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Felix P. Camacho
Governor

Michael W. Cruz, M.D.
Lieutenant Governor

Office of the Speaker
Judith T. Won Pat, Ed. D.

Date: 11/25/09
Time: 3:29 PM
Received by: [Signature]

30-09-1392

Honorable Judith T. Won Pat, Ed.D
Speaker
I Mina' Trenta Na Liheslaturan Guåhan
155 Hessler Street
Hagåtña, Guam 96910

NOV 25 2009

2009 NOV 27 PM 2:00 [Signature]

Dear Speaker Won Pat:

Submitted herewith is Bill No. 108-30 (COR), "AN ACT TO RE-ESTABLISH THE GUAM COMMUNITY POLICE REVIEW COMMISSION AS PROVIDED IN CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED; TO AMEND §78105 AND §78108(a) OF CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED; AND TO ADD A NEW §78126 TO CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED," which I have vetoed.

Bill No. 108-30 establishes another layer of bureaucracy without funding to support the measure's mandate. The Bill proposes to re-establish a police review commission to provide a function currently performed by the Guam Police Department's Internal Affairs Unit.

Guam law currently mandates all written complaints against an officer for misconduct and criminal offense be forwarded to Internal Affairs Unit and the Attorney General. The reason for the Bill's redundant process was a perceived fear of intimidation and conflict of interest. The bill ignores the good work of the Internal Affairs Unit and the availability of other resources such as the appointment of a special prosecutor. Moreover, courts have awarded significant civil rights judgments to victims of police misconduct and brutality. As an example of the effectiveness of the system, the Attorney General's office is currently prosecuting a police brutality case against Guam Police Department officers.

Yet, this Bill proposes to re-establish a commission with investigatory functions without an appropriation. Without adequate funding, complainants would only be frustrated with the process due to the lack of investigators to obtain and verify the facts and lawyers and other professionals properly equipped to apply the law, rules, regulations and procedures appropriately to the facts. Unlike Internal Affairs and the Attorney General's Office (hereinafter referred to as "AGO"), the Commission does not have the necessary professional resources to fairly make a determination as required under Section 4 of the Bill. The determination of a person's guilt should only be made by those properly trained and equipped such as Internal Affairs and the AGO. Although, Internal Affairs and the AGO are more aptly trained and equipped to make

determinations of guilt, these matters must still be brought before the court for a final determination. The Bill gives the Commission this tremendous authority which may lead to unsubstantiated determinations of misconduct or criminal activity that would be deemed final.

Another fatal outcome would be the probability of exposing confidential information thus jeopardizing criminal investigations and ultimately the safety of officers and informants. Although the concern was presented on several occasions, the Bill does not safeguard against the potential disclosure of confidential information.

While I support the notion of policing Guam's peace officers, there exist current mechanisms to investigate and penalize criminal misconduct by our officers, thus minimizing the need to establish another board.

Sinseru yan Magåhet,

A handwritten signature in black ink, appearing to read 'Felix P. Camacho', with a long, sweeping horizontal stroke extending to the right.

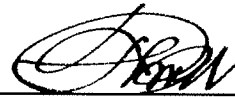
FELIX P. CAMACHO
I Maga' Låhen Guahan
Governor of Guam

Attachment

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

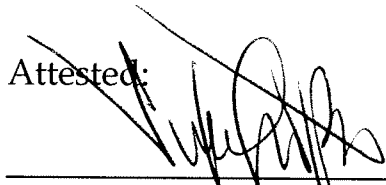
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 108-30 (COR), "AN ACT TO RE-ESTABLISH THE GUAM COMMUNITY POLICE REVIEW COMMISSION AS PROVIDED IN CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED; TO AMEND §78105 AND §78108 (a) OF CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED; AND TO ADD A NEW §78126 TO CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED,"** was on the 10th day of November, 2009, duly and regularly passed.



Judith T. Won Pat, Ed. D.
Speaker

Attested:



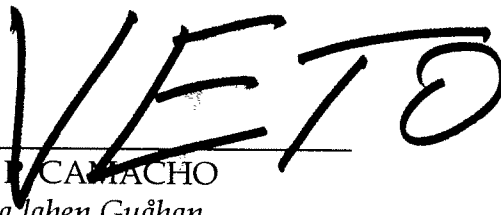
Tina Rose Muña Barnes
Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 13 day of Nov, 2009, at 1:30 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:



FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

I MINA'TRENTA NA LIHESLATURAN GUÅHAN
2009 (FIRST) Regular Session

Bill No. 108-30 (COR)

As substituted by the Committee on Public Safety,
Law Enforcement and Senior Citizens and
amended on the Floor.

Introduced by:

v. c. pangelinan
Adolpho B. Palacios, Sr.
T. C. Ada
F. B. Aguon, Jr.
F. F. Blas, Jr.
E. J.B. Calvo
B. J.F. Cruz
J. V. Espaldon
Judith P. Guthertz, DPA
T. R. Muña Barnes
M. J. Rector
R. J. Respicio
Ray Tenorio
Telo Taitague
Judith T. Won Pat, Ed.D.

AN ACT TO *RE-ESTABLISH* THE GUAM COMMUNITY POLICE REVIEW COMMISSION AS PROVIDED IN CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED; TO *AMEND* §78105 AND §78108 (a) OF CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED; AND TO *ADD* A NEW §78126 TO CHAPTER 78, TITLE 10, GUAM CODE ANNOTATED.

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that the public has the right to expect all law enforcement personnel, particularly
4 the police officers within the Guam Police Department (Department) to adhere to a
5 professional standard of conduct and all laws governing the island and its residents.

