laws Geri Cepeda – Present, Judiciary of Guam

Chair Quan acknowledged that a quorum was present and welcomed all attendees and observers.

IV. DISPOSAL OF MINUTES: October 8, 2025

The Judiciary of Guam is an equal opportunity provider and employer.

The minutes of the October 8, 2025, plenary meeting were approved without objection.

V. OLD BUSINESS

A. Status Update and Report of Executive Director.

- Welcomed new Chief Justice Katherine Maraman and thanked former Chief Justice Robert J. Torres for his support of the commission.
- Announced and welcomed new research attorney, Attorney Yusuke Haffeman-Udagawa.
- Announced that the Director, Compiler of Laws, and Research Attorneys will lead some subcommissions' work moving forward. The Commission has until January 2027 to complete its work, unless we receive an additional appropriation and an extension of time.
- Fourth Quarter 2025 report will be released soon.

B. Interim Report Update and Notice of Errata.

- Director Quenga provided an update on the CLRC Interim Report of recommendations sent to the Legislature June 13, 2025, and presented the Notice of Errata and Revisions for discussion and approval (Attachment 1).
- The CLRC Interim Report, submitted to the Legislature June 13, 2025, led to the introduction of Bill No. 232, an omnibus measure adopting the Commission's recommendations. Following a legislative request for review, the CLRC identified revisions required due to subsequent legislative amendments, and limited clerical errors in the Interim Report.
- CLRC staff drafted a Notice of Errata and Revisions to correct discrepancies, align the report with current law, and facilitate incorporation into Bill 232.
- Summary of revisions: 7 sections updated due to legislative changes, 3 sections reverted to "no change" (Compiler of Laws updates), and 5 clerical corrections.
- Discussion:
 - Director Quenga covered all sections in the Notice of Errata and Revisions and presented a table showing pending bills that could affect Title 9 sections under review.
 - Members noted that ongoing legislative amendments to Title 9 create timing challenges and that continuous real-time review could delay completion of the Commission's mandate.

- It was suggested that ongoing statutory review may be better suited for a permanent law revision commission.
- The Commission agreed to:
 - Include notations identifying sections not reviewed by the CLRC; and
 - Provide regular updates on pending legislation at future meetings.

Chairman Quan called for a motion to approve the Notice of Errata and Revisions. Motion to approve made by Attorney Joseph McDonald and seconded by Attorney Valerie Nuesa. Approved without objection. The Notice of Errata and Revisions will be transmitted to Legislature and incorporated in a revised draft Bill 232. The Commission will continue to monitor legislation affecting Title 9.

VI. NEW BUSINESS

A. Subcommittee on Criminal Procedure: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Research Attorney Gordon Anderson presented on behalf of the Criminal Procedure Subcommittee. His PowerPoint presentation is included as Attachment 2.

- 9 GCA Chapter 7 (Exemptions and Defenses)
 - § 7.86 (Self-Defense Limited). Discussed and tabled at Plenary Meeting of October 25, 2025. Amend as shown in Attachment 2, Slide 5.
 - Discussion: This is a revised proposal to amend 9 GCA § 7.86(b) (deadly force), replacing outdated and undefined terms with defined statutory language. The proposal substitutes “serious bodily harm” with “serious bodily injury,” “rape or sodomy” with “sexual penetration compelled by,” and “force or threat” with “force or coercion.” The intent is to align the statute with existing definitions in Title 9 while avoiding unintended expansion of the defense.

The Subcommittee emphasized that the changes are largely non-substantive and preserve the original scope, focusing on sexual penetration rather than broader criminal sexual conduct.

The Subcommittee previously proposed replacing “rape or sodomy” with “criminal sexual conduct (CSC)”, but concerns were raised that this would overbroaden the statute to include lesser offenses (e.g., 4th degree CSC involving sexual touching)

Discussion centered on whether the proposal adequately accounts for cases involving minors and second-degree CSC. Atty. Christine Tenorio raised

concerns that the language may exclude certain child victims where force or coercion is not present, while other members noted the statute's narrow application to deadly force and the need to avoid overbroad inclusion. Members also clarified that the statute applies to immediate threats rather than past abuse.

