



OFFICE OF THE GOVERNOR
GUAM

Refer to
Legislative Secretary

JUN 23 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

DATE OF RECEIPT	
BY	<i>[Signature]</i>
TIME	9:55
DATE	6/25/99

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY", previously vetoed by i Maga'lahren Guåhan, the Governor, and subsequently overridden by i Liheslatura, the Legislature. This legislation is now designated as **Public Law No. 25-46**.

Very truly yours,

Madeleine Z. Bordallo
Madeleine Z. Bordallo
I Maga'Lahren Guåhan, Akto
Acting Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

cc: The Honorable Joanne M. S. Brown
Legislative Secretary

0-318


Office of the Speaker
ANTONIO R. UNPINGCO

Date: 6-24-99
Time: 10:12
Rec'd by: [Signature]
Print Name: Charles
DS25/99-0187

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY," returned without approval of *I Maga'lahaen Guahan*, was reconsidered by *I Liheslaturan Guahan* and after such consideration, did agree, on the 15th day of June, 1999, to pass said bill notwithstanding the veto of *I Maga'lahaen Guahan* by a vote of eleven (11) members.



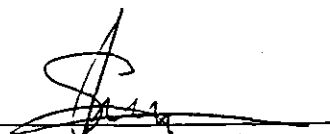
ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 18th day of June,
1999, at 5:50 o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 51 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development and
amended on the Floor.

Introduced by:

V. C. Pangelinan
F. B. Aguon, Jr.
E. C. Bermudes
A. C. Blaz
J. M.S. Brown
E. B. Calvo
M. G. Camacho
Mark Forbes
L. F. Kasperbauer
A.C. Lamorena, V
C. A. Leon Guerrero
K. S. Moylan
J. C. Salas
S. A. Sanchez, II
A. R. Unpingco

**AN ACT TO REPEAL AND REENACT §77133, AND TO
ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10
OF THE GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING THE GUAM COMMUNITY POLICE
REVIEW COMMISSION, TO IMPROVE POLICE-
COMMUNITY RELATIONS AND TO BETTER
ENSURE POLICE ACCOUNTABILITY.**

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

1 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
2 public has the right to expect all law enforcement personnel, particularly the
3 police officers within the Guam Police Department (“Department”), to adhere
4 to a professional standard of conduct and all laws governing the island and its
5 residents. Model policies and guidelines may exist in the police department
6 to deter and punish misconduct, *however*, such standards, without objective
7 and aggressive enforcement and compliance, will be rendered ineffective.
8 Silence and unresponsiveness, perceived or real, undermines the community-
9 police relations, and the public may lose their trust and confidence in those
10 who are empowered to protect them, their families and their properties.

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

17 *I Liheslaturan Guåhan* further finds that Public Law Number 24-23,
18 which established the Guam Police Department and stipulates the process by
19 which alleged violations of the law on the part of a police officer or an
20 employee of the Department shall be investigated, is deficient. Currently, any
21 person may file with any police officer a complaint alleging the commission of
22 a crime on the part of a police officer or employee of the Department. The
23 alleged violations are then forwarded to the Internal Affairs unit of the
24 Department. *However*, the fear of possible intimidation and reprisal by

1 imputed officers and the impression, whether legitimate or not, that the
2 Department is apathetic to public accusations against one of their own,
3 discourages the members of our community from reporting police
4 misconduct.

5 Secondly, innate reluctance on the part of officers to report abuse or
6 participate in detailed investigation of an allegation against one of their own,
7 or breaking the "code of silence," due to prospective retaliation against
8 deemed whistle-blowers or participants, renders it difficult for the effective
9 enforcement of this process. Finally, the Office of the Attorney General,
10 including its prosecutors, is placed in a tedious position to investigate the
11 same police officers it relies on for evidence in other criminal cases. Thus, the
12 investigations are frequently and unjustly perceived by the public as being
13 covered up and biased.

14 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
15 to provide a practicable and accessible means for the intake and processing of
16 complaints against employees of the Guam Police Department, to inquire into
17 such complaints and, when necessitated, to conduct prompt and impartial
18 investigations of legitimate public, criminal and other accusations of
19 misconduct against police officers and other employees of the Department
20 through direct community participation while ensuring the rights and dignity
21 of each employee alleged to be in violation of the laws of Guam of any
22 standard or conduct that he or she is required to adhere to. A community
23 review commission, composed of civilians, with the authority to carry out
24 independent investigations, but without any dependence on or conflict of
25 interest with these closely linked law enforcement agencies, would best be

1 able to make an objective determination and recommendation as to the
2 disposition of the complaint.

