



COMMITTEE ON

**GUAM U.S. MILITARY RELOCATION  
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY**

*I Mina'trentai Dos Na Liheslaturan Guåhan | 32ND GUAM LEGISLATURE*



June 18, 2013

**Senator  
FRANK B. AGUON, JR.**  
Committee Chairperson

**Senator  
Tina Muna-Barnes**  
Committee Vice Chairperson

**Speaker  
Judith T. Won Pat, Ed.D.**  
Committee Member

**Senator  
Rory J. Respicio**  
Committee Member

**Senator  
Thomas C. Ada**  
Committee Member

**Senator  
Dennis G. Rodriguez, Jr.**  
Committee Member

**Senator  
V. Anthony Ada**  
Committee Member

**Senator  
Michael Limtiaco**  
Committee Member

**Senator  
Thomas Morrison**  
Committee Member

**The Honorable Judith T. Won Pat, Ed.D.**  
Speaker  
*I Mina'trentai Dos Na Liheslaturan Guåhan*  
155 Hesler Place  
Hagåtña, Guam 96910

**VIA: The Honorable Rory J. Respicio**  
Chairperson, Committee on Rules

**RE: Committee Report on Bill No. 107-32 (LS) As Substituted**

2013 JUN 19 AM 11:11

Dear Speaker Won Pat:

Transmitted herewith is the Committee Report on Substitute Bill No. 107-32 (LS) – “An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.”

Committee votes are as follows:

- 2 TO DO PASS
- 0 TO NOT PASS
- 6 TO REPORT OUT ONLY
- 0 TO ABSTAIN
- 0 TO PLACE IN INACTIVE FILE

Respectfully,

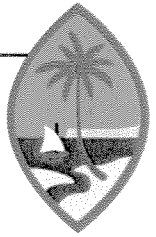
**SENATOR FRANK B. AGUON, JR.**  
Committee Chairman on Guam U.S. Military Relocation, Homeland Security, Veterans' Affairs, and the Judiciary  
*I Mina'trentai Dos Na Liheslaturan Guåhan | 32<sup>nd</sup> Guam Legislature*



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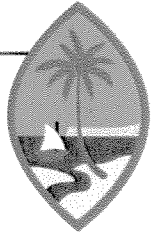
**COMMITTEE REPORT ON  
SUBSTITUTE BILL NO. 107-32 (LS)**

**“An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.”**



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June 18, 2013

**MEMORANDUM**

**To:** All Members  
Committee on Guam US Military Relocation, Homeland Security, Veteran's Affairs and Judiciary

**From:** Senator Frank B. Aguon, Jr.   
Committee Chairperson

**Subject:** Committee Report on Substitute Bill No. 107-32 (LS)

Transmitted herewith for your consideration is the Committee Report on Substitute Bill No. 107-32 (LS) – "An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes."

This report includes the following:

- Committee Vote Sheet
- Committee Report Digest
- Copy of Substitute Bill No. 107-32 (LS)
- Copy of Bill No. 107-32 (LS)
- Public Hearing Sign-in Sheet
- Copies of Submitted Testimony & Supporting Documents
- Copy of COR Referral of Bill No. 107-32 (LS)
- Notices of Public Hearing
- Copy of the Public Hearing Agenda
- Related News Reports

Please take the appropriate action on the attached vote sheet. Your attention to this matter is greatly appreciated. Should you have any questions or concerns, please do not hesitate to contact me.

*Si Yu'os ma'åse'!*

**Senator  
FRANK B. AGUON, JR.**  
Committee Chairperson

**Senator  
Tina Muna-Barnes**  
Committee Vice Chairperson

**Speaker  
Judith T. Won Pat, Ed.D.**  
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**COMMITTEE VOTING SHEET**

**Bill No. 107-32 (LS)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.

**Senator  
FRANK B. AGUON, JR.**  
Committee Chairperson

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**Senator  
Thomas Morrison**  
Committee Member

COMMITTEE MEMBERS	SIGNATURE	TO DO PASS	TO NOT PASS	TO REPORT OUT ONLY	TO ABSTAIN	TO PLACE IN INACTIVE FILE
AGUON, FRANK B. JR. Committee Chairperson				<input checked="" type="checkbox"/>		
MUNA BARNES, TINA ROSE Committee Vice Chairperson				<input checked="" type="checkbox"/>		
SPEAKER WON PAT, JUDITH T. Ed.D. Committee Member				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>
RESPICIO, RORY J. Committee Member				<input checked="" type="checkbox"/>		
ADA, THOMAS C. Committee Member				<input checked="" type="checkbox"/>		
RODRIGUEZ, DENNIS G. JR. Committee Member						
ADA, V. ANTHONY Committee Member		<input checked="" type="checkbox"/>				
LIMTIACO, MICHAEL Committee Member				<input checked="" type="checkbox"/>		
MORRISON, THOMAS Committee Member		<input checked="" type="checkbox"/>				



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**COMMITTEE REPORT DIGEST**

**I. OVERVIEW**

Bill No. 107-32 (LS) was introduced on May 3, 2013 by Senator Brant T. McCreadie, and was subsequently referred by the Committee on Rules to the Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary on May 6, 2013.

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary convened a public hearing on Bill No. 107-32 (LS) on June 13, 2013 at 9:00AM in the Liheslatura's Public Hearing Room.

**Public Notice Requirements**

Public Hearing notices were disseminated via e-mail to all senators and all main media broadcasting outlets June 6, 2013 (5-Day Notice), and again on June 11, 2013 (48-Hour Notice). Notices were also published in the Marianas Variety Newspaper on June 6, 2013 and June 11, 2013.

**Senators Present**

Senator Frank B. Aguon, Jr., Chairperson  
Vice Speaker Benjamin J.F. Cruz  
Senator Christopher M. Duenas  
Senator V. Anthony Ada  
Senator Aline A. Yamashita, Ph.D.  
Senator Brant T. McCreadie  
Senator Thomas C. Ada  
Senator Michael F.Q. San Nicolas  
Senator Michael Limtiaco

**Appearing Before the Committee**

Attorney Phil Tydingco, Deputy Attorney General  
Attorney Mikaela Henderson, Public Defender Service Corporation  
Attorney Richard Dirx, Public Defender Service Corporation  
Former Senator Randy Cunliffe, Attorney, Law Offices of Cunliffe & Cook  
Carina Fejerang, Random Women's Rally (RAWR)  
Monique Baza, Random Women's Rally (RAWR)

The public hearing was Called-to-Order at 9:09 AM.

**II. SUMMARY OF TESTIMONY & DISCUSSION**

***Senator Frank B. Aguon, Jr.:***

Opens the agenda on Bill 107-32 (COR), "An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of

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serious crimes." Senator Aguon invites those providing testimony to be seated at the front, and allows the bill's sponsor Senator Brant T. McCreadie to make comments.

***Senator Brant T. McCreadie***

Thanks Senator Aguon and states that Bill 107-32 establishes the habitual offender statute for Guam that sets up more severe punishment for repeat offenders in violent and serious offenses. Unique to Bill 107 is the 'Two Strikes' law – any person who is convicted of two (2) violent aggravated felonies as identified in Bill 107, shall be sentenced to life in prison whereas in other jurisdictions, repeat offender statutes are written with the offender having three (3) or more convictions. As he was drafting the bill, Senator McCreadie debated whether to make the language two (2) or three (3) strikes in the bill, and based on discussions with community partners and his colleagues, he chose two (2) strikes. Senator McCreadie feels that this bill will send a clear message to repeat offenders that they will not be tolerated and that jail time will be significant upon conviction.

Senator McCreadie states that community members have voiced to him & his office that Bill 107 is too lenient and that those who commit these crimes one (1) time should go to jail for life. One (1) constituent even requested for the death penalty to be added to bill 107.

He acknowledges the need to provide rehabilitation and states that offenders need to make an effort to better themselves while they are incarcerated. Bill 107 was introduced after Senator McCreadie had been approached by individuals within the Attorney General's office to find ways to improve existing legislation and language and so he thanks members of the Attorney General's office for being present to testify. He also states that he has been working on amendments to bill 107 to remove certain felonies from the list such as negligent burning (as an example) and the list has since dropped from twenty-five (25) to fourteen (14) offenses.

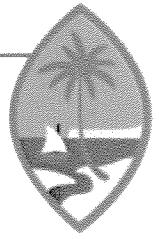
Bill 107 greatly increases Guam law for offenders and Senator McCreadie recognizes the need for continued debate & discussion and looks forward to continued dialogue on bill 107 as well as dialogue on solutions pertaining to the island's problems.

Senator McCreadie states that this bill is meant to protect the people, punish the criminals, and promote a safe Guam for both locals and visitors. He states that he is aware of the logistical and financial burdens that this will place on Government of Guam, particularly the Department of Corrections. However, he feels that physical issues should not halt the passing of legislation that will protect the people of Guam. He states that he and the co-sponsors of this bill will work together to overcome setbacks that may arise as a result of the bill's passage.

Senator McCreadie states that the Guam community cannot afford to let violent offenders continue to re-offend. He states that these criminals have been given multiple chances to rehabilitate and it is time for the community to say enough is enough. Senator McCreadie then references the June 13, 2013 edition of the Guam Pacific Daily Newspaper stating that the front page presented opposition to bill 107-32 but that the following page showed the Barrigada Community standing up against violence. He is happy that the community is ready to fight crime but questions whether Guam is at the point where people will become vigilantes. He states that the island needs to take a stance even if it not a popular stance and send a strong message that when prisoners become a part of the community, the community becomes the prisoners.

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He thanks Senator Aguon for the opportunity to speak and states that he looks forward to today's testimony.