Chairman Quan called for a motion to approve the recommendation as presented. Motion was made by Attorney Randy Cunliffe and seconded by Mr. Monty McDowell. Approved without objection.

B. Subcommittee on Crimes Against Persons: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Attorney Joseph McDonald presented. His PowerPoint presentation is included as Attachment 3.

- 9 CGA Chapter 30. Family Violence. No changes recommended to Chapter 30 sections (except § 30.20) as shown in Attachment 3, Slide 3.
 - § 30.20 (Family Violence). Amend subsection (d) as shown in Attachment 3, Slide 4.
 - Discussion: Delete phrase “that due to unusual circumstances” from (d). Reference to “unusual circumstances” is redundant. It is encompassed by the “manifest interest of justice” standard in (d). The revision is intended to eliminate redundancy and preserve judicial discretion.
 - § 30.30. (Powers and Duties of Peace Officers to Arrest for Crimes Involving Family Violence; Determination of Primary Aggressor; Required Report). No change as shown in Attachment 3, Slide 5.
 - Discussion: Statute is difficult to apply and enforce. After review, no recommendation to repeal. Similar provisions remain in use across many jurisdictions but may be underutilized in practice as it requires officers to identify and document the primary aggressor before making an arrest. Other jurisdictions address implementation challenges through law enforcement training requirements.
 - § 30.31. Mandatory Confinement. No change as shown in Attachment 3, Slide 6.
 - Discussion: Noted some due process concerns and difficulty in application. However, confinement decisions are based on probable cause determinations. Mandatory confinement remains effective as a general policy tool, particularly for immediate de-escalation. No change to all the other sections. As shown in Attachment 3, slide 6.
- 9 GCA Chapter 49. Bribery. No changes recommended to Chapter 49 sections as shown in Attachment 3, slide 8.

- Discussion: No changes recommended. However, concerns raised that public official misconduct is classified only as a misdemeanor, despite potentially serious conduct committed under color of law. Noted that certain cases may warrant felony-level treatment, particularly where aggravating factors are present (e.g., high-level officials, significant monetary gain, repeat offenses, or law enforcement involvement). Policy concerns were also raised regarding the limited employment consequences of misdemeanor convictions.

Executive Director noted it would be worthwhile to look at range of penalties. Members agreed that § 49.90 (Official Misconduct) would be tabled for further review.

Executive Director noted § 49.70 was omitted from list of sections in Slide 8. Subcommittee confirmed no change to § 49.70.

- 9 GCA Chapter 64. Gambling. No change recommended to Chapter 64 sections in slide as shown in Attachment 3, Slide 11.
 - Discussion: No changes recommended. Gambling is highly regulated. Repeal or regulation is a policy decision, including cockfighting which is a federal crime.

Executive Director noted inconsistency in § 64.40 where gambling related to cockfighting remains referenced despite the prior CLRC recommendation to remove cockfighting as a lawful activity in alignment with federal law. Members noted the cultural context and lack of recent federal enforcement but acknowledged the need for statutory consistency. The Subcommittee agreed to table § 64.40 was tabled for further review.

Chairman Quan called for a motion to approve the subcommittee's recommendations on § 30.20(d), to table § 49.90 and § 64.40, and no change to all other sections in chapters 30, 49, and 64. Motion made by Mr. Monty McDowell. Seconded by Attorney Joe McDonald. Approved without objection.

C. Subcommittee on Crimes Involving Property: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Tabled by Chairman.

D. Ad Hoc Subcommittee on Corrections-Related Chapters. Discussion of Chapters and Presentation of Recommendations for Discussion and Approval.

Tabled by Chairman.

E. Subcommittee on Drug & Other Criminal Offenses: Discussion of Chapters and Presentation of Recommendations for Discussion and Approval

Tabled by Chairman.

VII. COMMUNICATIONS

None.