3 It is further the intent of *I Liheslaturan Guåhan* to ensure that the rights
4 and dignity of each accused employee of the Department are protected with
5 the institution and implementation of a clear and impartial investigative
6 process.

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

13 **Section 3.** Section 77133 of Chapter 77, Division 3 of Title 10 of
14 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

15 **“Section 77133. Reporting Police Officer Violations.**

16 (a) Any person may file a written complaint with any
17 police officer or the Guam Community Police Review Commission
18 (‘Commission’) alleging the commission of a crime or misconduct
19 on the part of a police officer or employee of the Department. A
20 police officer shall, upon receipt of any credible information
21 alleging the commission of a crime by any police officer or
22 Department employee, forward within forty-eight (48) hours the
23 information so received to the Chief of Police. The Chief of Police
24 shall forward the alleged violations to the Internal Affairs unit of

1 the Department and to the Commission, and shall further forward
2 a copy of the alleged violations to the Attorney General.

3 (b) The Chief of Police shall, within thirty (30) working
4 days of receipt of the information described in Subsection (a) of
5 this Section, prepare a statement open to the public indicating the
6 preliminary disposition of the allegation. The Chief of Police shall
7 prepare a summary of all allegations filed and their final
8 disposition in the Department's annual report.

9 (c) Upon receipt of the report the Attorney General shall
10 review all records and other information submitted and may
11 initiate an independent investigation of the alleged violation.

12 (d) Any police officer or Department employee who fails
13 to forward the information or fails to make reports required by this
14 Section shall be guilty of a misdemeanor and shall be punished by
15 a fine of not more than One Thousand Dollars (\$1,000.00) or by
16 imprisonment for not more than one (1) year, or both.

17 (e) The Chief of Police shall inform the Commission in
18 writing, within three (3) days of disposition, of disciplinary
19 outcomes of cases, including adjudication and discipline imposed.
20 All such information shall be kept confidential, *unless* otherwise
21 permitted or required by law.

22 (f) Nothing herein shall prohibit the Commission from
23 jointly or separately investigating the conduct of a member of the
24 Department, or carrying out any of its authority and duties
25 authorized pursuant to Chapter 78 of this Title."

1 conclusions based upon those findings of fact. The Commission
2 shall consist of seven (7) members, all of whom shall be citizens of
3 the United States and have resided on Guam for at least five (5)
4 consecutive years preceding his or her appointment, and shall be
5 appointed as follows:

6 (1) three (3) members by *I Maga'lahaen Guåhan*;

7 (2) two (2) members by the Speaker of *I Liheslaturan*
8 *Guåhan*;

9 (3) one (1) member by the Mayors Council;

10 (4) one (1) member by the President of the Guam
11 Bar Association, who shall be an active member of the
12 Association.

13 (b) Members of the Commission shall serve for a period of
14 three (3) years each, *except* that any member appointed to fill a
15 vacancy prior to the expiration of the term for which his
16 predecessor was appointed, shall be appointed for the remainder
17 of such term. The members shall serve for terms of three (3) years,
18 *except* that in the year in which the law is enacted, of the three (3)
19 members appointed by *I Maga'lahaen Guåhan*, *I Maga'lahaen Guåhan*
20 shall appoint one (1) member for one (1) year; one (1) member for
21 two (2) years; and one (1) member for three (3) years. No member
22 shall serve more than two (2) consecutive terms or portions
23 thereof.

1 (c) A member may be re-appointed to succeed himself,
2 but not for more than two (2) consecutive terms, and not for more
3 than six (6) years.

4 (d) The Commission shall elect one (1) of its members as
5 Chairperson, one (1) as Vice-Chairperson, and one (1) as Secretary,
6 who shall each hold office for one (1) year and until their
7 successors are elected. No officer shall be eligible to succeed
8 himself or herself in the same office. Officers shall be elected no
9 later than the second meeting of the Commission following its
10 appointment. All members shall continue to serve until their
11 successors have been appointed.

12 (e) No member of the Commission shall be an elected
13 official or an unclassified employee of the government of Guam.

14 (f) No person, who has been previously convicted of a
15 felony shall be appointed to the Commission.

