

Territory of Guam Teritorion Guam

OFFICE OF THE GOVERNOR UFISINAN I MAGA'LAHI AGANA, OUAM 96910 U.S.A. OFFICE OF THE SPEAKER DATE: 4594

RECD BY: 1011

APR 1 1994

The Honorable Joe T. San Agustin Speaker, Twenty-Second Guam Legislature 155 Hesler Street Agana, Guam 96910

Dear Mr. Speaker:

Transmitted herewith is Bill No. 243 which I have signed into law this date as Public Law 22-104.

Sincerely yours,

JOSEPH F. ADA Governor of Guam

220614

Attachment



TWENTY-SECOND GUAM LEGISLATURE 1994 (SECOND) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 243 (LS), "AN ACT TO ADD §503.1 TITLE 6, GUAM CODE ANNOTATED, TO MAKE COMMUNICATIONS MADE "CRIME TO Α STOPPERS" ORGANIZATION PRIVILEGED," was on the 14th day of March, 1994, duly and regularly passed. Speaker Attested: PILAR C. LUTA'X Senator and Legislative Secretary This Act was received by the Governor this _____ day of _____ day of _____ Assistant Staff Officer Governor's Office APPROVED: Governor of Guam APR 1 1994 Date:

Public Law No. __22-104

TWENTY-SECOND GUAM LEGISLATURE 1993 (FIRST) Regular Session

Bill No. 243 (LS) As substituted by the Committee on Rules

Introduced by:

D. F. Brooks

P. C. Lujan

T. C. Ada

J. P. Aguon

E. P. Arriola

M. Z. Bordallo

H. D. Dierking

C. T. C. Gutierrez

T. S. Nelson

V. C. Pangelinan

D. Parkinson

E. D. Reyes

J. T. San Agustin

F. E. Santos

D. L. G. Shimizu

I. G. Bamba

A. C. Blaz

F. P. Camacho

M. D. A. Manibusan

T. V. C. Tanaka

A. R. Unpingco

AN ACT TO ADD §503.1 TO TITLE 6, GUAM CODE ANNOTATED, TO MAKE COMMUNICATIONS MADE TO A "CRIME STOPPERS" ORGANIZATION PRIVILEGED.

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

- 2 Section 1. A new §503.1 is hereby added to Title 6, Guam Code
- 3 Annotated, to read:

"§503.1. Privileged communications and information to Crime Stoppers organizations. (a) Definitions. For purposes of this section:

- (1) "Crime Stoppers organization" means a private, nonprofit organization that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity and that forwards the information to the appropriate law enforcement agency;
- (2) "Privileged communication" means information provided by any person, in any manner whatsoever, to a Crime Stoppers organization in reporting alleged criminal activity;
- (3) "Protected information" means the identity of the person reporting criminal activity to a Crime Stoppers organization, any records, statements (oral, written or recorded), papers, documents or any materials whatsoever utilized by a Crime Stoppers organization in reporting criminal activity or in processing such information, whether such information is in the possession of a Crime Stoppers organization, a police "Crime Stoppers" coordinator or his staff, or a law enforcement agency receiving such information from a Crime Stoppers organization.
- (b) Nondisclosure of privileged communication or privileged information. No person, police "Crime Stoppers" coordinator or his staff, or member of a Crime Stoppers organization's board of directors shall be required to disclose, by way of testimony or any other means, privileged communication or privileged information unless such failure to disclose infringes on the constitutional rights of

the accused. Nor shall such persons be required to produce, under **subpœna**, any records, documentary evidence, opinions or decisions relating to such privileged communication or information (i) in connection with any criminal case, criminal proceeding, or any administrative hearing of whatever nature, or (ii) by way of any discovery procedure.

- (c) Inspection of records. Any person arrested or charged with a criminal offense may petition the court for an in camera inspection of the records of a privileged communication or information concerning such person made to a Crime Stoppers organization. The petition shall allege facts showing that such records would (i) provide evidence favorable to the accused, (ii) be relative to the issue of guilt, and (iii) cause a deprivation of a constitutional right if such communication or information is not disclosed. If the court determines that, based on such criteria, the person is entitled to all or any part of such records, it may order production and disclosure as is necessary, protecting to the extent possible, the identity of the "Crime Stoppers" informant.
- (d) **Penalty for disclosure.** Disclosure of a privileged communication or privileged information in violation of this section shall be a felony of the third degree."