***Senator Frank B. Aguon, Jr.***

Thanks Senator McCreadie and instructs the testifying panel to begin with identifying themselves for the record.

***Carina Fejerang, Random Women's Rally (RAWR)***

Ms. Fejerang identifies herself as a member of the Random Women's Rally and begins her testimony verbatim. (See attached)

***Monique Baza, Random Women's Rally (RAWR)***

Ms. Baza identifies herself as a survivor of a violent crime and a member of the Random Women's Rally and begins her testimony verbatim. (See attached)

***Attorney Mikaela Henderson, Public Defender***

Ms. Henderson identifies herself as an attorney for the Public Defender Service Corporations and that she opposes any legislation that will remove judicial discretion from the judges. She believes that the judiciary is in the best position to evaluate each individual case on a case-by-case basis by looking at the defendant, the victim, the history, and the individual circumstances. She believes that the Superior Court judges are placed there based on their knowledge, training, and experience and that she opposes any legislation that would take away that discretion and tie their hands.

She states that she is concerned with the 8<sup>th</sup> Amendment – or “Cruel & unusual punishment” - implications from bill 107 based on the list of offenses. She expresses that there may be constitutional violations because it would affect the offender's ability, or their right, to be free from cruel & unusual punishment – which the US Supreme Court defines as “things that are grossly disproportionate to the conduct”. She is also concerned, when looking at the individual offenses, how it would affect the constitutional rights of defendants on the island.

She goes on to state that the American Civil Liberties Union has voiced their opposition to three (3) strikes rules, speaking to constitutional violations and the general ineffectiveness that they believe the three (3) strikes rules have in communities.

Another concern of hers is the economic impact. She questions whether or not an economic impact study has been done and if not, can one be done because she believes there will be a tremendous impact on the Guam community. She references other attorney general's offices in larger jurisdictions and states that they have entire divisions devoted solely to 'habeas corpus appeals' for and from offenders serving life sentences with no chance of parole. These appeals are standard for these offenders and more are submitted 'pro se' (without an attorney) from people who have no experience with the judicial system and are filing on their own with the courts, who in turn, must address each and every one submitted.

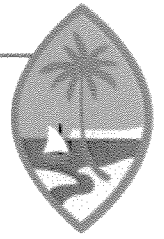
The other issue, from a department of corrections point of view, in jurisdictions who have the three (3) strikes rules, is that two (2) classes of prisoners are inadvertently created. Prisoners who are in for life without parole usually do not have much to lose. The United States Supreme Court has stated that life without parole means the denial of all hope, the denial of any kind of future. She is concerned about the two (2) class structure and having a large percentage of the population in prison for life without parole with the denial of all hope and the impact that it will have on the Guam Community financially, the Department of Corrections, the Judiciary, and the public sector (including attorneys).



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She closes with thanking Senator McCreddie for his work on the bill and states her opposition for any legislation that removes discretion from the Judiciary.

***Senator Frank B. Aguon, Jr.***

Thanks Ms. Henderson for her testimony and invites another speaker to present testimony.

***Attorney Richard Dirx, Public Defender***

Identifies himself for the record and states that he has been an Assistant Public Defender for about twenty-three (23) years and before that a prosecutor. Mr. Dirx explains that bill 107 is a 'meat cleaver' approach to a difficult situation where today. The analogy used he used was "throwing 100 little fish in jail to prevent one shark from biting everybody." He estimates that it costs approximately \$100 a day to house an inmate at Department of Corrections (DOC) which would mean upward of \$1 million dollars per inmate serving a life sentence. He also states that Agana's holding facility is at 220% capacity at the moment and that people are 'jammed into cells like in India or Burma'. He goes on to state that jail is not a place to rehabilitate. Prisons are clean and relatively safe with very little violence, but it is not where criminals rehabilitate. If a person with a lesser offense goes in, they come out as 'bigger criminals' because they rub elbows with professional thieves, etc. It is also where they learn to be lazy because prison provides (daily) meals, they have no responsibility to find work, or to take care of their children or families. Mr. Dirx goes on to state the following:

Because this bill is broad, a teenager who makes two (2) threatening phone calls to his school will get the same sentence as someone who detonates a bomb in center court at the Micronesia Mall. A mentally ill woman who, as a second offense, pats a man on his butt will get the same sentence as a serial rapist. On every second offense a mother who shoplifts a bottle of baby formula or spanks her child inappropriately, will get the same sentence as a home invader armed with a shotgun. That isn't right, and we can't afford it. If you have so much money to spend, let's put cops on the street, lots of them. Let's give the police department personnel to investigate every case. Let's properly staff and equip the crime lab and make sure that the equipment up there is maintained and regulated. And my own favorite, the place where you get the most bang for the buck, let's fill the Probation Department with people to supervise offenders, but who are otherwise holding down jobs supporting their families and who are reporting to the court every two (2) or three (3) weeks to make sure they're on track with rehabilitation.

He brings up Veterans, returning soldiers (such as the 600+ National Guard Members who recently deployed) & those with mental health issues and states that they should not be grouped with the larger group. Returning soldiers do not benefit from insanity pleas and yet they have injuries to their brains or have been diagnosed with Post-Traumatic Stress Disorder (PTSD). At times, the victim's wishes are taken into consideration and some have even said the law is too harsh. This bill would say otherwise. He states that if this law is passed, by the end of 2015, war heroes will be going to prison for life sentences.

Mr. Dirx identifies 'failure to disperse' as another offense that would be included in this bill and that Dr. Martin Luther King, Jr. would have been sentenced to life in prison under this type of bill. He believes that there is no substitute for the discretion judges have today and that lawmakers should not tie their hands, but instead 'smooth the access' victims have to the court.

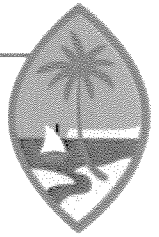




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**Senator Frank B. Aguon, Jr.**

Thanks Mr. Dirkx for his testimony and invites Deputy Attorney General Phil Tydingco to being his testimony.

**Deputy Attorney General Phil Tydingco**

Thanks Senator Aguon and greets all Senators present, introduces himself for the record, and states that Attorney General Leonardo Rapadas has publicly stated he supports the intent of the bill which is to address the issue of habitual offenders. He also states that this is a response to the pleas of victims of crimes in the cases where the victims, of repeat offenders, are disappointed deeply with the system. They believe that Judges, the AGs Office, and society are not listening to them. At a neighborhood watch meeting in Barrigada, Mr. Tydingco observed that the community is upset & tired of being victimized and understand the police are unable to be everywhere at the same time. Over 100+ would like to see legislation that addresses the issue of repeat offenders.

Mr. Tydingco speaks to the testimony presented by the Office of Public Defenders representatives. He states there's a reason why there are 2 classes of offenders. There are some offenders, who as a matter of policy, society has said that they are too dangerous and wants them punished. He goes on to state the following:

Two strikes will have an economic impact, a prison impact, & a rehabilitation impact. An impact all around. When you frame the issue, you need to consider all the factors raised by all the people here, both the victims and those that want to make certain that unjust and unfair sentences aren't imposed. The AG's Office is supportive of the intent of the issue as to what to do with the offenders.

The way the AG's Office has been plea bargaining...the impact would be on the docket. More likely the people will go to trial and we can barely keep up with the numbers. What do we say to the people who aren't supposed to have been victimized? The 21<sup>st</sup> century is a victim-oriented century. Why should the failure of the system be put on the victims? I clearly told the AG's Office and the Police that the system is not working. I don't know whether the bill is a panacea but we support the intent of an attempt to try to address the habitual offender situation.

It's either because the AG's Office is lenient or has too much discretion, or the courts have too much discretion. These are policy statements for you folks to wrestle with.

There are times where you need to have people not be permitted to keep committing violent crimes. Because how do you tell your citizens that we're going to keep you safe through our laws and our criminal justice system.

**Senator Frank B. Aguon, Jr.**

Thanks Mr. Tydingco for testifying and allows former Senator F. Randall Cunliffe to testify.

**Attorney F. Randall Cunliffe, Former Senator, Law Office of Cunliffe & Cook**

Identifies himself for the record and states that he has been in the criminal justice system on Guam for thirty-six (36) years. He states that he opposes the bill. He goes on to state the following:

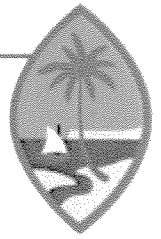
I have sued the prison and won civil rights lawsuits against them because the prisons don't do what they're supposed to. This law is ill advised. The AG's Office says 'listen to the victims,' but I've been a victim of crime fifteen (15) times.



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This is not the way to deter crime. I can tell you in all the years I've represented criminal defendants that they don't think they're going to get caught therefore by putting a law that says they're going to jail for the rest of their life isn't going to deter someone from committing a crime. You have to educate them. You have to give them knowledge and educate them.

Guam has an incredibly huge drug problem, going from heroin to ice. Prisons don't have a program in place for rehabilitation. There are prison guards working 12 hours a day because the prison is understaffed. How much will it (the impact of the bill) cost?

Mr. Cunliffe then talked about an experience of having cases where he had mentally ill clients that were not accepted at Department of Mental Health [now 'The Guam Behavioral Health and Wellness Center' (GBHWC)] because they were deemed dangerous. He mentions the need to build a new prison and that the court works hard to provide counseling for offenders (in the hopes of keeping them out of prison) through Drug Court and Family Violence Court.

Mr. Cunliffe suggests putting more money in trying to help people, not putting them into jail. He speaks briefly about the Civil Rights Act of 1964 and how it applies to questioning whether or not people have been previously convicted. People make mistakes; there are laws that allow judges to put defendants in jail for a long time. Instead of this suggested legislation, or laws like it, he suggests we need to do more to help the defendants and then offers to introduce the Senators to inmates who are serving life without parole.