16 **Section 78104. Vacancy.** Vacancies in the membership of the
17 Commission shall *not* affect the authority of the remaining members to
18 execute the functions of the Commission, and shall be filled in the same
19 manner and by the same appointing authority as the original
20 appointment, and such person shall serve for the unexpired term of the
21 vacancy. The appointment of any member of the Commission who has
22 been absent and not excused from three (3) consecutive regular or
23 special meetings shall automatically expire effective on the date the fact
24 of such absence is reported by the Commission. Vacancies occurring in
25 the Commission shall be filled within thirty (30) days.

1 **Section 78105. Quorum.** A majority of the Commission shall
2 constitute a quorum for the transaction of business, and the concurrence
3 of a majority of the members present shall be necessary to make any
4 action of the Commission valid. No action shall be taken by the
5 Commission at any meetings or hearings, *unless* a quorum is present.

6 **Section 78106. Meetings.** The Commission shall meet once
7 every month at a regularly scheduled time and place for the purpose of
8 conducting evidentiary hearings and/or to conduct any other business
9 necessary to the operation of the Commission. Regular meetings shall
10 *not* be held in any building in which the Department is located. Special
11 meetings may be called by the Chairperson or by three (3) members of
12 the Commission at such additional times and places deemed. At least
13 once every three (3) months, or as it determines, the Commission may
14 meet in any other places and locations throughout Guam for the
15 purpose of encouraging interest and facilitating attendance by people in
16 the various municipalities in Guam at the meetings.

17 All meetings shall be open to the public, *unless* the Commission, in
18 order to protect the rights and privacy of individuals in accordance with
19 all applicable laws, decides otherwise and if such closed meeting is *not*
20 waived by the individual concerned. The Commission shall cause to be
21 kept a proper record of its proceedings. The records and files of the
22 Commission and its officers shall include, but not be limited to, all
23 official correspondence, or copies thereof, to and from the Commission
24 and its members, gathered in their official capacities, and shall be kept

1 and open for inspection by the public at reasonable times in a location to
2 be determined by the Commission.

3 **Section 78107. Compensation.** Each member of the
4 Commission shall be compensated in the same manner as are other
5 members of boards and commissions, and shall be reimbursed for
6 expenses incurred in the performance of duties in the same manner and
7 amount as other boards and commission members.

8 **Section 78108. Authority and Duties.** The Commission
9 shall have the following authority and duties:

10 (a) to receive complaints of the following alleged
11 misconduct and actions directed against the Department and any
12 of its employees and to fully and completely investigate said
13 complaints:

- 14 (1) use of excessive or deadly force;
15 (2) inappropriate language or attitude;
16 (3) harassment;
17 (4) discrimination in the provision of police services
18 or other discriminatory conduct on the basis of sex, race,
19 color, ethnicity, creed, religion, national origin, sex, sexual
20 preference, disability or age and other violations of civil
21 rights;
22 (5) theft;
23 (6) failure to provide adequate or timely police
24 protection;

1 (7) any other crime or misconduct which constitutes
2 a felony or felonies under the laws applicable to Guam; *and*

3 (8) any other crime or misconduct involving more
4 than one (1) employee;

5 (b) to make such guidelines and recommendations,
6 including disciplinary actions for those employees found to be in
7 violation of any laws or standards of conduct or guilty of a
8 misconduct, and give such advice without limitation, including
9 disciplinary and other action relating to departmental policies and
10 procedures, as the Commission in its discretion deems advisable;

11 (c) to ensure that investigation of all complaints filed with
12 the Commission shall begin immediately after complaints are filed
13 and proceed as expeditiously as possible in an impartial manner;
14 that regular annual reports relating to the number, kind and status
15 of all such complaints shall be made by the Commission to the
16 Chief of Police and to *I Liheslaturan Guåhan*;

17 (d) to review all cases reported to the Department under
18 §77133 of this Title, and to conduct further independent
19 investigation as it determines in accordance with the rules and
20 regulations adopted and promulgated as authorized in this
21 Chapter;

22 (e) review all records and other information submitted to
23 it from any source and initiate its own independent investigation
24 or enter into a contract for services with an Independent Special
25 Attorney and/or an Independent Special Investigator who shall be