TWENTY-SECOND GUAM LEGISLATURE

1994 (SECOND) Regular Session

VOTING SHEET (AS REVISED)

•	, 0 122 0 0 122 2	
21/2	(AS REVISED)	
Bill No. <u>243</u>		
Resolution No.		
Question:		
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<u>NAME</u>	AYE	<u>NO</u>	NOT VOTING/ ABSTAINED	ABSENT/ OUT DURING ROLL CALL
ADA, Thomas C.	V			
AGUON, John P.				
ARRIOLA, Elizabeth P.				
BAMBA, J. George	V			
BLAZ, Anthony C.	V			
BORDALLO, Madeleine Z.				
BROOKS, Doris F.	V			
CAMACHO, Felix P.	V			
DIERKING, Herminia D.	V			
GUTIERREZ, Carl T. C.				
LUJAN, Pilar C.	V			
MANIBUSAN, Marilyn D. A.	V			
NELSON, Ted S.				
PANGELINAN, Vicente C.	W			
PARKINSON, Don	L			
REYES, Edward D.	V			
SAN AGUSTIN, Joe T.				
SANTOS, Francis E.	W			
SHIMIZU, David L. G.	1			
TANAKA, Thomas V. C.	V			
UNPINGCO, Antonio R.				

	1		
TOTAL	<i>d</i> 1		
10111	X	 	



Senator Pilar Cruz Lujan Legislative Secretary

Chairperson - Committee on Judiciary and Criminal Justice

January 4, 1994

Honorable Joe T. San Agustin Speaker, Twenty-Second Guam Legislature 155 Hesler St. Agana, Guam 96910

VIA: Chairperson, Committee on Rules

Dear Mr. Speaker:

The Committee on Judiciary and Criminal Justice, to which was referred **Bill No. 243**, wishes to report its findings and recommendations to do pass **Bill No. 243**.

The Committee voting record is as follows:

<u>11</u>	TO PASS
0	NOT TO PASS
0	ABSTAIN
0	TO PLACE IN INACTIVE FILE

A copy of the Committee Report and all pertinent documents are attached for your information.

Sincerely

PILAR C. LUJAN

Pilar C. Lujan

COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE COMMITTEE REPORT ON BILL 243

Bill No. 243 --- AN ACT TO MAKE COMMUNICATIONS MADE TO A "CRIME STOPPERS" ORGANIZATION PRIVILEGED.

PREFACE

The Committee on Judiciary and Criminal Justice convened at 1:00 p.m., Tuesday, April 20, 1993 in the Legislative Public Hearing Room in Agana, Guam.

Committee members alongside Chairwoman Pilar C. Lujan were Senators Don Parkinson and Antonio Unpingco.

OVERVIEW

Crimestoppers is an International-nonprofit organization which assists law enforcement agencies by operating as a "hotline" that informants use to provide tips about criminal activities.

The Guam chapter of Crimestoppers was first created in 1985. Since then, Crimestoppers Guam has assisted in the recovery of nearly \$3 million in stolen property and seized narcotics which have led to almost 200 arrests and over 100 convictions.

Crimestoppers provides cash rewards to anyone contributing to the arrest and conviction of those taking a part in illegal activities.

Bill 243 would add a new section 503.1 to Title 6 of the Guam Code Annotated (Evidence Code). This new section would classify any information given through this "hotline" as privileged information. This will provide for the confidentiality of the names of individuals informants.

The information received by Crimestoppers Guam shall be confidential and only known to law enforcement authorities directly involved in the investigations of such activities.

No person entrusted with the contents of information reported to Crimestoppers may release these contents to those not directly related with the investigation process. No person shall be required to disclose of privileged information.