VIII. PUBLIC COMMENT

None

IX. ADJOURNMENT

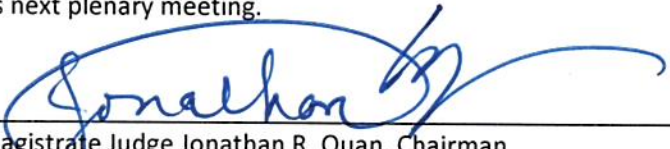
There being no further business, Chair Quan adjourned the meeting at approximately 1:15 PM. The next meeting date is March 26, 2026, at Noon.

Respectfully submitted this 9th day of April 2026.



Andrew S. Quenga, Executive Director

As set out above, the minutes of the January 29, 2026, plenary meeting were approved by the CLRC at its next plenary meeting.



Magistrate Judge Jonathan R. Quan, Chairman

Date: April 9, 2026

ATTACHMENT 1

EXECUTIVE DIRECTOR REPORT ON
NOTICE OF ERRATA AND REVISIONS

PRESENTATION

JANUARY 29, 2026



NOTICE OF ERRATA AND REVISIONS BACKGROUND AND PURPOSE

- CLRC submitted Interim Report to I Liheslaturan Guåhan on June 13, 2025, recommending amendments to selected chapters of Title 9, Guam Code Annotated.
- Bill 232-38, introduced Nov. 20, 2025, adopts all recommendations in the Interim Report.
- After submission of the Interim Report, certain amendments to Title 9 sections were enacted. This Notice addresses sections in the Interim Report that are affected by those amendments.
- The CLRC also identified clerical, typographical, and formatting errors.
- This Notice corrects errors and revises recommendations as necessary to reflect intervening legislative amendments.
- Replaces corresponding sections in the Interim Report and Bill 232.



SECTIONS AFFECTED

SECTION	ERRATA/BASIS FOR REVISION
§ 1.18	Correction made by Compiler of Laws
§ 1.19	Correction made by Compiler of Laws
§ 1.20	Correction made by Compiler of Laws
§ 16.50	Clerical
§ 19.82	Subsequent amendment by the Legislature in P.L. 38-070 (Oct. 17, 2025)
§ 25.10	Subsequent amendment by the Legislature in P.L. 38-016 (June 17, 2025)
§ 25.15	Subsequent amendment by the Legislature in P.L. 38-016 (June 17, 2025)
§ 25.20	Subsequent amendment by the Legislature in P.L. 38-016 (June 17, 2025)
§ 25.25	Subsequent amendment by the Legislature in P.L. 38-083 (Dec. 20, 2025)
§ 25.50	Subsequent amendment by the Legislature in P.L. 38-070 (Oct. 17, 2025)
§ 31.30	Clerical
§ 34.50	Clerical
§ 34.60	Clerical
§ 34.70	Subsequent amendment by the Legislature in P.L. 38-078 (Dec. 16, 2025)
§ 70.65	Clerical



§ 1.18. CLASSES OF CRIMES.

§ 1.19. FELONIES DEFINED AND CLASSIFIED.

**§ 1.20. RELATIONSHIP OF CODE TO OTHER LAWS;
CONTEMPTS, PENALTIES AND REMEDIES**

ERRATA. Non-substantive amendments removing “territory” for consistency with 1 GCA § 420 have already been made by the Compiler of Laws.

REVISION. Replace with current version and change CLRC Comment to “No change.”



§ 16.50. MANSLAUGHTER DEFINED AND CLASSIFIED.

ERRATA: Clerical errors.

(a)(2) a homicide which would otherwise be murder is committed under the influence of extreme mental or emotional disturbance for which there is reasonable explanation or excuse. {The reasonableness of such explanation or excuse shall be determined from the viewpoint of a reasonable person in the defendant's situation under the circumstances as he believes them to be. The defendant must prove the reasonableness of such explanation or excuse by a preponderance of the evidence}; or

REVISION: Replace with correct section.



§ 19.82. INTERFERING WITH THE REPORTING OF CRIMINAL SEXUAL CONDUCT; DEFINED AND PUNISHED.

ERRATA. New section added by P.L.38-70 (10/17/25) *after* the Interim Report was submitted to the Legislature on June 13, 2025.