1 a civilian ('*Civilian*' for the purpose of this Section, is a person
2 who is *not* now, and has *not* been, a sworn officer or an employee
3 of the Department within the last five (5) years of the contract of
4 services as an Independent Special Attorney or an Independent
5 Special Investigator, and shall *not* have been an employee of the
6 Department of Law within the last two (2) years of the contract of
7 services as an Independent Special Attorney or an Independent
8 Special Investigator. An Independent Special Attorney shall be an
9 active member of the Guam Bar Association. An Independent
10 Special Investigator shall have prior experience or training as an
11 investigator.);

12 (f) adopt and promulgate rules and regulations, pursuant
13 to the Administrative Adjudication Law, and subject to legislative
14 approval, governing its operations, including the duties of its
15 officers, the filing of complaints, conduct of hearings and
16 procedures for its own activities and investigations, and a process
17 for determining which cases it will review (The Commission shall
18 consult with the Chief of Police in developing these rules.);

19 (g) to recommend procedures, programs and legislation to
20 the Department and to *I Liheslaturan Guåhan*, to:

21 (1) advance and improve the relations between the
22 Department and the community;

23 (2) enhance cooperation by the community;

24 (3) increase public trust and confidence in the
25 Department; *and*

1 (4) encourage and ensure equal protection all
2 citizens under the laws of Guam; *and*

3 (h) to advise, consult and cooperate with other agencies of
4 the government of Guam; the Federal Government and interested
5 persons or groups.

6 Nothing herein shall prohibit the Chief of Police or the Police
7 Commander from investigating the conduct of an employee under his
8 or her command, or taking disciplinary or corrective action, otherwise
9 permitted by Chapter 77 of this Title, when such is warranted; and
10 nothing herein shall limit or otherwise restrict the disciplinary powers
11 vested in the Chief of Police by Chapter 77 of this Title.

12 **Section 78109. Finance and Staff.** Subject to budget
13 limitations, the Commission is authorized to, and may, contract or
14 employ, for the duration of the investigation, an Independent Special
15 Attorney and/or an Independent Special Investigator or other personnel
16 as necessary for the proper performance of its duties and to carry out
17 the purposes of this Chapter, to the extent of funds made available to it
18 for such purpose. *I Liheslaturan Guåhan* shall appropriate to the
19 Commission, from time to time, funds as are necessary to implement the
20 provisions of this Chapter.

21 **Section 78110. Complaint Filing.** (a) In addition to the
22 reporting and other terms for police officer violations enumerated
23 in §77133 of this Title, any person may file complaints of alleged
24 crime or misconduct with the Commission as listed under
25 Subsection (a) of §78108, by submitting said complaints at

1 locations and in a manner to be determined by the Commission.
2 The Commission shall select at least one (1) location for the receipt
3 of complaints that is *not* affiliated with the Department, nor
4 staffed by employees of the Department.

5 (b) The Commission shall within thirty-five (35) working
6 days of receipt of the complaint described in Subsection (a) of this
7 Section, prepare a statement open to the public indicating the
8 preliminary disposition of the allegation.

9 **Section 78111. Preliminary Review.** Within five (5) working
10 days of the date that a complaint was filed, the Commission shall
11 conduct a preliminary review of each complaint and determine whether
12 an investigation of the alleged misconduct is warranted, whether the
13 matter shall be mediated or whether no further action is necessary. This
14 decision shall be made in accordance with the rules promulgated by the
15 Commission. Preliminary review may be waived with the unanimous
16 vote of the Commission to proceed with an investigation. All
17 complaints shall be kept on file regardless of whether an investigation is
18 initiated.

19 **Section 78112. Community Petitions.** On the petition of
20 fifty (50) or more residents of Guam filed in any location or locations
21 designated by the Commission, the Commission shall hold a special
22 meeting for the individuals so petitioning for the purpose of responding
23 to the petition and hearing and inquiring into matters identified therein
24 as the concern of the petitioners. Notice of such meeting shall be given
25 in the same manner as notice is given for other meetings of the

1 Commission. In no case shall the Commission meet later than five (5)
2 working days following the date the petition is filed to conduct a
3 preliminary review of the concern of the petitioners.

4 **Section 78113. Investigations.** If the Commission determines
5 that further investigation is warranted, the complaint shall be
6 investigated by an Independent Special Attorney and/or an
7 Independent Special Investigator selected and hired by the Commission.
8 Completion of investigation may be held in abeyance during such time
9 as the Commission determines that an investigation might impede or
10 harm a criminal investigation. Nothing in this Chapter shall prevent or
11 preclude taking action or the prosecution of criminal conduct under the
12 laws of Guam.