A person may petition the court for disclosure of the evidence. However, the individual shall show proof alleging that the contents would provide favorable evidence for the defendant, be relative to the issue of guilt, and show that the withholding of such evidence would be in violation of his constitutional right in so that disclosure would not in any way release the name of the informants.

A violation of the provision of this section shall be classified as a misdemeanor.

TESTIMONY

Mr. John Morvant, Chairman of Crimestoppers Guam, on behalf of its Board of Directors, appeared before the committee to submit and testify in favor of Bill 243.

Making note of the success of Crimestoppers in the past, Mr. Morvant indicated the importance of the confidentiality of the identity of informants, in order that continued success of the program would be achieved.

Mr. Morvant also indicated that the people of Guam desire a safe island and any threat of the release of such identification may deter credible informants from providing the information.

A few years ago, Crimestoppers had experienced the threat of for a subpoena for the release of information provided by crime stoppers. Though this situation did not result in the release, the probability of such request is very likely in the future. (ATTACHMENT I)

A number of states have enacted legislation providing protection to state Crimestoppers programs. This proposed legislation has been the consolidation of those sections of state laws most relative to Guam. The protection of Crimestoppers information has been previously challenged and had been found to be valid and constitutional. (ATTACHMENT I)

Chief Adolf P. Sgambelluri submitted testimony on support of Bill 243. (ATTACHMENT II)

COMMITTEE RECOMMENDATION

The Committee recognizes the need to protect those who report important information to those officials directly related to the investigation of individual cases.

In recognition of the importance of information received by Crimestoppers in the apprehension and prosecution of criminals and the protection of those providing the information, the Committee on Judiciary recommends passage of Bill 243.

TWENTY-SECOND GUAM LEGISLATURE FIRST (REGULAR) SESSION

FEB 26 93

Bill: 243 (LS)

Introduced By:

D.F. Brooks 1913 P.C. Lujan

AN ACT TO MAKE COMMUNICATIONS MADE TO A "CRIME STOPPERS" ORGANIZATION PRIVILEGED.

BE IT ENACTED BY THE PEOPLE OF THE TERRITORY OF GUAM:

Section 1. A new section 503.1 is hereby added to Title 6 of the Guam Code Annotated (Evidence Code):

"Section 503.1 Privileged communications and information to "Crime Stoppers" organizations.

(a) Definitions:

- (1) "Crime Stoppers organization" means a private, nonprofit organization that accepts and expends donations for rewards to persons who report to the organization information concerning criminal activity and that forwards the information to the appropriate law enforcement agency.
- (2) "Privileged communication" means information provided by any person, in any manner whatsoever, to a "Crime Stoppers" organization for the purpose of reporting alleged criminal activity.
- (3) "Protected information" shall mean the identity of the person reporting criminal activity to a "Crime Stoppers" organization, any records, statements (oral, written or recorded), papers, documents or any materials whatsoever utilized by a "Crime Stoppers" organization for the purpose of reporting criminal activity or processing such information whether such

information is in the possession of a "Crime Stoppers" organization, a police "Crime Stoppers" coordinator or his staff, or a law enforcement agency receiving such information from a "Crime Stoppers" organization.

- (b) No person, police "Crime Stoppers" coordinator or his staff, or member of "Crime Stoppers" Board of Directors shall be required to disclose, by way of testimony or any other means, privileged communication or privileged information as defined in this section unless such failure to disclose infringes on the constitutional rights of the accused. Nor shall such persons be required to produce, under subpoena, any records, documentary evidence, opinions or decisions relating to such privileged communication or information:
- (1) in connection with any criminal case, criminal proceeding, or an administrative hearing of whatever nature;
 - (2) By way of any discovery procedure.
- (c) Any person arrested or charged with a criminal offense may petition the court for an in-camera inspection of the records of a privileged communication or information concerning such person made to a "Crime Stoppers" organization. The petition shall allege facts showing that such records would (1) provide evidence favorable to the defendant, (2) be relative to the issue of guilt and (3) cause a deprivation of a constitutional right if such communication or information is not disclosed. If the court determines that, based on the criteria set out above, the person is

entitled to all or any part of such records, it may order production and disclosure as is necessary protecting, to the extent possible, the identity of the "Crime Stoppers" informant.