REVISION. Add this new section to the Interim Report with non-substantive spelling and punctuation corrections (*e.g.* abbet, abbeting).



§ 25.10(a). DEFINITIONS.

ERRATA. Amended by PL 38-016 (6/17/25) after Interim Report.

REVISION. Revise (a) as amended by PL 38-016.

Punctuation corrections.

Interim Report adds (a)(12)–(14)	P.L. 38-016 adds subsections (a)(12)-(15) Shown with recommended CLRC amendments
<p>(12) "Affinity" means family members related by marriage. The method of computing degrees of affinity is the same method as computing degrees of consanguinity.</p> <p>(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.</p> <p>(14) "Cunnilingus" is the touching of the urethral opening, vaginal opening, or labia with the actor's mouth.</p>	<p>(12) "Consanguinity or Relationship by blood" means a 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.</p> <p>(13) "Affinity" is the relation existing in consequence of marriage between each of the married persons and the blood relatives of the other. The method of computing degrees of affinity is the same method as computing degrees of consanguinity.</p> <p>(14) "Dating relationship" means a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on consideration of:</p> <ul style="list-style-type: none"> (A) the length of the relationship; (B) the nature of the relationship; and (C) the frequency and type of interaction between the persons involved in the relationship. A casual acquaintanceship or ordinary fraternization in a business or social context does not constitute a "dating relationship." <p>(15) Adoption refers to the act where an adult formally becomes the guardian of a child and incurs the rights and obligations of a parent.</p> <p>(16) "Cunnilingus" is the touching of the urethral opening, vaginal opening, or labia with the actor's mouth.</p>



§ 25.15. FIRST DEGREE CRIMINAL SEXUAL CONDUCT
§ 25.20. SECOND DEGREE CRIMINAL SEXUAL CONDUCT

ERRATA. Sections amended by P.L. 38-016 (6/17/25) after Interim Report submission.

REVISION. Although no changes in Interim Report, need to replace the sections as amended.



§ 25.25. THIRD DEGREE CRIMINAL SEXUAL CONDUCT.

ERRATA. Sections amended by P.L. 38-083 (12/20/25) after Interim Report submission.

REVISION. Although no changes in Interim Report, need to replace the sections as amended.



§ 25.50. INTERFERING WITH THE REPORTING OF CRIMINAL SEXUAL CONDUCT.

ERRATA. New section added by P.L. 38-070 (10/17/25) *after* Interim Report submission.

REVISION. Add this new section to Interim Report with non-substantive spelling and punctuation corrections (*e.g.* abbet, abbeting).



§ 31.30. CHILD ABUSE.

ERRATA. Clerical errors.

- (a)(2) inflicts upon a child unjustifiable physical pain or mental suffering; or ~~willfully causes or permits any child to suffer;~~
- (d)(1) intentionally ~~willfully~~ failing to provide proper and sufficient food ...

REVISION. Replace with correct section.



§ 34.50. CRIMINAL MISCHIEF; DEFINED.

ERRATA. Clerical error.

- (e) he intentionally damages the property of **another** or forest land;
of

REVISION. Replace with correct section.



§ 34.60. CRIMINAL MISCHIEF; PUNISHED.

ERRATA. Clerical error.

~~(b)~~ A violation of ~~subsection (a) of~~ § 34.50 is a second degree felony if the defendant's conduct results in pecuniary loss of Five Thousand Dollars (\$5,000.00) or more, a third degree felony if the defendant's conduct causes or is intended to cause results in pecuniary loss of Two Thousand Five Hundred Dollars (\$2,500.00) or more, but less than Five Thousand Dollars (\$5,000.00) in excess of Five Hundred Dollars (\$500.00), a misdemeanor if the defendant's conduct causes or is intended to cause results in pecuniary loss of Five Hundred Dollars (\$500) or more but less than Two Thousand Five Hundred Dollars (\$500.00) in excess of Fifty Dollars (\$50.00), and a petty misdemeanor if the defendant's conduct causes or is intended to cause results in pecuniary loss of less than Five Hundred Dollars (\$500.00) in excess of Twenty four Dollars (\$24.00). Otherwise, criminal mischief is a violation.