13 **Section 78114. Evidentiary Hearings.** Upon the
14 completion of the investigation of a complaint, the Commission may
15 dismiss, with the filing of written reasons for the dismissal, the
16 complaint for lack of merit or conduct an evidentiary hearing. At an
17 evidentiary hearing, the Commission shall weigh and consider all
18 evidence presented. The Commission shall make reasonable efforts to
19 commence and complete evidentiary hearings within ten (10) working
20 days of the completion of the investigation. The Chairperson of the
21 Commission shall appoint a panel of three (3) or five (5) members to
22 conduct such evidentiary hearing. The Chairperson of the Commission
23 shall designate a chairperson of each panel.

24 **Section 78115. Subpoena.** Upon approval of a majority of
25 its members, the Commission shall have power to subpoena witnesses,

1 compel their attendance, require the production of evidence and any
2 such records, books, papers and documents as it may deem necessary
3 for investigation of the case of any person before it, administer an oath
4 and examine any person under oath in connection with any subject
5 relating to a duty imposed upon or a power vested in the Commission.
6 Subpoenas shall be signed and oaths administered by the Chairperson
7 of the Commission. Subpoenas so issued may be served by any police,
8 parole or probation officer, or other law enforcement officer, or hired or
9 contracted personnel of the Commission in the same manner as similar
10 process in the Superior Court. Service of subpoena shall be made at
11 least three (3) working days *prior* to the time fixed in the subpoena for
12 appearance or production of records, *unless* a shorter period of time is
13 authorized by majority vote of all of the members of the Commission in
14 a particular instance when, in their opinion, the giving three (3) working
15 days' notice is *not* practicable; but if a shorter period of time is
16 authorized, the person to whom the subpoena is directed shall be given
17 reasonable notice consistent with the particular circumstances involved.

18 Any person who testifies falsely or fails to appear when
19 subpoenaed, or fails or refuses to produce such material pursuant to the
20 subpoena, shall be subject to the same orders and penalties to which a
21 person before a court is subject. The Superior Court, upon application
22 of the Commission, may in its discretion compel the attendance of
23 witnesses, the production of such material and the giving of testimony
24 before the Commission, by an attachment for contempt or otherwise, in

1 the same manner as production of evidence may be compelled before
2 such court.

3 **Section 78116. Testimony.** (a) The Commission shall cause
4 a record to be made of all proceedings in which testimony or other
5 evidence is received or adduced, which record shall include
6 rulings of the chair, questions of the Commission and its
7 authorized representative, the testimony or responses of
8 witnesses, sworn written statements which the Commission
9 authorizes a witness to submit and such other matters as the
10 Commission or its Chairperson may direct.

11 (b) All testimony given at a hearing shall be under oath or
12 affirmation, *unless* the requirement is dispensed with in a
13 particular instance by majority vote of the Commission members
14 present at the hearing.

15 (c) Any member of the Commission may administer an
16 oath or affirmation to a witness.

17 (d) The Chairperson or a designated presiding officer at a
18 hearing or an investigative hearing may direct a witness to answer
19 any relevant question or furnish any relevant book, paper or other
20 document. *Unless* the direction is overruled by majority vote of
21 the Commission members present, disobedience shall constitute
22 grounds for citation for contempt, *except* that production of any
23 book, paper or other document may be required only by
24 subpoena.

1 (e) A witness at a hearing, or his counsel, with the consent
2 of a majority of the Commission members present at the hearing,
3 may file with the Commission for incorporation into the record of
4 the hearing sworn written statements relevant to the purpose,
5 subject matter and scope of the Commission's investigation or
6 inquiry.

7 **Section 78117. Requirement of Cooperation by Government**
8 **Agencies and Departments.** Any official or employee of the
9 Department and all other government employees and officials shall,
10 *except* as expressly prohibited by law subsequent to this Act, respond
11 promptly to any and all reasonable requests for information, for
12 participation in meetings and evidentiary hearings, and for access to
13 data and records for the purpose of enabling the Commission to carry
14 out its responsibilities under this Chapter. The failure by any official or
15 employee of the Department or by any government employee or official
16 to comply with such requests for information, participation, or access
17 shall be guilty of a misdemeanor and shall be punishable by a fine of not
18 more than One Thousand Dollars (\$1,000.00) or by imprisonment for
19 not more than one (1) year, or both.