(d) Disclosure of a "privileged communication" or "privileged information" in violation of this section shall be a misdemeanor.



TESTIMONY BY JOHN D. MORVANT, CHAIRMAN CRIME STOPPERS GUAM, INC. BEFORE THE COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

ON BILL NO. 243, AN ACT TO MAKE COMMUNICATIONS MADE TO A CRIME STOPPERS ORGANIZATION PRIVILEGED

Madam Chair:

The first chapter of Crime Stoppers was founded on the mainland in 1976. Guam Crime Stoppers was founded in 1985 and is a non-profit organization which assists law enforcement agencies by operating a "hot line" upon which informants can call in tips about crimes. Cash rewards for these tips are paid out by the Crime Stoppers Board of Directors from a fund of donated monies.

The national organization has grown into an international organization with over 900 programs; Crime Stoppers Guam has been equally successful. Since its inception in 1985, tips to Crime Stoppers Guam have led to the recovery of nearly \$3 million in stolen property and seized narcotics, led to almost 200 arrests and over 100 convictions.

Our program has flourished because the citizens of Guam are concerned about crime on Guam; not because they want to make money from their tips. In seven years, Crime Stoppers Guam has paid out only about \$12,000 in rewards.

And citizens of Guam have been ready to combat crime through the Crime Stoppers program because they have felt secure in the impersonal nature of the program—in calling in a tip you never have to identify yourself and the records of your contact are not available to anyone outside of the program.

The special nature of the relationship that exists between the Crime Stoppers program and citizens providing information is spelled out by Bill 243-the relationship is "privileged" in the eyes of the law. This law is needed now in order to formalize this relationship in order to secure the success of the Crime Stoppers program in the future.

Testimony on Bill NO. 243 April 20, 1993 Page 2

I should quickly note that the need for this law does not arise out of any conflict between Crime Stoppers Guam and any law enforcement agency on Guam; quite the contrary, their support--across the board--has been positive and energetic. But the law is needed. About 2 years ago, a defense attorney in a criminal case indicated that he may subpoena the Crime Stoppers coordinator, his records and one or more members of the Crime Stoppers Board. This did not happen but the concern was real. For the Crime Stoppers program to continue to be successful, the board, the the coordinator and, perhaps most importantly of all, potential informants must be free to go about their business without the chilling effect of threatened legal action leading to exposure.

The granting of this protection is not a new concept in those jurisdictions that have Crime Stoppers programs. In fact, approximately half-a-dozen states have similar laws and the proposed Guam law is based upon the best parts of several laws. These laws have been tested before the bar of several states and have been found valid and constitutional.

And the granting of this 'protection is not a new concept on Guam. In fact, Guam has one of the strongest "Shield Laws" in the world. Section 9101(a) 6 GSA, Chapter 9, states that "...In order to protect the public interest and the free flow of information, the news media should have the benefit of a substantial privilege not to reveal sources of information or to disclose unpublished or untransmitted information." The law goes on to say that its purpose is to "...insure and perpetuate, consistent with the public interest, the confidential rleationship between the news media and its sources."

We, the members of the Crime Stoppers Board of Directors, ask for the same protection...that the confiential nature of our communications be granted the privilege of anonymity already granted the media.

Confidentiality and trust are the essential ingredients of the Crime Stoppers program and we must insure that they remain intact--protected by good will--but also protected by the law.

Thank you.

JOHN D. MORVANT

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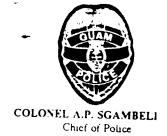


JOSEPH F. ADA Governor of Guam

FRANK F. BLAS Lieutenant Governor

Government of Guam GUAM POLICE DEPARTMENT

287 West O'Brien Drive Agana, Guam 96910 U.S. Territory of Guam



'APR 20 1953

Senator Pilar C. Lujan
Chairperson, Committee on Judiciary
and Criminal Justice
Twenty-Second Guam Legislature
155 Hesler Street
Agana, Guam 96910

Subject: Bill 243 - An Act to make communications made to a "Crime Stoppers" organization privileged.