1 Model policies and guidelines may exist in the police department to deter and
2 punish misconduct, *however*, such standards, without objective and aggressive
3 enforcement and compliance, will be rendered ineffective. Silence and
4 unresponsiveness, perceived or real, undermines the community-police relations,
5 and erodes the public's trust and confidence in those who are empowered to protect
6 them, their families and their properties.

7 Conversely, the rights and dignity of each accused personnel of the
8 Department must *not* be compromised, but protected in all cases. Unprofessional
9 and transgressing officers are an exception and *not* the rule. Those officers who
10 demonstrate signs of aberrant behaviors must be dealt with in a timely fashion so
11 that the collective public image of and confidence in the Department is *not*
12 perverted.

13 *I Liheslaturan Guåhan* further finds that Public Law 24-23, which
14 established the Department and stipulates the process by which alleged violations
15 of the law on the part of a police officer *or* an employee of the Department *shall* be
16 investigated, is deficient. Currently, any person may file with any police officer a
17 complaint alleging the commission of a crime on the part of a police officer *or*
18 employee of the Department. The alleged violations are then forwarded to the
19 Internal Affairs unit of the Department. However, the fear of possible intimidation
20 and reprisal by imputed officers and the impression, whether legitimate *or not*, that
21 the Department is apathetic to public accusations against one of their own,
22 discourages the members of our community from reporting police misconduct.

23 Innate reluctance on the part of officers to report abuse *or* participate in
24 detailed investigation of an allegation against one of their own, *or* breaking the
25 "code of silence" due to prospective retaliation against deemed whistle-blowers *or*
26 participants, renders it difficult for the effective enforcement of this process.
27 Finally, the Office of the Attorney General, including its prosecutors, is placed in a

1 difficult position of investigating the same police officers it relies on for evidence
2 in other criminal cases. Thus, the investigations are frequently and unjustly
3 perceived by the public as being covered up and biased.

4 Maintenance of community credibility and restoration of the public trust
5 begins with and hinges on police accountability and aggressive enforcement of
6 internal policies to regulate those who protect our lives and our properties. Such a
7 process would insure public confidence in the impartiality of the investigation
8 process and results, and more importantly, in the administration of justice by our
9 men and women in blue.

10 It is the intent of *I Liheslaturan Guåhan* to provide a practicable and
11 accessible means for the intake and processing of complaints against employees of
12 the Department, to inquire into such complaints and, when necessitated, to conduct
13 prompt and impartial investigations of legitimate public, criminal and other
14 accusations of misconduct against police officers and other employees of the
15 Department through direct community participation, while ensuring the rights and
16 dignity of each employee alleged to be in violation of the laws of Guam of any
17 standard of conduct that he or she is required to adhere to. A community police
18 review commission, composed of civilians with the authority to carry out
19 independent investigations, but without any dependence on *or* conflict of interest
20 with these closely linked law enforcement agencies, would be best able to make an
21 objective determination and recommendation as to the disposition of the complaint.

22 The Guam Community Police Review Commission was established in
23 Public Law 25-46, however, it was abolished pursuant to Public Law 26-76 for
24 failing to meet in over twelve (12) months.

25 *I Liheslaturan Guåhan* intends to ensure that the rights and dignity of each
26 accused employee of the Department are protected with the institution and
27 implementation of a clear and impartial investigative process.

1 It is, therefore, the intent of *I Liheslaturan Guåhan* to re-establish the Guam
2 Community Police Review Commission to comply with the provisions of its
3 mandate.

4 **Section 2. Re-establishment.** Chapter 78, Title 10, Guam Code
5 Annotated, as enacted by P.L. 25-46, is hereby *re-established* in its entirety.

6 **Section 3.** §78105 of Chapter 78, Title 10, Guam Code Annotated, is
7 hereby *amended* to read:

8 “§78105. **Quorum.** A majority of the members of the Commission
9 *shall* constitute a quorum for the transaction of business, and the
10 concurrence of a majority of the members *shall* be necessary to make any
11 action of the Commission valid. No action *shall* be taken by the
12 Commission at any meetings or hearings, *unless* a quorum is present.”

13 **Section 4.** §78108 (a) of Chapter 78, Title 10, Guam Code Annotated, is
14 hereby *amended* to read:

15 “(a) to receive complaints of the following alleged misconduct and
16 actions directed against the Department and any of its employees and to
17 fully and completely investigate said complaints:

- 18 (1) use of excessive or deadly force;
- 19 (2) injuries to, or death of, a person while under the custody
20 of the Guam Police Department;
- 21 (3) discrimination in the provision of police services, or
22 other discriminatory conduct, on the basis of sex, race, color,
23 ethnicity, creed, religion, national origin, sex, sexual
24 preference, disability or age and other violations of civil rights;
- 25 (4) theft;
- 26 (5) any other crime or misconduct which constitutes a felony
27 or felonies under the laws applicable to Guam; *and*

1 (6) any other crime or misconduct involving *more than one*
2 (1) employee.”

3 **Section 5.** A new §78126 is hereby *added* to Chapter 78, Title 10, Guam
4 Code Annotated, to read:

5 “§78126. **Review.** Upon the enactment of this bill into law
6 and immediately following the re- establishment of the Commission,
7 the Commission *shall* review Chapter 78 in its entirety and submit its
8 recommendations to *I Liheslaturan Guåhan* within one hundred
9 twenty (120) days. In particular, the Commission *shall* review
10 §78119; *shall* consider office space and budgetary needs; and *shall*
11 consider the implications of its action on the Civil Service
12 Commission’s adverse action procedures.”

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