Mr. Cunliffe states that majority of crime on this island is based on drug and alcohol abuse.

He also states that in prison, there is a great number of minority people, the Chamorros are not the majority, and that the population of the prison creates a dangerous situation because there are too many people and not enough guards.

Mr. Cunliffe also makes mention that the media exaggerates an incident or crime. He then questions Senators what the impact of the bill is going to be — which he estimates is going to cost multi-millions of dollars and notes that it is not going to benefit many people.

***Senator Frank B. Aguon, Jr.***

Thanks Mr. Tydingco for testifying and welcomes Senator Michael Limtiaco to the public hearing. Senator Aguon then allows Senator McCreadie to comment.

***Senator Brant T. McCreadie***

Senator McCreadie thanks all presenters for their testimony and states the following:

I still can't fathom that we're sitting four feet away from a rape victim because our system failed us for a repeat offender. I keep hearing economic impact to our island so my question is what is the economic impact to the victim? How much is a life worth? Ms. Henderson you said the community creates two classes of prisoners. I disagree. The prisoner creates two classes of prisoners. We went from 25 offenses to 14 on the amended bill and we have been working with the AG's Office. So I don't see any "small fish" here, for the amended portion of the bill.



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***Attorney Richard Dirkx, Public Defender***

Mr. Dirkx responds to Senator McCreadie with the following:

With respect to the mentally ill and the returning soldiers, we are still going to see major crimes. For example, a man with a 'broken brain' stands outside his home and screams about how he is going to burn it down. He will be charged with terroristic conduct but his family will want him home and back on his meds and say that he was just never right after coming home from the war and to give him another chance. And he is disabled because of what he gave to his community and does not deserve life in prison. He deserves a judge who will listen to him and will listen to the victim, and that's all that we are asking. If you take away the discretion of the judges, make real sure you are replacing it with something better because Guam is gifted right now with incredibly carefully trained judges who are members of this community and really know what they are doing. Now, if there's a disrupt where victims are not being heard, I don't know where that's happening because I know it's in the law. I don't know where that breakdown is because the Attorney General's Office and the Judges are all doing their part.

***Attorney F. Randall Cunliffe, Former Senator, Law Office of Cunliffe & Cook***

Mr. Cunliffe states the following:

Aggravated murder is life in prison, murder is life in prison, first degree criminal sexual conduct is up to life in prison – and judges regularly give it. If a kid is 16yrs old and has sex with a 13yr old, he can get life in prison because that's first degree criminal sexual conduct. Both the court and the AG's office state that this is not what the law intended. And they work around it, but is that what we want? Some 16yr old kid going to jail for life. No, that's not what we want. But if you make these second offenders go to jail, if the Government can prove their case then the defendant can go to jail for life. If they can't prove their case, then that's not the defendant's fault. Even in the federal system, the laws that require three (3) strikes to go to jail require an intent. Our assault law is generally reckless, in federal court that does not count as an aggravating case. But under this bill, as it is written because we have not seen the amendments, it would count if you make a reckless mistake. So there are a number of ways for people to go to jail for a very long period of time, and this would take care of those who actually need it. As Mr. Dirkx said, there are a lot of people with mental health problems. When you go to court and you put a mental defense in, it's either that you don't know what you did was wrong, or you know it's wrong but you can't control yourself because of your mental illness.

***Senator Frank B. Aguon, Jr.***

Thanks Mr. Cunliffe for testifying and then allows Senator Yamashita to comment.

***Senator Aline Yamashita***

Addresses Ms. Baza and Ms. Fejerang and states that she appreciates their courage in speaking up. She says that in last 3 years, there have been concerted conversations with AG's Office specifically with LaniKate Act that was authored by Vice Speaker Cruz.

Senator Yamashita go on to state the following:

They are finding we have thousands of people committing crimes, being put away, but they are not being helped. They then get released and re-commit crimes. There's a huge conversation about early childhood

**GUAM U.S. MILITARY RELOCATION  
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY***I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32ND GUAM LEGISLATURE*

education. For the first eight (8) years of education, there is a void on our island with regard to education. We don't know how to parent – the most important job in the world and we don't have training for that. We're at a situation in our island where we're deteriorating over and over again. Our child abuse issues, our family violence issues are all over the place because we weren't raised right.

The victim support is huge. The AG has said it is a top priority. I insist on addressing the offenders, on profiling what they look like and what support they are getting and not getting. Huge numbers are sexual offenders but there are no therapy programs for them. We are going through this whole listing and the rehabilitation issue is huge. So I wanted you, Carina, to know that we are looking at it and I invite you to join the table.

Talked about an experience with the police, twice, in dealing with her son, and they wanted to put him away. She said "no..." and then stated she has to do better at the prevention of his spiraling.

The conversations are going on, and I need your voice at the table. I appreciate people saying this is serious. It has to be serious. I appreciate no more violence. My home has been broken into. I get it. But I suggest...intervention... prevention measures have to kick in.

Senator Yamashita closes with further advocating higher quality family time and better parenting. She states that she would like to get Ms. Fejerang's information and that they have attempted to get in contact with her before but due to her school they were unable to.

***Carina Fejerang, Random Women's Rally (RAWR)***

Responds to Senator Yamashita and states that the Random Women's Rally has been meeting and is currently assisting with the Family Justice Center. She continues with the following:

We have also put together a meeting that included all of the different non-profit organizations and agencies that handled victims and first response. We are behind the scenes formulating everything that is going on but what we see too is the process of, like you said, when perpetrators are released. Are they being followed thru? Are they making sure they're staying at home? Are they making sure that they're getting the counseling that they need? We understand that counseling needs to happen. We understand those things. But there's also a huge issue that we're missing. It's the first response of the victims. When we take a look at the different non-profit organizations and the different advocacy areas, we find out that there isn't that many advocates that are out there to assist. Some of these advocates are working on a full time basis with absolutely no paycheck.

And what we also take a look at is that many of these non-profit organizations are not getting the funding because there is confusion in the mapping out of what first response is. Who are the first responders? And after the first response, where does it go? So, we work full-time. But we are also part of this community and our goal is to make sure that something gets done. And we welcome a method of getting together and trying to hash it all out and let's figure this out from beginning to end. And we welcome that.

***Senator Aline A. Yamashita, Ph.D.***

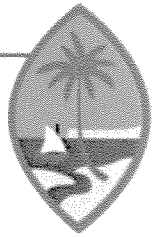
Agrees with Ms. Fejerang and states that there are currently either (8) Family Victims Advocates and that the AG's office would like to double that. The question now is how to fund that, so that as soon as a situation occurs, there is someone to help immediately. She thanks Ms. Fejerang for the community leadership and states that her office needs



COMMITTEE ON

**GUAM U.S. MILITARY RELOCATION  
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to do better at understanding all of the different non-profit organizations and the breakdown of the procurement issue. The Vice Speaker has held several round tables and questions why if the money is there, what is the reason for the long process.

***Carina Fejerang, Random Women's Rally (RAWR)***

Responds to Senator Yamashita and states the following:

Well the money is there, but is it distributed correctly?

***Senator Aline A. Yamashita, Ph.D.***

Responds to Ms. Fejerang and agrees.

***Carina Fejerang, Random Women's Rally (RAWR)***

Continues with her statement:

Some of the stats are from 2008 – we are in 2013. Where are the stats at? If we can analyze these things a lot better – for example, the VOCA Grants and how they are supposed to be distributed. How is it getting distributed and is it getting distributed accurately? Because if non-profit organizations are out there and they are providing the necessary measures to help with everything that's needed in the process with the Government agencies. How much money is going to these agencies? Because how is it that some have more than the other. We really need to analyze these things because I can go to the clearing house and not see what the breakdown is – what did VARO get? What did Erica's House get? From the definition of the VOCA Grant - are these all fitting underneath the definition? So, we can't find some of these things and I would love to – thank you so much all of you for trying to make these things better. It's very heartwarming to hear that.

***Senator Aline A. Yamashita, Ph.D.***

Thanks Ms. Fejerang.

***Senator Frank B. Aguon, Jr.***

Thanks Senator Yamashita for her comments and then allows Senator V. Anthony Ada to comment.

***Senator V. Anthony Ada***

Thanks Ms. Baza & Ms. Fejerang for coming out to testify and for always staying current with these hearings. Senator Ada states he is aware of the constitutional rights for the perpetrator/offender and looks forward to working with the Committee and the Attorney General's Office.

Senator Ada referenced when Mr. Cunliffe said that the guards are fearful for their lives. If they are fearful for their lives -- and they have the steel doors & the barb wire -- imagine how much more dangerous these offenders will be when they come back out into the community. A lot of these things we need to think about and we need to work together.

***Senator Frank B. Aguon, Jr.***

Thanks Senator Ada for his comments and then allows Senator Christopher Duenas to comment.



COMMITTEE ON

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**Senator Christopher M. Duenas**

Addresses Ms. Fejerang and Ms. Baza and joins Senator Yamashita in recognizing them. Noted Ms. Fejerang's statements and that he has an obligation when he returns to his office. Senator Duenas states that in his last term, he introduced legislation on building a new facility for D.Y.A. (Department of Youth Affairs) but did not follow-up on it due to the concerns voiced from the community. We are warehousing kids right now who have addiction problems and with drugs & alcohol. We all know this — there is a huge drug problem on this island. So we've got to double down on the efforts. In order to break the cycle, we have to intervene, catch these kids and treat them, so that for generations to come, we stop the madness.