REVISION. Replace with correct section.



§ 34.70. GRAFFITI PROHIBITED.

ERRATA. Section amended by P.L. 38-078 (12/16/25) after Interim Report submission.

REVISION. Withdraw Interim Report recommendations inconsistent with P.L. 38-078. Keep amendment to (a)(3)

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



§ 70.65. DEFENSES AND EXCEPTIONS.

ERRATA. Clerical errors in renumbering subsection (g). Subsection (g)(2) regarding cockfighting was deleted. Renumbered accordingly.

REVISION. Correct subsection numbers.



SUMMARY

- Revisions correct errata and reflect subsequent legislative amendments to sections in the Interim Report.
- Changes are non-substantive unless expressly noted.
- Revised sections supersede sections in the Interim Report and Bill 232.
- Notice of Errata and Revisions submitted for CLRC approval.
- Will be transmitted to the Legislature and other stakeholders.

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PENDING BILLS THAT MAY AFFECT TITLE 9 SECTIONS UNDER REVIEW OR IN THE INTERIM REPORT

Bill No.	Title 9 Section(s) Affected	Interim Report Recommendation
Bill 162-38*	Amends § 19.50 (Terroristic Conduct; Defined & Punished)	Non-substantive amendment in Interim Report
Bill 138-38*	Amends § 7.58 (Intoxication)	Not covered in Interim Report
Bill 191-38	Adds a new § 70.460 (Operation of Unmanned Aircraft Over Correctional or Detention Facility)	New section not in Interim Report
Bill 171-38	Adds a new chapter 28A (Nonconsensual Intimate Depictions Act of 2025)	New chapter not in Interim Report
Bill 140-38	Adds a new § 90.16.2 to article 1 of chapter 90 (Fair Compensation and Retention for Correctional Officers Act of 2025)	New section not in Interim Report
Bill 105-38	Amend subsection (a) of § 80.70, chapter 80	Not covered in Interim Report

*Bills 162 and 138 are in the Legislature's Jan. 26, 2026 Session Agenda

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ATTACHMENT 2

SUBCOMMISSION ON
CRIMINAL PROCEDURE

PRESENTATION
JANUARY 29, 2026



**REPORT OF THE SUBCOMMISSION ON
CRIMINAL PROCEDURE**

January 29, 2026

**Continuing Discussion of 9 GCA § 7.86(b)
By
Gordon Anderson, CLRC Research Attorney**

**Members: Hon. Anita A. Sukola (Chair); AAG Valerie Nuesa; Executive
Director Serge Quenga (ex-officio)**

1



**New Proposal for
9 GCA § 7.86(b)**

**CLRC Plenary Meeting
1/29/2026**

2



Current Statute

(b) The use of deadly force is not justifiable under § 7.84 unless the defendant believes that such force is necessary to protect himself against death, serious bodily harm, kidnapping or **rape or sodomy compelled by force or threat**

At the October meeting, the Crim Pro Subcommittee proposed changing “rape or sodomy” to “criminal sexual conduct”



Crim Pro’s Proposal (Oct. 2025)

(b) The use of deadly force is not justifiable under § 7.84 unless the defendant believes that such force is necessary to protect himself against death, serious bodily harm, kidnapping or ~~rape or sodomy~~ **criminal sexual conduct compelled by force or threat**

CLRC members argued this proposal would expand the scope of the defense by allowing deadly force in the context of Fourth Degree CSC, a comparatively lesser offense.



New Proposal for 9 GCA § 7.86(b)

(b) The use of deadly force is not justifiable under § 7.84 unless the defendant believes that such force is necessary to protect himself against death, **serious bodily injury**, kidnapping, or **sexual penetration** compelled by **force or coercion** . . .

Three changes:

- “**serious bodily injury**” replaces former phrase “serious bodily harm”
- “**sexual penetration**” replaces former phrase “rape or sodomy”
- “**force or coercion**” replaces former phrase “force or threat”

5



“Serious Bodily Injury”

“Serious bodily injury” is defined by 9 GCA § 16.10(c):

Serious Bodily Injury means bodily injury which creates: serious permanent disfigurement; a substantial risk of death or serious, permanent disfigurement; severe or intense physical pain; or protracted loss or impairment of consciousness or of the function of any bodily member or organ[.]