20 **Section 78118. Findings of Fact and Determination.** Within
21 ten (10) working days of the completion of an evidentiary hearing, and
22 within thirty-five (35) working days of the receipt of complaint, the
23 Commission shall issue a written report containing findings of fact and
24 a determination of whether the complaint is sustained to the Attorney
25 General's Office and to the Chief of Police along with its

1 recommendation for disposition. If the Commission, after the
2 evidentiary hearing, determines that further investigation is necessary
3 and directs further investigation, it shall include such finding in its
4 report and shall *not* be required to disclose any further findings until the
5 additional investigation is complete and an evidentiary hearing thereon
6 is held consistent with the provisions of this Act.

7 **Section 78119. Chief of Police Disciplinary Decision.** When a
8 complaint is sustained, the findings of fact and the determination shall
9 be submitted to the Chief of Police, who shall make a disciplinary
10 decision based upon this information. The Chief of Police shall provide
11 the Commission with a written explanation of the reason or reasons for
12 his or her disciplinary decision. In any case in which the Commission
13 disagrees with the decision of the Chief of Police, the Commission may
14 investigate the matter further and shall determine the disciplinary
15 action to be carried out by the Chief of Police. Such decision by the
16 Commission shall be deemed final and binding and *not* subject to
17 reversal by the Chief of Police.

18 **Section 78120. Mediation.** The Commission shall
19 consider, when agreed upon by the complainant, the Commission, the
20 Department and the subject employee, mutually agreeable resolution of
21 any complaint in all cases *except* those involving the death or deaths of
22 an individual or individuals. The Commission shall adopt rules and
23 regulations to effectuate this provision. Nothing in this Section shall be

1 construed to preclude or prevent the prosecution of criminal conduct
2 under any laws applicable to Guam.

3 **Section 78121. Notice to Parties.** The Commission shall
4 notify in a timely fashion, in writing, the complainant(s) and police
5 officer(s) of the status or disposition of the complaint in a reasonable
6 manner.

7 **Section 78122. Period of Limitation.** No person may file a
8 complaint with the Commission if one hundred twenty (120) days has
9 elapsed since the alleged misconduct, or since its discovery, whichever
10 is later.

11 **Section 78123. Rights of Employees.** (a) When an
12 employee is to be questioned or interviewed concerning a
13 complaint or allegation, the employee shall be informed *prior to*
14 the interview of the nature of the investigation and whether he or
15 she is the subject of the investigation or a witness in an
16 investigation. Where requested, an employee shall be given up to
17 twenty-four (24) hours to contact, consult with and secure the
18 attendance of a representative at the interview. *If* he or she is the
19 subject of the investigation, the employee will also be informed of
20 each complaint or allegation against him and be permitted to
21 review all written statements made by the complainant and
22 witnesses immediately prior to the beginning of the investigative
23 interview.

1 (b) The employee subject of an investigation under this
2 Section shall, upon request, receive a copy of his written or
3 recorded statement at no cost to the employee. No recording or
4 transcription of the investigative interview will be made without
5 the knowledge of all participants present at the interview.


6 **Section 78124. Annual Report.** The Commission shall compile
7 and publish, by the end of each fiscal year, a report including the
8 number, kind and status of all complaints received, and any
9 recommendations and concerns to improve the implementation of the
10 provisions of this Chapter, the performance of the Department and its
11 employees, and the relationship between the Department and the
12 community.

13 **Section 78125. Severability.** *If any provision of this Act or*
14 *its application to any person or circumstances is held invalid, the*
15 *invalidity shall not affect other provisions or applications of this Act*
16 *which can be given effect without the invalid provision or application,*
17 *and to this end the provisions of this Act are severable."*

18 **Section 5.** Within ninety (90) days after its formation, the Guam
19 Community Police Review Commission shall submit to *I Liheslaturan Guåhan*
20 a plan for the organization for the Guam Community Police Review
21 Commission. The plan shall include a proposed staffing pattern, a salary
22 schedule for the staff of the office and budget requirements for the remainder
23 of the fiscal year, and for one (1) fiscal year thereafter.



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

 6/18/99

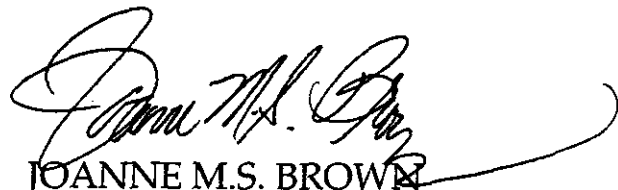
June 18, 1999

The Honorable Carl T.C. Gutierrez
I Maga'lahen Guahan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910

Dear *Maga'lahi* Gutierrez:

Transmitted herewith is Substitute Bill No. 51 (COR) which was overridden by *I Mina'Bente Singko Na Liheslaturan Guahan* on June 15, 1999, notwithstanding your veto.