The millions of dollars we're talking about that we will spend on D.O.C. needs to be invested in D.O.E. (Department of Education) and D.Y.A. to make sure that in order to truly address this issue and stop the cycle, is to invest in the generations coming up to make sure that we have that truly limited population that we can't reach. The kids at D.Y.A. are reachable.

**Senator Frank B. Aguon, Jr.**

Thanks Senator Duenas for his comments and concludes testimonies for Bill 107-32 and adjourns the public hearing accordingly.

The public hearing was adjourned at 10:24 AM.

III. FINDINGS & RECOMMENDATIONS







The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary hereby submits these findings and reports out Bill No. 107-32 (LS) as substituted by the Committee on Guam US Military Relocation, Homeland Security, Veteran's Affairs and Judiciary, with a recommendation ~~TO PASS~~ *FOR*

*TO REPORT OUT ONLY*

*MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN*  
2013 (FIRST) Regular Session

Bill No. 107-32 <sup>LS</sup> (~~44~~) Ok

Introduced by:

Brant T. McCreddie   
Dennis G. Rodriguez Jr.   
~~Judith T. Won Pat~~  
Tina Rose Muna Barnes   
Michael F. Q. San Nicolas   
V. Anthony Ada   
Michael Limtiaco 

**AN ACT TO ADD A NEW SECTION TO CHAPTER  
80, TITLE 9, GUAM CODE ANNOTATED,  
RELATIVE TO CREATING A "TWO STRIKES"  
PROVISION FOR HABITUAL OFFENDERS OF  
SERIOUS CRIMES.**

2013 MAY -3 PM 3:45  


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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that  
3 there has been a sharp increase in violent and serious crimes. *I Liheslaturan Guåhan*  
4 further finds that many of these violent crimes are committed again and again by  
5 persons previously convicted of other serious crimes. These habitual offenders have  
6 shown that rehabilitation for them is not an option. As such, it is in the people's best  
7 interest that habitual offenders be incarcerated for a significant period of time.

8 Therefore, it is the intent of *I Liheslaturan Guåhan* to implement a habitual  
9 offender statute by adding a new Section to Chapter 80, Title 9, Guam Code  
10 Annotated.

11 **Section 2.** The new Section to be added shall read as follows:

1           Habitual Offenders

2           A. Notwithstanding any provision that establishes a shorter term of  
3 imprisonment, a person who has been convicted of committing or attempting or  
4 conspiring to commit any violent or aggravated felony and who has previously  
5 been convicted of a violent or aggravated felony not committed on the same  
6 occasion and separated by intervening arrest shall be sentenced to imprisonment  
7 for life and is not eligible for suspension of sentence, probation, or parole or  
8 release .

9           B. In order for this penalty under this section to apply, both of the  
10 following must occur:

11           1. Judgment for the aggravated or violent felony that comprises the  
12 prior conviction shall have been entered within fifteen (15) years of the  
13 conviction for the current offense, however time spent in custody or on  
14 probation for an offense or while the person is an absconder shall not be  
15 excluded from the calculation of the fifteen (15) years.

16           C. For the purposes of this section:

17           1. "Violent or Aggravated Felony" means any of the following  
18 offenses if committed in this territory or any offense committed outside  
19 this Territory that if committed in this Territory would constitute one of  
20 the following offenses:

21                   (a) Criminal Homicide, 9 G.C.A. §16.

22                   (b) Aggravated Assault and Assault, 9 G.C.A. §§19.20 & 19.30.

23                   (c) Terroristic Conduct, 9 G.C.A. §19.50

24                   (d) Kidnapping, 9 G.C.A. § 22.20

25                   (e) Felonious Restraint, 9 G.C.A. §22.30

26                   (f) Child Stealing, 9 G.C.A. §22.40



- 1 (g) Criminal Sexual Conduct in the 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup> Degrees, 9  
2 G.C.A. §§25.15, 25.20, & 25.25.
- 3 (h) Criminal Sexual Conduct in the 4<sup>th</sup> Degree as it defined in 9  
4 G.C.A. §25.30 as a Felony in the 3<sup>rd</sup> Degree.
- 5 (i) Assault with Intent to Commit Criminal Sexual Conduct, 9  
6 G.C.A. §25.35
- 7 (j) Compelling Prostitution, 9 G.C.A. §28.30 as defined involving a  
8 child.
- 9 (k) Indecent Electronic Display to a Child, 9 G.C.A. §25.01.10
- 10 (l) Electronic Enticement of a Child as a 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup> Degree  
11 Felony, 9 G.C.A. §§25.01.40, 25.01.30, & 25.01.20
- 12 (m) Crimes Involving Obscenity & Related Offenses Involving  
13 Children, 9 G.C.A. §§1628.51 & 28.52.
- 14 (n) Photography of Minors' Sexual Acts, 9 G.C.A. §28.80
- 15 (o) Possession of Child Pornography, 9 G.C.A. §25.01.60.
- 16 (p) Dissemination of Child Pornography, 9 G.C.A. §25.01.70
- 17 (q) Family Violence, as a Felony, 9 G.C.A. §30.20
- 18 (r) Child Abuse, 9 G.C.A. §31.30
- 19 (s) Aggravated Arson, 9 G.C.A. §34.20
- 20 (t) Negligent Burning, 9 G.C.A. §34.40
- 21 (u) Burglary, 9 G.C.A. §37.20.
- 22 (v) Robbery in the 1<sup>st</sup>, 2<sup>nd</sup>, & 3<sup>rd</sup>, 9 G.C.A. §1640.10, 40.20, &  
23 40.30.
- 24 (w) Felony Escape, 9 G.C.A. §58.20.
- 25 (x) Riot, Failure to Disperse, 9 G.C.A. §61.10.

1                                    (y) Violation of the Guam Gun Free School Zone Act of 2004, 9  
2                                    G.C.A. §71

3            **Section 3. Effective Date.** This Act shall be effective upon enactment.

4            **Section 4. Severability.** *If* any provision of this Law or its application to any  
5 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
6 *not* affect other provisions or applications of this Law which can be given effect  
7 without the invalid provisions or application, and to this end the provisions of this  
8 Law are severable.

***MINA' TRENTAI DOS NA LIHESLATURAN GUÅHAN***  
**2013 (FIRST) Regular Session**

**Bill No. 107-32 (LS)**

As substituted by the Committee on Guam  
US Military Relocation, Veterans' Affairs,  
Homeland Security and Judiciary

Introduced by:

Brant T. McCreadie  
Dennis G. Rodriguez Jr.  
Tina Rose Muna Barnes  
Michael F. Q. San Nicolas  
V. Anthony Ada  
Michael Limtiaco

---

**AN ACT TO ADD A NEW SECTION TO CHAPTER  
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RELATIVE TO CREATING A "TWO STRIKES"  
PROVISION FOR HABITUAL OFFENDERS OF  
SERIOUS CRIMES.**

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

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4 further finds that many of these violent crimes are committed again and again by  
5 persons previously convicted of other serious crimes. These habitual offenders have  
6 shown that rehabilitation for them is not an option. As such, it is in the people's best  
7 interest that habitual offenders be incarcerated for a significant period of time.

8 Therefore, it is the intent of *I Liheslaturan Guåhan* to implement a habitual  
9 offender statute by adding a new Section to Chapter 80, Title 9, Guam Code  
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5 been convicted of a violent or aggravated felony not committed on the same  
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7 for life and is not eligible for suspension of sentence, probation, or parole or  
8 release.

9           B. In order for this penalty under this section to apply, both of the  
10 following must occur:

11           1. Judgment for the aggravated or violent felony that comprises the  
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13 conviction for the current offense, however time spent in custody or on  
14 probation for an offense or while the person is an absconder shall not be  
15 excluded from the calculation of the fifteen (15) years.

16           C. For the purposes of this section:

17           1. "Violent or Aggravated Felony" means any of the following  
18 offenses if committed in this territory or any offense committed outside  
19 this Territory that if committed in this Territory would constitute one of  
20 the following offenses:

21           (a) Aggravated Murder, Murder and Manslaughter, 9 G.C.A.

22           §§16.30, 16.40 & 16.50

23           (b) Aggravated Assault, 9 G.C.A. §19.20.

24           (c) Kidnapping, 9 G.C.A. § 22.20

25           (d) Criminal Sexual Conduct in the 1<sup>st</sup> & 2<sup>nd</sup> Degrees, 9 G.C.A.

26           §§25.15 & 25.20.

1                   (e) Compelling Prostitution, 9 G.C.A. §28.30 as defined involving  
2                   a child.

3                   (f) Indecent Electronic Display to a Child, 9 G.C.A. §25.01.10

4                   (g) Electronic Enticement of a Child as a 1<sup>st</sup> & 2<sup>nd</sup> Degree Felony,  
5                   9 G.C.A. §§25.01.40, 25.01.30.

6                   (h) Crimes Involving Obscenity & Related Offenses Involving  
7                   children, 9 G.C.A. §§28.51 & 28.52.

8                   (i) Photography of Minors' Sexual Acts, 9 G.C.A. §28.80

9                   (j) Possession of Child Pornography, 9 G.C.A. §25.01.60.

10                  (k) Dissemination of Child Pornography, 9 G.C.A. §25.01.70

11                  (l) Aggravated Arson, 9 G.C.A. §34.20

12                  (m) Robbery in the 1<sup>st</sup>, & 2<sup>nd</sup> Degree, 9 G.C.A. §§40.10, & 40.20.”

13                  **Section 3. Effective Date.** This Act shall be effective upon enactment.

14                  **Section 4. Severability.** *If* any provision of this Law or its application to any  
15 person or circumstance is found to be invalid or contrary to law, such invalidity shall  
16 *not* affect other provisions or applications of this Law which can be given effect  
17 without the invalid provisions or application, and to this end the provisions of this  
18 Law are severable.