“Serious bodily injury” is the phrase used in the statute defining “deadly force,” 9 GCA § 7.76

“Serious bodily injury” is also used in many violent crime statutes:

- Definition of Deadly Weapon: 9 GCA § 16.10(d)
- Aggravated Assault: 9 GCA § 19.20(a)(1)
- Child Abuse: 9 GCA § 31.30(b)
- Home Invasion: 9 GCA § 37.210(c)
- First Degree Robbery: 9 GCA § 40.20(a)

6



“Sexual Penetration”

- Sexual penetration is defined by 9 GCA § 25.10(a)(10):

“Sexual Penetration” means **sexual intercourse**, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person’s body or of any object into the genital or anal openings of another person’s body, but emission of semen is not required[.]
- Sexual penetration is the primary act of First Degree CSC under 9 GCA § 25.15(a), and Third Degree CSC under 9 GCA § 25.25(a)
- I submit that “rape or sodomy” contemplates acts of sexual penetration, so this amendment does not significantly change the meaning of the statute

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“Force or Coercion”

- “Force or coercion” is defined by 9 GCA § 25.10(a)(3):

(3) “Force” or “Coercion” includes, but is not limited to, any of the following circumstances:

 - (A) when the actor overcomes the victim through the actual application of physical **force** or physical violence;
 - (B) when the actor coerces the victim to submit by **threatening to use force or violence** on the victim and the victim believes that the actor has the present ability to execute these threats;
 - (C) when the actor coerces the victim to submit by **threatening to retaliate in the future** against the victim or any other person and the victim believes that the actor has the ability to execute this threat. As used in this Subsection, to retaliate includes threats of physical punishment, kidnapping, or extortion; . . .
 - (D) when the actor engages in the medical treatment or examination of the victim in a manner or for purposes which are medically recognized as unethical or unacceptable; or
 - (E) when the actor, through concealment or by the element of surprise, is able to overcome the victim.
- The “force or coercion” formulation is used throughout 9 GCA Ch. 25

8



Purposes of This Proposal

- **Uses Well-Defined Terms**
 - Each of the three proposed changes substitutes a phrase more commonly used in Title 9 GCA
 - Each of the three proposed changes substitutes a term with an explicit statutory definition
- **Does Not Significantly Broaden Scope of Defense**
 - “Serious bodily injury” appears to mean the same as “serious bodily harm”
 - “Sexual penetration” appears to mean the same as “rape or sodomy”
 - “Force or coercion” is arguably broader than “force or threats,” but only adds circumstances of penetration by medical battery, or by surprise

9



What About Second Degree CSC?

- At the prior meeting, some members suggested that the statute should apply to Second Degree CSC (sexual touching + aggravating factor)
- My proposal does not *inherently* include Second Degree CSC because that offense does not involve “sexual penetration”
- Counterpoints:
 - Second Degree CSC is not *inherently* included in the statute at the moment, since it is not an instance of “rape or sodomy”
 - Deadly force would still be available if the Second Degree CSC involves or threatens “serious bodily injury”
 - *Cf.* 9 GCA 25.20(a)(5) – armed with deadly weapon
 - *Cf.* 9 GCA 25.20(a)(6)-(7) – “causes personal injury”
 - This statute only applies to *deadly force*—nothing in this statute precludes a Second Degree CSC victim, or their defender, from using *non-deadly* force

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In Conclusion

(b) The use of deadly force is not justifiable under § 7.84 unless the defendant believes that such force is necessary to protect himself against death, **serious bodily injury**, kidnapping, or **sexual penetration** compelled by **force or coercion** . . .