Bill 265 - An Act to add New §\$19.69 and Chapter 19 of Title 9, Guam Code Annotated, Criminalizing the Act of Stalking.

Dear Senator Lujan:

The Guam Police Department supports <u>Bill 243</u>. People with important information will be encouraged to communicate with a Crime Stoppers organization if they know that the information they communicate is privileged. Frequently, such information helps law enforcement in identifying perpetrators of crime as well as solving cases by providing information to other vital evidence.

It should be noted that Bill 243 also raises other law enforcement concerns in the area of privileged communication. Under the present state of the law, there is no privilege that shields police officer's personnel files from certain kinds of discovery in criminal cases nor is there a privilege that shields the identity of a police informant. The state of California has enacted adequate legislation to accomplish these ends and I respectfully recommend that the legislature examine California Evidence Code §§1040 through 1045 as examples.

With respect to <u>Bill 265</u>, the Guam Police Department supports its intent of criminalizing the act of "stalking" which has become recognized in law enforcement as well as in contemporary society as a serious and dangerous form of anti-social behavior which needs to be addressed. Although the Guam Police Department understands that

OFFICE OF THE LEGISLATIVE SECRETARY

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DRUG FREE GUAM PARA TODOS 472-8911 Exts. 376, 377, 378 • FAX: (671) 472-4036



Letter to Senator Lujan Subject: Bills 243 and 265

Page 2

the language of Bill 265, virtually tracks
the language of California Penal Code §646.9, we did make note of our concern in a letter dated May 28, 1992 to your office about constitutional challenges to such a law.

Sincerely,

A.P. SGAMBELLURI

Enclosure

GEN-0253-90

CORRES.SAB\APL\4/16/93

COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

TESTIMONY SIGN-UP SHEET

PUBLIC HEARING DATE: 20 April 93 HELD AT: Guam Legislature

BILL 243:

AN ACT TO MAKE COMMUNICATIONS MADE TO A "CRIME STOPPERS" ORGANIZATION PRIVILEDGED.

LILE CUPY

	APPROPRIATE SPACE BELO	ou.	li .	Testimony			
PRINT NAME	SIGNATURE	REPRESENTING	ORAL	WRITTEN	ВОТН	In Favor	AGAINST
JCHN D. MORVANT	Simstly	GUAM CRIME STORPER S			X	X	
JOHN GLANG	Tolu Hong	ATTORNEY GENERAL	X		,	X	
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Twenty-Second Guam Legislature

155 Hesler Street Agaña, Guam USA 96910

Tel: (671) 472-3461

Fax: (671) 477-1715

COMMITTEE ON JUDICIARY AND CRIMINAL JUSTICE

VOTE SHEET ON: BILL NO. 243

COMMITTEE MEMBER	TO PASS	NOT TO	ABSTAIN	TO PLACE IN INACTIVE FILE
Senator Pilar Co Lujan	<u>/</u>			
Senator Francis E. Santos				
Vice-Chairman Malelen Abardalla				
Senator Madeleine M. Bordallo				· · · · · · · · · · · · · · · · · · ·
Senator Anthony 9. Blaz				-
Senator Herminia Polerking				
Senator Carl T.C. Gutierrez		-		
Senator Vicente C. Pangelinan Senator Don Parkinson	<u>V</u>		-	-
Speaker Joe P. San Agustin	<u>/</u>		****	
Ex-Officeio Member				
Senator Thomas V.C. Tanaka				
Senator Anthony R. Unpingco				-8/49-9-9-14-14-14-14-14-14-14-14-14-14-14-14-14-

FEB 26'93

TWENTY-SECOND GUAM LEGISLATURE FIRST (REGULAR) SESSION JAN 28 PM 3:51

Bill: 243 (LS)

Introduced By:

D.F. Brooks
P.C. Lujan

AN ACT TO MAKE COMMUNICATIONS MADE TO A "CRIME STOPPERS" ORGANIZATION PRIVILEGED.

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information is in the possession of a "Crime Stoppers" organization, a police "Crime Stoppers" coordinator or his staff, or a law enforcement agency receiving such information from a "Crime Stoppers" organization.

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