**COMMITTEE ON GUAM US MILITARY RELOCATION, VETERANS' AFFAIRS HOMELAND  
SECURITY & JUDICIARY**

*I Mina'Trentai Dos na Liheslaturan Guahan | 32<sup>nd</sup> Guam Legislature*



**SENATOR FRANK B. AGUON, JR  
CHAIRMAN**

**THURSDAY, JUNE 13, 2013 at 9:00AM**

**Bill No. 107-32 (LS) – Senator B.T. McCreadie/D.G. Rodriguez/T.M. Barnes/M. San Nicolas/V.A. Ada/M. Limtiaco  
An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to  
creating a “Two Strikes” provision for habitual offenders of serious crimes.**

NAME ( Please Print )	Agency/Organization	Contact Number	Oral Testimony	Written Testimony	In Favor	Not In Favor
<i>Phat Tyngzo</i>	<i>AGO</i>		<i>✓</i>		<i>Ident</i>	
<i>MIKAELA HENDERSON</i>	<i>PUBLIC DEFENDER</i>	<i>475-3100</i>				<i>X</i>
<i>Richard Dieckx</i>	<i>Public Defender</i>	<i>475-3100</i>	<i>✓</i>			<i>X</i>
<i>Kaela Winters</i>	<i>Public Defender</i>					<i>X</i>
<i>CARINA FEJERANG</i>	<i>RAWR</i>	<i>477-8917/8</i>	<i>✓</i>			
<i>Monique Daza</i>	<i>RAWR</i>	<i>482-2523</i>	<i>✓</i>			
NAME	Agency/Organization	Contact Number	Oral	Written	In	Not In



Hafa Adai and good morning Senators. My name is Monique Baza, I am a member of the Random Women's Rally and I am a survivor of a violent crime. I would like to thank Senator McCreadie for his efforts in addressing the outcries of the community regarding violent crimes by placing harsher sentences on repeat offenders. Although there is no over-night fix to the high rate of violent crimes on Guam, like Carina had mentioned, this is definitely a step in the right direction. My concern with this bill, after doing some research on Title 9, Chapter 80 of the Guam Code Annotated, is that there are many parts of Chapter 80 that would conflict with the bill because of the discretionary power given to judges, most especially with regards to sentencing of convicted criminals and the AG's willingness to accept plea agreements. If you take a look at Section 80.31 Prison Term for First Offenders, "In the case of a felony of the first degree, the court shall impose a sentence of not less than three (3) years and not more than fifteen (15) years". This is for first time offenders. So let me paint a picture for you. If one of your family members were raped, by a first time offender, found guilty of that crime, according to the statute, the judge can sentence that individual to a minimum of three years in jail. So your family members life and everything that they must suffer for the rest of it is only worth three years, three years of three meals a day and air conditioning. Who is thinking about the victim? These criminals are not stupid. They know the laws and how to get around them. This is the reason why punishments for violent crimes should be great from the first offense. The minimum for convictions of the first degree after the first offense is five years. Looking at the track record of my perpetrator, he had never served even this amount time for any of his crimes. There are many factors that must be looked at in order for this bill to be effective. When dealing with the safety of our community, there should be no republicans versus democrats, or legislature versus the governor. The power to make these changes in is your hands. Victims of violent crimes do not ever have a say in being a victim. It is our lives that are changed forever. It is the lives of our families that are changed forever.



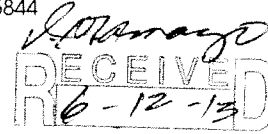
DIRECTOR  
Eric D. Miller



ADMINISTRATIVE DIRECTOR  
Bernadette S.N. Chargualaf

**PUBLIC DEFENDER SERVICE CORPORATION**  
*(Kotperasion Setbision Defensot Pupleku)*

GOVERNMENT OF GUAM  
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Suresh Sampath  
Brian E. Kegerreis  
Mikaela S. Henderson

June 12, 2013

TO: Honorable Frank B. Aguon, Chairman,  
Committee of the Guam U.S. Military Relocations, Homeland Security,  
Veteran's Affairs and Judiciary

FR: TERRANCE A. LONG, Acting Director, Public Defender Service Corporation

CC: Honorable V. Anthony Ada, Honorable Thomas C. Ada, Honorable Tina Rose Muna- Barnes,  
Honorable Michael Limtiaco, Honorable Brant T. Mc Creadie, Honorable Thomas Morrison  
Honorable Dennis G. Rodriguez, Jr., Honorable Michael F. Q. San Nicolas, Honorable Judith T.  
Wonpat.

RE: **Opposition to Bill No. 107-32**

Dear Senator Aguon:

I am writing in opposition to Bill 107-32 so that the record clearly reflects the opposition of the Public Defender Service Corporation to any legislation which diminishes the role of the Judiciary in matters of sentencing.

Judges are in the best position to evaluate each Defendant and Victim to determine the most appropriate disposition in each particular case. By preserving some degree of judicial discretion over sentencing, absurd, unsound or unintended sentence results are avoidable. Bill 107-32 would strip the Judiciary of that important role, a role that Judges are selected for by their experience, training and temperament.

I urge your committee to undertake further review of Bill 107-32 and the economic impact it would potentially have upon the community as a whole. Do not allow Bill 107-32 to progress any further in its current form.

Sincerely,

Terrance A. Long  
Acting Director

Hafa Adai Senators, my name is Carina Fejerang a random women against violence and a member of the Random Women's Rally. First of all, I want to thank Senator Brant McCready for doing his best to focus on much needed change in our community and to all the senators who understand that critical action needs to take place to reduce the crimes in our neighborhood and protect our innocent.

The two strikes bill is definitely a step in the right direction but may not be as effective if all parts of the law do not work for the benefit of the victim. Compared to other states that have three strike rulings, it is comforting to know that two strikes gives victims and the community a little more sigh of relief but does not entirely make our community safer.

In the 2007 Guam Uniform Crime Reports of a Department of Corrections Clinical psychologist mentioning 50% of the convicted criminals fall back into their former state of criminal behavior. Is it because criminals serve light sentencing limiting the amount of time for rehabilitation and evaluation while incarcerated? Or can it be that when a criminal has reached his/her parole eligibility they are released into the society and those supervising are not keeping track of these offenders when monitoring and house arrest is part of the process? How about accountability amongst our government officials? Are they doing their part in making sure community service is taking place, counseling is being maintained, and follow ups are occurring?

If you are a rape victim, justice is almost hard to find because perpetrators have learned to get away from the crime. Criminals are getting a slap on the wrist because they understand how our system works and how a plea bargain is better than going to trial.

How many of our island cases do not go to trial but are instead resolved from Plea Bargains? When a criminal pleads guilty what are the stats on criminal sentencing? How long do they serve their sentence and how many are released because of good behavior? We must ask the questions and we as a community and those who publically serve the community must find the answers. Not only do we ask the question, we research, evaluate, compare, plan, receive second opinions and adjust according to those opinions.

If the two strikes bill is past, I still worry about the first strike and the possible plea bargains that take place because ultimately in the end it is the judges, jurors, and attorneys who decide the sanctions for these criminals.

Stiffer punishment needs to take place for serious crimes but it should not have to take till the second crime to make a difference. Violent crimes on the first offence is just as serious and should not be taken lightly. Sentence enhancement or add-on's should also be considered for every crime an offender commits. The more crimes a person commits the higher the sentence and please do not subtract because they already did their time.

Today I ask all of you senators to work together as one unit, put aside the party preference and work as one team , by going back to the drawing board, and having a full round table discussion regarding the laws that affect the security of our people. Go back to the chapter and one section at a time evaluate each part and ask yourself, "If I was a victim what would I want." I also ask that you evaluate the

minimum sentencing and find ways to increase it depending on the severity of the crime and to also raise the percentage for parole eligibility. Retribution should be valued first and foremost!

New legislation is not always the answer in making things better. Formulating a plan and making sure all parts of the system works according to that legislation might be the proof we need for a better government. Every individual plays a part in this community and understanding your role in protecting one another is extremely crucial. Standard Operating procedures, mapping of the system, statistical analysis, referencing, quality control, and holding people accountable can possibly make the biggest difference in protecting lives.

We need to change our mindset and our ways of thinking. We all need to accept constructive criticism by manning up to our mistakes and making sure we learn from it. Adjust accordingly but with truth and honesty as your hallmark for creating change.

Our society is supposed to be built on a system of checks and balances. Each branch plays an important role in our community and neither one is more powerful than the other. We must make sure there is balance between each branch.

Today senators, when you go back to your meeting rooms or offices, think about your families, your friends, your community. Think about the victims who live in fear everyday because their perpetrators are constantly roaming our streets because of ridiculous plea bargains, bail amounts not being reviewed, or their cases taking to long to get resolved. Get together with your fellow branches of government and challenge them to remember their oath to our island, our state and our people.

Victims deserve justice. They want their voices heard. They want to stop feeling isolated and scared to roam freely on this island. We need strong sentencing for violent crimes from the very start and major reforms in our justice system needs to take place. We need educational outreach, accountability, and understanding. We need facilities for high profile criminals, reform camps implemented in correctional facilities. We need ideas in maintaining the security for our people. We need training in our government facilities to understand the importance of being accountable for their job at hand, understanding SOP's, protocols, systems. Let's work together and do our part to bring about change!

Si Yu'os Ma'ase.



## COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature

155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)

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Senator

Rory J. Respicio

CHAIRPERSON

MAJORITY LEADER

Senator

Thomas C. Ada

VICE CHAIRPERSON

ASSISTANT MAJORITY LEADER

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Member

Senator

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Member

Vice-Speaker

Benjamin J.F. Cruz

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Legislative Secretary

Tina Rose Muña Barnes

Member

Senator

Frank Blas Aguon, Jr.