Three changes:

- “**serious bodily injury**” replaces former phrase “serious bodily harm”
- “**sexual penetration**” replaces former phrase “rape or sodomy”
- “**force or coercion**” replaces former phrase “force or threat”

ATTACHMENT 3

SUBCOMMISSION ON
CRIMES RELATING TO PERSONS

PRESENTATION
JANUARY 29, 2026

Crimes Against Persons Subcommittee
Criminal Law & Procedure Review Commission

Members and ex officio members

GPD Sgt. Mike Elliot

Dep. Public Defender John Morrison

Assistant Attorney General Christine Tenorio

Magistrate Sean E. Brown

Attorney Joseph B. McDonald

**REVIEW AND RECOMMENDATIONS FOR
9 GCA CHAPTERS 30 FAMILY VIOLENCE, 49 BRIBERY, 64 GAMBLING**

PRESENTATION BY J. MCDONALD

PLENARY MEETING

JAN. 29, 2026

1



CHAPTER 30

FAMILY VIOLENCE

2



NO CHANGES RECOMMENDED TO THE FOLLOWING FV SECTIONS

§§ 30.10 Definitions; 30.21 Conditions of Release, 30.30 Powers and Duties of Police Officers to Arrest; Primary Aggressor; Required Report; 30.31 Mandatory Confinement; 30.32 Duties of Peace Officers to Victim; Required Notice; 30.33 Limitations of Liability; 30.40 Violation of Court Order; 30.50 Authority of Police Officer to Seize Weapons; 30.60 Disclosure of Family Violence Shelter; 30.70 Spousal Privileges; 30.80 Deferred Guilty Plea; 30.80.1 Deferred Guilty Plea Eligibility; 30.80.2 Deferred Guilty Plea Hearing; 30.80.3, Enforcement of Deferred Plea Proceedings; 30.80.4 Use of Arrest Record after Deferred Plea Agreement; 30.80.5 Counseling and Education Programs; 30.90 Establishment and Requirement of Domestic Assault Response Team (DART); 30.100 Maintenance of Systematic Records; 30.200 Family Violence Registry; 30.300 Interfering with Reporting; 30.400 Release of Victims from Shared Wireless Plans

3



Recommended amendment: §30.20(d)

(d) If the court, after a hearing, finds substantial evidence that a victim suffered serious bodily injury, as defined in Subsection (c) of § 16.10, Chapter 16 of this Title, no felony charged filed under this § 30.20 shall be reduced to a misdemeanor unless the court finds ~~that due to unusual circumstances~~ a reduction of the charge is manifestly in the interest of justice.

Reasoning:

“Unusual circumstances” too indefinite/vague and redundant.

Standard for manifest in the interest of justice is sufficient. State courts consistently interpret the "manifest interest of justice" or "manifest injustice" standard as requiring clear, obvious circumstances that would result in fundamental unfairness if relief were not granted. The standard is consistently applied as an extraordinary remedy rather than a routine procedural tool. Courts emphasize that this discretion should be exercised only in exceptional circumstances where ordinary legal remedies would produce manifest unfairness.

4



Discussed repeal; no recommendation to report out

§ 30.30. Powers and Duties of Peace Officers to Arrest for Crimes Involving Family Violence; Determination of Primary Aggressor; Required Report. (a) If a peace officer has reasonable cause to believe that a person has committed a felony or misdemeanor involving family violence, the peace officer shall presume that arresting and charging the person is the appropriate response. (b) If a peace officer receives complaints of family violence from two (2) or more opposing persons, the officer shall evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one (1) person was the primary aggressor, the officer need not arrest the other person believed to have committed family violence but the peace officer shall document to the best of his or her ability the evidence concerning the actions of each participant in the incident. (c) In determining whether a person is the primary aggressor the officer shall consider: (1) Prior complaints of family violence; (2) The relative severity of the injuries inflicted on each person; (3) The likelihood of future injury to each person; (4) Whether one of the persons acted in self-defense; (5) The use or threatened use of a weapon; and (6) The use or threatened use of physical force. (d) A peace officer shall not: (1) Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention by peace officers by any party; or, (2) Base the decision to arrest or not to arrest on: (A) The specific consent or request of the victim; or, (B) The officer's perception of the willingness of a victim or witness to the family violence to testify or otherwise participate in a judicial proceeding. (e) In addition to any other report required, a peace officer who does not make an arrest after investigating a complaint of family violence or who arrests two (2) or more persons for a crime involving family violence must submit a written report setting forth the grounds for not arresting or for arresting both parties.