Member

Senator

Michael F.Q. San Nicolas

Member

Senator

V. Anthony Ada

Member

MINORITY LEADER

Senator

Aline Yamashita

Member

## Certification of

## Waiver of

## Fiscal Note Requirement

This is to certify that the Committee on Rules submitted to the Bureau of Budget and Management Research (BBMR) a request for a fiscal note, or applicable waiver, on **BILL NO. 107-32 (LS) – “AN ACT TO ADD A NEW SECTION TO CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING A “TWO STRIKES” PROVISION FOR HABITUAL OFFENDERS OF SERIOUS CRIMES.”** – on June 19, 2013. COR hereby certifies that BBMR confirmed receipt of this request on May 7, 2013 at 1:56 P.M.

COR further certifies that a response to this request was not received. **Therefore, pursuant to 2 GCA §9105, the requirement for a fiscal note, or waiver thereof, on Bill 107-32 (LS) to be included in the committee report on said bill, is hereby waived.**

Certified by:

**Senator Rory J. Respicio**

Chairperson, Committee on Rules

June 19, 2013

**Date**



## COMMITTEE ON RULES

*I Mina'trentai Dos na Liheslaturan Guåhan* • The 32nd Guam Legislature  
155 Hesler Place, Hagåtña, Guam 96910 • [www.guamlegislature.com](http://www.guamlegislature.com)  
E-mail: [roryforguam@gmail.com](mailto:roryforguam@gmail.com) • Tel: (671)472-7679 • Fax: (671)472-3547

Senator  
Rory J. Respicio  
CHAIRPERSON  
MAJORITY LEADER

May 6, 2013

Senator  
Thomas C. Ada  
VICE CHAIRPERSON  
ASSISTANT MAJORITY LEADER

### MEMORANDUM

Senator  
Vicente (Ben) C. Pangelinan  
Member

**To: Rennae Meno**  
*Clerk of the Legislature*

**Attorney Therese M. Terlaje**  
*Legislative Legal Counsel*

Speaker  
Judith T.P. Won Pat, Ed.D.  
Member

**From: Senator Rory J. Respicio**  
*Majority Leader & Rules Chair*

Senator  
Dennis G. Rodriguez, Jr.  
Member

**Subject: Referral of Bill Nos. 106 & 107-32(LS)**

Vice-Speaker  
Benjamin J.F. Cruz  
Member

As the Chairperson of the Committee on Rules, I am forwarding my referral of **Bill Nos. 106 & 107-32(LS)**.

Legislative Secretary  
Tina Rose Muña Barnes  
Member

Please ensure that the subject bills are referred, in my name, to the respective committee, as shown on the attachment. I also request that the same be forwarded to all members of *I Mina'trentai Dos na Liheslaturan Guåhan*.

Senator  
Frank Blas Aguon, Jr.  
Member

Should you have any questions, please feel free to contact our office at 472-7679.

Senator  
Michael F.Q. San Nicolas  
Member

*Si Yu'os Ma'åse!*

Senator  
V. Anthony Ada  
Member  
MINORITY LEADER

Attachment

Senator  
Aline Yamashita  
Member

*I Mina'Trentai Dos Na Liheslaturan Guahan*  
**Bill Log Sheet**

<b>BILL NO.</b>	<b>SPONSOR</b>	<b>TITLE</b>	<b>DATE INTRODUCED</b>	<b>DATE REFERRED</b>	<b>CMTE REFERRED</b>	<b>PUBLIC HEARING DATE</b>	<b>DATE COMMITTEE REPORT FILED</b>	<b>FISCAL NOTES</b>
<b>107-32 (LS)</b>	Brant T. McCreadie	AN ACT TO ADD A NEW SECTION TO CHAPTER 80, TITLE 9, GUAM CODE ANNOTATED, RELATIVE TO CREATING A "TWO STRIKES" PROVISION FOR HABITUAL OFFENDERS OF SERIOUS CRIMES.	5/3/13 3:45 p.m.	<b>5/6/13</b>	Committee on the Guam U.S. Military Relocation, Homeland Security, Veteran's Affairs, and Judiciary			



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## FIRST NOTICE: Public Hearing at 9:00AM on THURSDAY

5 messages

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Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com>  
To: phnotice@guamlegislature.org

Thu, Jun 6, 2013 at 11:15 AM

June 06, 2013

### MEMORANDUM

**TO:** All Senators

**FROM:** Chairman, Committee on Guam US Military Relocation, Veterans' Affairs,  
Homeland Security and Judiciary

**SUBJECT:** FIRST NOTICE of **Public Hearing** on Thursday, June 13, 2013 at 9:00AM

### ***Buenas yan Hala Adai!***

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Wednesday, June 5, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official

local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.

- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr., or via fax to 475-GUM3 (4863), or via email to [aguon4guam@gmail.com](mailto:aguon4guam@gmail.com). Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.com](http://www.guamlegislature.com). Individuals requiring special accommodations or services, please contact Yvette Cruz at 475-GUM1/2 (4861/2) or via email to [admin@frankaguonjr.com](mailto:admin@frankaguonjr.com).

***Si Yu'os Ma'ase!***

Cc: Clerks  
MIS  
Sgt-at-Arms

--  
**Thanks!**  
**Committee on Guam US Military Relocation, Veterans Affairs, Homeland Security and Judiciary**  
Office of Senator Frank B. Aguon, Jr.  
155 Hesler PL Suite 104, Hagåtña, Guam 96910  
Tel: (671) 475-GUM1/2 (4861/2)  
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 **AllSenMemo.pdf**  
498K

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**Adam Bearce** <[adam@guamlegislature.org](mailto:adam@guamlegislature.org)> Thu, Jun 6, 2013 at 11:20 AM  
To: "Office of Sen. Frank B. Aguon, Jr." <[committee@frankaguonjr.com](mailto:committee@frankaguonjr.com)>, Yong Pak <[yong@guamlegislature.org](mailto:yong@guamlegislature.org)>

Hi. This is now posted.  
[Quoted text hidden]

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**Office of Sen. Frank B. Aguon, Jr.** <[committee@frankaguonjr.com](mailto:committee@frankaguonjr.com)>  
To: Adam Bearce <[adam@guamlegislature.org](mailto:adam@guamlegislature.org)>

Thu, Jun 6, 2013 at 11:21 AM



Cc: Yong Pak <yong@guamlegislature.org>

Super - thanks Adam!

[Quoted text hidden]

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Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com>  
To: phnotice@guamlegislature.org

Thu, Jun 6, 2013 at 1:54 PM

Please note the following correction:

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, ~~Wednesday~~ Thursday, June 5 13, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña.

On Thu, Jun 6, 2013 at 11:15 AM, Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com> wrote:

[Quoted text hidden]

[Quoted text hidden]

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Adam Bearce <adam@guamlegislature.org>

Thu, Jun 6, 2013 at 1:56 PM

To: "Office of Sen. Frank B. Aguon, Jr." <committee@frankaguonjr.com>, Yong Pak <yong@guamlegislature.org>

Thanks. Confirmed.

**From:** Office of Sen. Frank B. Aguon, Jr. [mailto:committee@frankaguonjr.com]

**Sent:** Thursday, June 06, 2013 1:55 PM

**To:** phnotice@guamlegislature.org

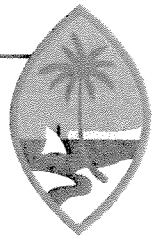
**Subject:** Re: FIRST NOTICE: Public Hearing at 9:00AM on THURSDAY

[Quoted text hidden]



GUAM U.S. MILITARY RELOCATION  
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY

I MINA'TRENTAI DOS NA LIHESLATURAN GUÅHAN | 32ND GUAM LEGISLATURE



Senator  
**FRANK B. AGUON, JR.**  
Committee Chairperson

Senator  
**Tina Muna-Barnes**  
Committee Vice Chairperson

Speaker  
**Judith T. Won Pat, Ed.D.**  
Committee Member

Senator  
**Rory J. Respicio**  
Committee Member

Senator  
**Thomas C. Ada**  
Committee Member

Senator  
**Dennis G. Rodriguez, Jr.**  
Committee Member

Senator  
**V. Anthony Ada**  
Committee Member


Senator  
**Michael Lintiaco**  
Committee Member

Senator  
**Thomas Morrison**  
Committee Member

June 06, 2013

MEMORANDUM

TO: All Senators

FROM: Chairman, Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary 

SUBJECT: FIRST NOTICE of Public Hearing on Thursday, June 13, 2013 at 9:00AM

*Buenas yan Hafa Adai!*

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Wednesday, June 5, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.
- **Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr., or via fax to 475-GUM3 (4863), or via email to [aguon4guam@gmail.com](mailto:aguon4guam@gmail.com). Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guåhan's* website at [www.guamlegislature.com](http://www.guamlegislature.com). Individuals requiring special accommodations or services, please contact Yvette Cruz at 475-GUM1/2 (4861/2) or via email to [admin@frankaguonjr.com](mailto:admin@frankaguonjr.com).

*Si Yu'os Ma'ase!*

Cc: Clerks | MIS | Sgt-at-Arms

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As of May 15, 2013**

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THURSDAY, JUNE 6, 2013 - MARIANAS VARIETY GUAM EDITION



## OFFICE OF SENATOR FRANK B. AGUON, JR.

Chairman, Committee on Guam US Military Relocation,  
Homeland Security, Veterans Affairs and Judiciary  
Mina Trentai Dos Na Liheslaturan Guahan | 32nd Guam Legislature



### PUBLIC HEARING THURSDAY, JUNE 13, 2013 | 9:00AM

**Bill No. 99-32 (LS)** - An act to amend 580.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.

**Bill No. 107-32 (LS)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.

**Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.

**Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through adding a new § 67110 to Chapter 67, Title 10, Guam Code Annotated.

**Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center, and for other purposes; through the repeal and re-enactment § 67107 of Chapter 67, Title 10, Guam Code Annotated.

The public hearing will be broadcasted on MCV Channel 13 or GUDTV Channel 21. If you require any special accommodations, please contact the Office of Senator Frank B. Aguon, Jr. at 475-GUM1/2 (4861/2) or e-mail [committee@frankaguonjr.com](mailto:committee@frankaguonjr.com). *This ad paid for with government funds*

TUESDAY, JUNE 11, 2013 - MARIANAS VARIETY GUAM EDITION



## OFFICE OF SENATOR FRANK B. AGUON, JR.

Chairman, Committee on Guam US Military Relocation,  
Homeland Security, Veterans Affairs and Judiciary  
Mina: Trental Dos Na Liheslaturan Guahan | 32nd Guam Legislature



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**Bill No. 135-32 (COR)** - An act relative to increasing the representation of the number of veterans serving on the Guam Veterans Commission, to initiate efforts toward the eventual establishment of the "Sengsong Beteranun Guahan - Guam Veterans Village", which shall serve as a one-stop veterans services center; and for other purposes; through the repeal and re-enactment §67107 of Chapter 67, Title 10, Guam Code Annotated.

The public hearing will be broadcasted on MCV Channel 13 or GUD TV Channel 21. If you require any special accommodations, please contact the Office of Senator Frank B. Aguon, Jr. at 475-GUM1/2 (4861/2) or e-mail [committee@frankaguonjr.com](mailto:committee@frankaguonjr.com). *This ad paid for with government funds*



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## SECOND NOTICE: Public Hearing at 9:00AM on THURSDAY, June 13, 2013

4 messages

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Office of Sen. Frank B. Aguon, Jr. <committee@frankaguonjr.com>  
To: phnotice@guamlegislature.org

Tue, Jun 11, 2013 at 3:03 PM

June 11, 2013

### MEMORANDUM

**TO:** All Senators

**FROM:** Chairman, Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary

**SUBJECT:** SECOND NOTICE of **Public Hearing** on Thursday, June 13, 2013 at 9:00AM

### ***Buenas yan Hala Adai!***

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Thursday, June 13, 2013, at *I Liheslaturan Guåhan's* Public Hearing Room in Hagåtña, on the following:

- **Bill No. 99-32 (LS)** - An act to amend §80.60 of Article 4, Chapter 80, Title 9, Guam Code Annotated, relative to clarifying minimum sentences for crimes.
- **Bill No. 107-32 (COR)** - An act to add a new Section to Chapter 80, Title 9, Guam Code Annotated, relative to creating a "Two Strikes" provision for habitual offenders of serious crimes.
- **Bill No. 116-32 (COR)** - An act to amend §§ 65102 and 65103 of Chapter 65, Title 10, Guam Code Annotated and to add a new § 65103.1 to the same Chapter; relative to the establishment of operational continuity plans for each agency of the government of Guam.
- **Bill No. 134-32 (COR)** - An act relative to recognizing the Office of Veterans Affairs as the official local agency for establishing and maintaining the "Guam Veterans Registry" which shall be utilized for enumerating the population of veterans on Guam, and for the use of such information for increasing or acquiring necessary healthcare and other relevant services to benefit veterans and their families; through

adding a new §67110 to Chapter 67, Title 10, Guam Code Annotated.

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The Committee requests that, if written testimonies are to be presented at the hearing, copies be submitted one day prior to the public hearing date, to the Office of Senator Frank B. Aguon, Jr., or via fax to 475-GUM3 (4863), or via email to [aguon4guam@gmail.com](mailto:aguon4guam@gmail.com). Copies of the aforementioned Bill(s) may be obtained at *I Liheslaturan Guáhan*'s website at [www.guamlegislature.com](http://www.guamlegislature.com). Individuals requiring special accommodations or services, please contact Yvette Cruz at 475-GUM1/2 (4861/2) or via email to [admin@frankaguonjr.com](mailto:admin@frankaguonjr.com).

*Si Yu'os Ma'ase!*

Cc: Clerks  
MIS  
Sgt-at-Arms


—  
**Thanks!**

**Committee on Guam US Military Relocation, Veterans Affairs, Homeland Security and Judiciary**

Office of Senator Frank B. Aguon, Jr.  
155 Hesler PL Suite 104, Hagåtña, Guam 96910  
Tel: (671) 475-GUM1/2 (4861/2)  
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500K

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**Adam Bearce** <[adam@guamlegislature.org](mailto:adam@guamlegislature.org)> Tue, Jun 11, 2013 at 3:12 PM  
To: "Office of Sen. Frank B. Aguon, Jr." <[committee@frankaguonjr.com](mailto:committee@frankaguonjr.com)>, Yong Pak <[yong@guamlegislature.org](mailto:yong@guamlegislature.org)>

Hi. Thanks. Confirmed  
[Quoted text hidden]

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**Office of Sen. Frank B. Aguon, Jr.** <[committee@frankaguonjr.com](mailto:committee@frankaguonjr.com)> Tue, Jun 11, 2013 at 3:16 PM  
To: Adam Bearce <[adam@guamlegislature.org](mailto:adam@guamlegislature.org)>  
Cc: Yong Pak <[yong@guamlegislature.org](mailto:yong@guamlegislature.org)>

Super - thanks Adam!





GUAM U.S. MILITARY RELOCATION  
VETERANS' AFFAIRS | HOMELAND SECURITY | JUDICIARY

I MINA'TRENTAI DOS NA LIHESLATURAN GUAHAN | 32ND GUAM LEGISLATURE



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Senator  
**V. Anthony Ada**  
Committee Member

Senator  
**Michael Limtiaco**  
Committee Member

Senator  
**Thomas Morrison**  
Committee Member

June 11, 2013

MEMORANDUM

TO: All Senators

FROM: Chairman, Committee on Guam US Military Relocation Veterans' Affairs, Homeland Security and Judiciary

SUBJECT: SECOND NOTICE of **Public Hearing** on Thursday, June 13, 2013 at 9:00AM

**Buenas yan Hafa Adai!**

The Committee on Guam US Military Relocation, Veterans' Affairs, Homeland Security and Judiciary has scheduled a public hearing starting at 9:00AM, Thursday, June 13, 2013, at *I Liheslaturan Guahan's* Public Hearing Room in Hagåtña, on the following:

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**Si Yu'os Ma'ase!**

Cc: Clerks | MIS | Sgt-at-Arms

# 'Two strikes' bill draws opposition

By Mark-Alexander Pieper  
Pacific Daily News  
mapieper@guampdn.com

A bill that would require a life sentence after "two strikes," or convictions, within 15 years could overburden the island's prisons and is "unheard of," according to members of the island's criminal justice system.

Bill 107, introduced in April by Sen. Brant McCreadie, is scheduled

for a public hearing this morning at the Guam Legislature's public hearing room in Hagåtña.

The bill cites 25 offenses that would be considered violent or aggravated felonies and eligible for a life sentence without parole.

In addition to homicide and other violent crimes, the bill states some misdemeanors also would be considered a "strike," including "negligent burning" and "riot: fail-

ure to disperse."

The bill, McCreadie has said, is meant to protect the most vulnerable in the community and to deter criminals from committing more crimes.

McCreadie introduced the bill days after two convicts, Anthony Mendiola and Raymond Tedtaotao, were magisterated on allegations of attempted murder and other crimes in connection with the Nimitz Hill home invasion in April. The men were in-

acted, and their trial is scheduled for later this month.

While many have said the bill's intent is admirable, it could create many problems if passed as currently written.

The public defender and alternate public defender could not be reached for comment. The Judiciary of Guam

■ See Two strikes. Page 4

## Two strikes: List of offenses called too broad

■ Continued from Page 1

declined comment.

### Overpopulated prison

Lt. Antone Aguon of the Department of Corrections said the agency supports any measure to help protect the public, but the island's prison already is overpopulated.

Currently, the facility houses 703 people — of which 221 are inmates and the rest are detainees. The facility was built to accommodate a population of about 300.

"DOC is seriously overcrowded and the effects of this law would exacerbate the problem," he said.

"It's not a matter of just the bed space. You have to take into account the services provided to them, such as medical, dental, clothing, food, psychological help. And those demands, especially for medical services, only increase as they age."

DOC needs about \$25 million a year to operate but has been running the last several years on a \$20 mil-

lion budget. Aguon said to properly handle its current population, 280 prison officers are needed but there are 157 now.

If the bill becomes law, it would go into effect immediately — which could cause a drastic population increase for DOC. As it is now, about half of DOC's inmate population are repeat offenders, Aguon said.

### 'Unfair and unheard of'

Attorney Jay Arriola, a member of Guam's criminal defense panel, has many concerns about the bill.

He said it fails to define what a habitual offender is, other than saying it is someone who at some point in his or her life had been convicted of a prior offense and is facing a second conviction within a 15-year span.

Arriola said life sentences are expensive and it has been shown they don't necessarily work to deter repeat offenses.

Federal Judicial Center studies have shown that mandatory minimum sentences, such as those pro-

posed in the bill, have proven to be ineffective in reducing the number of repeat offenders.

"It gives a life sentence — which is the most serious sentencing allowed under Guam law because we don't have the death penalty — for a number of offenses that would sometimes only deserve probation," Arriola said.