Comment:

Discussion centered on difficulty of applying/enforcing the statute. Members discussed striking/repealing. Research showed primary aggressor statutes remain on the books of several states without repeal. Texas put a provision into its public safety laws to provide training.

5



Discussed repeal; no recommendations to report out

§ 30.31. Mandatory Confinement. When a peace officer makes an arrest for family violence the arrestee shall be confined until the magistrate's hearing, unless released earlier by the Office of the Attorney General.

Comment:

Discussion centered on due process concerns. Members discussed striking/repealing. Research showed mandatory confinement laws remain on the books of several states without repeal.

6



CHAPTER 49

BRIBERY

7



NO CHANGES RECOMMENDED TO THE FOLLOWING FV SECTIONS

§§ 49.10 Definitions; 49.20 Giving of Bribes; Defined and Punished; 49.30 Receiving Bribes; Defined and Punished; 49.40 Unlawful Influence; Defined and Punished; 49.50 Unlawful Influence by Extortion; Defined and Punished; 49.60 Giving Gratuities for Past Services; Defined and Punished; 49.80 Use of Information for Private Gain; Defined and Punished; 49.90 Official Misconduct; Defined and Punished.

Comment:

Research showed no repeals or major amendments to MPC bribery laws.

8



Comment: Policy Consideration; Offense Grades for Public Official Misconduct

Jurisdiction	Classification	Maximum Imprisonment	Fine	Additional Penalties
Guam	Misdemeanor	1 year	\$1,000	None specified
New York	Class A misdemeanor	1 year	Varies	None specified
Alaska	Class A misdemeanor	1 year	\$25,000 + 3x gain/loss	None specified
Oregon	Class A misdemeanor	1 year	\$6,250	None specified
Colorado	Class 1 misdemeanor	364 days	\$1,000	Possible termination
Washington	Gross misdemeanor	364 days	\$5,000	None specified
Nebraska	Class II misdemeanor	6 months	\$1,000	Career end likely
New Jersey	2nd degree crime	5-10 years (mandatory minimum 5 years)	\$150,000	Mandatory imprisonment
New Jersey	3rd degree crime (≤\$200)	3-5 years (mandatory minimum 2 years)	\$15,000	Mandatory imprisonment
Indiana	Level 6 felony	0.5-2.5 years	\$10,000	No expungement; office bar
Illinois	Class 3 felony	2-5 years	\$25,000	Forfeiture of employment; 10-year bar
Hawaii	Class C felony	0-5 years	\$10,000	None specified
Tennessee	Class E felony	1-6 years	\$3,000	Permanent office disqualification
Florida	3rd degree felony	0-5 years	\$5,000 or 2x gain	Pension forfeiture possible
Kansas	Varies by conduct	Severity level 7: 11-34 months	Varies	Forfeiture of office



CHAPTER 64

GAMBLING



No recommendations to report out

§ 64.10 Gambling; Defined & Punished; § 64.15 Use of Electronic Machine or Device to Conduct Sweepstakes Illegal; § 64.16 Forfeiture of Electronic Machine or Device Used to Conduct Sweepstakes; § 64.17 Penalties; § 64.20 Importation of Gambling Devices to Guam Illegal: Defined and Punished; § 64.21 Poker Machines and Video Lottery Terminals; § 64.22. Possession of Gambling Devices Prohibited; Penalty; § 64.23. Slot Machines; § 64.30. Social Gambling Defined & Permitted; § 64.40. Legal Cockfight Gambling Permitted; § 64.62. Rules and Regulations to Permit Games of Chance at the Guam Island Fair and Liberation Day Carnival; § 64.65. Amusement Devices; § 64.70. Organizations Authorized to Conduct Gambling: Permit Procedure;

Comment:

Each state has its own distinct gambling laws. Gambling where legal is highly regulated. Repeal/relaxation of gambling laws is a policy decision, including repeal of cockfighting, which is a federal crime.