"Negligent burning is on here. So this is telling me someone could face a life sentence if they had been convicted of a burglary and then failed to watch their fire when they were burning in their backyard? The time has to fit the crime and there seems something borderline unconstitutional with a two strikes rule. To impose a life sentence on just a second offense is unfair and unheard of."

### AG's guidance needed

Sen. Frank Aguon, whose legislative committee is holding today's hearing, said he supports the bill's intent but would prefer a three strikes rule. He said he has reservations

about the list of crimes that could qualify a repeat offender for a life sentence under the bill.

"It's extremely broad," Aguon, D-Yona, said.

"But that's where the attorney general can help us and has been very generous with us. One of the things we are looking forward to is that they have come in and tried to steer us in the right direction of making sure that it is applied to specific activities — that it should be applied to these criminal acts and not necessarily others."

Attorney General Leonard Rapadas said he supports the intent of the bill, noting a number of jurisdictions have laws similar to what is proposed in the bill.

Rapadas said he does not believe the offenses listed in the bill are too broad. "It covers offenses that are violent in nature and those where the person is violated rather than property," he said.

"The former is generally seen by society as being much more serious in violation. The latter, which in-

cludes 'negligent burning' has an element of endangering human life and one of the rioting charges includes the use of a 'firearm or other deadly weapon' — both of which are also violent in nature."

But Rapadas said he is concerned about what would happen if the bill becomes law and takes effect immediately. It would result in more work for his prosecution division as well as for the Guam Police Department and the probation office.

"We'll see more charged cases, more trials and more appeals," Rapadas said.

Rapadas has said his prosecution division already is severely understaffed, making it difficult to bring cases to trial in time and prosecute them aggressively.

"We can all agree there would be an increase in the prison population. Litigation can also be anticipated on what 'habitual offenders' are and what is a 'violent or aggravated felony' — therefore also impacting our Civil Division," Rapadas said.

# '2 strikes' bill draws ire

By Louella Losinio  
louella@mvguam.com  
Variety News Staff

BILL 107, or the "two strikes and you're out" bill, drew sharp criticism during its public hearing yesterday as opponents of the measure pointed out its possible

economic and social impact once enacted.

Bill 107, introduced by Sen. Brant McCreadie, seeks to introduce a habitual offender statute into current law which sets a mandatory life sentence for those who have been previously

convicted of any violent or aggravated felony, not committed on the same occasion and separated by intervening arrests.

If the bill becomes law, the habitual offender statute recommends that sentencing not be suspended, nor shall the offender

be eligible for probation or parole.

"We are aware of the logistical and financial burdens that this will place on our government, in particular the Department of Corrections," McCreadie said. However, the senator said he

**BILL 107** continued on page 2

## Bill 107...

continued from page 1

won't let such issues dissuade him from passing legislation that will protect the people.

Richard Dirx, an attorney with the Public Defender Service Corporation, criticized the bill for its "meat cleaver" approach, which will cast a wide net that "will bring in the small fish."

"Under this bill, a teenager who makes two threatening phone calls to his school will get the same sentence as someone who detonates a bomb at the center court of the Micronesia Mall. .... On her second offense, a mother who shoplifts a bottle of baby formula or spanks her child inappropriately will get the same sentence as a home invader armed with a shotgun," he said.

He said "throwing a hundred little fish in jail in the hope that it will prevent one shark from biting somebody" is the wrong answer.

### 'Little fish'

In particular, two groups of "little fish" will be swept up by the net, according to Dirx.

These groups include the mentally ill who, over the course of their lifetime, get

a number of repeat offenses.

"We bring them into court and we even have a mental health court handling this now. They plead guilty because they do not get the benefit of any of the mental health statutes. They are put on probation [and] go back to their family. You are going to [imprison them for life] without the possibility of parole," Dirx said.

Soldiers returning to Guam with post-traumatic stress syndrome, or PTSD, is another group.

"I've seen dozens of these returning soldiers who come to court because of PTSD and they get convicted. Right now, judges can look case-by-case and can do what is appropriate — work with mental health or with the Veterans Administration and design something to help them out. But the victims are an integral part of this," he said.

Atty. Randy Cunliffe concurred with Dirx's testimony. He said there are a number of ways that people can go to jail for a long time if the bill is passed.

"First-degree criminal sexual conduct is up to life in prison. If a kid is 16 years old and he has sex with a 13-year-old, he can be put to prison for life. The court and the Attorney General's Office say this is not what the law intended. But if the government can prove their case, then

that defendant is going to jail for life," Cunliffe said.

Cunliffe also pointed out the possible economic impact of the bill, saying the courts are backed up and the system is going to cost millions of dollars.

"One of the requirements of legislation is to determine what the financial impact is. And I dare say, no one can tell you what the impact of this would be but it would be in the millions of dollars and it's not going to benefit many of the people," he added.

### Bipartisan support

Since the measure has been introduced, it has gained bipartisan support at the Legislature due to the sharp increase in violent and serious crimes, which are committed again and again by persons previously convicted of other serious crimes. Co-sponsoring the bill are Sens. Michael San Nicolas, Dennis Rodriguez Jr., Tina Muña-Barnes, Anthony Ada, and Michael Limtiaco.

Habitual offenders, according to the bill, have shown that rehabilitation for these criminals is not an option. As such, it is in the people's best interest for habitual offenders to be incarcerated for a significant period of time.

For the penalties to apply, judgment for the aggravated or violent felony that comprises the prior conviction should

have been entered within 15 years of the conviction for the current offense. However, time spent in custody or on probation for an offense or while the person is an absconder shall not be excluded from the calculation of the 15 years.

"Our community and the island as a whole cannot afford to let violent offenders continue to reoffend. These criminals have been given multiple chances to rehabilitate. When do we say — as a community, as lawyers, as different branches of the government — that enough is enough," McCreadie said.

### Sigh of relief

Corina Fejeran, of Random Women's Rally, said the "two strikes" bill is definitely a step in the right direction but may not be as effective if all parts of the law work for the benefit of the victim.

"Compared to the other states that have a 'three strikes' ruling, it is comforting to know that two strikes give victims and the community a little sigh of relief but does not entirely make our community safer," she said.

Fejeran also quoted a 2007 report of the Department of Corrections, wherein a psychologist mentioned that 50 percent of convicted criminals fall back to their former state of criminal behavior.

## **Two strikes bill to include fewer crimes**

*Written by Steve Limtiaco Pacific Sunday News*

*Jun. 16, 2013 |*

guampdn.com

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Sen. Brant McCreadie, R-Agana Heights, yesterday said he wants the legislative judiciary committee to change his "two strikes" bill for repeat offenders, removing even more crimes from the list of offenses eligible for a life sentence in prison.

"While the term of life imprisonment remains, I removed several of the offenses, such as negligent burning for example, so that the punishment set in the bill is commensurate with the offenses," said McCreadie, who said he proposed the changes in response to Thursday's public hearing on the bill.

During that hearing, the attorney general's office supported the measure, as did victim advocates. But several defense attorneys said it's excessive, limits the ability of judges to be lenient, and would unnecessarily lock up some people for life. It also could further burden the already overpopulated prison, some argued.

McCreadie said his proposed changes, which would require committee approval, are a more balanced approach to implementing a two-strikes law.

The bill was introduced to address public concern about the threat of repeat offenders. Public concern was elevated following the April arrest of two suspects in a violent Nimitz Hill home invasion, both of whom have criminal records.

The bill calls for an automatic life sentence for those convicted of committing two specific serious crimes within a 15-year period.

According to McCreadie's office, he wants to keep the following crimes on the list: aggravated murder; murder; kidnapping; first- and second-degree criminal sexual conduct; compelling prostitution involving a child; first- and second-degree robbery; aggravated arson; child pornography; indecent electronic display to a child; electronic enticement of a child; obscenity and related crimes involving children; and photography of minors' sexual acts.

## **AG, thanks for gambling challenge**

*Written by Frank Ishizaki*

*Jun. 17, 2013 |*

guampdn.com

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Greetings, armchair CSIs. I want to comment on the legislative proposal to sentence two-strike offenders to life in prison and Attorney General Lenny Rapadas' stand against gambling.

I congratulate Rapadas for taking legal action against the administration on the question of illegal gambling. He's responsible for assuring that our government carries out its legal mandates. On occasion, the AG may disagree with the administration. Government officials assume all legal responsibility if they act contrary to the legal advice of the AG.

When push comes to shove, who would represent the chief executive? This is the crux of the legal question concerning whether the AG should be appointed by the governor or elected by the people.

Some believe that the governor should appoint his own "legal lackey" and others believe in the election process. I have often thought that the prosecutor should be elected while the AG should be appointed; others disagree.

One key area of concern has always been, "What if the administration is corrupt?" Who would investigate and prosecute?

Who's investigating or prosecuting corrupt officials now? In the past, if feds didn't investigate and prosecute, who would have? When was the last time the AG successfully prosecuted a corrupt official?

The Office of Attorney General must find the right balance. While it should avoid fighting the chief executive, an occasional disagreement is probably inevitable. My concern has been that although we have three branches of government, the AG, public auditor, and autonomous agencies with elected leaders are also part of the executive branch. Since they answer to the voters, they often act as if they represent the fourth branch of government.

How do we reconcile this dilemma?

The question of whether the Department of Revenue and Taxation properly adopted the administrative rules concerning electronic gaming will need to be decided by the courts. Thank you, AG Rapadas, for challenging the unlawfulness of gambling machines on behalf of the people of Guam.

### **Two-strikes proposal**

I applaud freshman Sen. Brant McCreadie for his sincere attempt to help fight crime. The basic concept of being tough on criminals and seeking solutions to reduce violent crimes is very commendable. However; we need an intelligent, less emotional discussion before passing this concept.