Sincerely,



JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (1)


LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

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

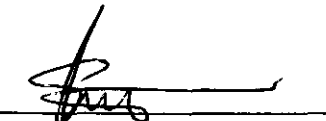
This is to certify that Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY," returned without approval of *I Maga'lahen Guahan*, was reconsidered by *I Liheslaturan Guahan* and after such consideration, did agree, on the 15th day of June, 1999, to pass said bill notwithstanding the veto of *I Maga'lahen Guahan* by a vote of eleven (11) members.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWNE
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this 18th day of June,
1999, at 5:50 o'clock P. M.


Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY," returned without approval of *I Maga'lahen Guahan*, was reconsidered by *I Liheslaturan Guahan* and after such consideration, did agree, on the 15th day of June, 1999, to pass said bill notwithstanding the veto of *I Maga'lahen Guahan* by a vote of eleven (11) members.

ANTONIO R. UNPINGCO
Speaker

Attested:

JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guahan* this _____ day of _____,
1999, at _____ o'clock _____ .M.

Assistant Staff Officer
Maga'lahi's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahen Guahan

Date: _____

Public Law No. _____

Office of the Speaker
ANTONIO R. UNPINGCO

Date: 6/18/99

Time: 9:15

Rec'd by: BUR

Print Name: Laurie

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 51 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development and
amended on the Floor.

Introduced by:

V. C. Pangelinan

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

Mark Forbes

L. F. Kasperbauer

A.C. Lamorena, V

C. A. Leon Guerrero

K. S. Moylan

J. C. Salas

S. A. Sanchez, II

A. R. Unpingco

**AN ACT TO REPEAL AND REENACT §77133, AND TO
ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10
OF THE GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING THE GUAM COMMUNITY POLICE
REVIEW COMMISSION, TO IMPROVE POLICE-
COMMUNITY RELATIONS AND TO BETTER
ENSURE POLICE ACCOUNTABILITY.**

1

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
2 public has the right to expect all law enforcement personnel, particularly the
3 police officers within the Guam Police Department (“Department”), to adhere
4 to a professional standard of conduct and all laws governing the island and its
5 residents. Model policies and guidelines may exist in the police department
6 to deter and punish misconduct, *however*, such standards, without objective
7 and aggressive enforcement and compliance, will be rendered ineffective.
8 Silence and unresponsiveness, perceived or real, undermines the community-
9 police relations, and the public may lose their trust and confidence in those
10 who are empowered to protect them, their families and their properties.

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

17 *I Liheslaturan Guåhan* further finds that Public Law Number 24-23,
18 which established the Guam Police Department and stipulates the process by
19 which alleged violations of the law on the part of a police officer or an
20 employee of the Department shall be investigated, is deficient. Currently, any
21 person may file with any police officer a complaint alleging the commission of
22 a crime on the part of a police officer or employee of the Department. The
23 alleged violations are then forwarded to the Internal Affairs unit of the
24 Department. *However*, the fear of possible intimidation and reprisal by

1 imputed officers and the impression, whether legitimate or not, that the
2 Department is apathetic to public accusations against one of their own,
3 discourages the members of our community from reporting police
4 misconduct.

5 Secondly, innate reluctance on the part of officers to report abuse or
6 participate in detailed investigation of an allegation against one of their own,
7 or breaking the "code of silence," due to prospective retaliation against
8 deemed whistle-blowers or participants, renders it difficult for the effective
9 enforcement of this process. Finally, the Office of the Attorney General,
10 including its prosecutors, is placed in a tedious position to investigate the
11 same police officers it relies on for evidence in other criminal cases. Thus, the
12 investigations are frequently and unjustly perceived by the public as being
13 covered up and biased.

14 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
15 to provide a practicable and accessible means for the intake and processing of
16 complaints against employees of the Guam Police Department, to inquire into
17 such complaints and, when necessitated, to conduct prompt and impartial
18 investigations of legitimate public, criminal and other accusations of
19 misconduct against police officers and other employees of the Department
20 through direct community participation while ensuring the rights and dignity
21 of each employee alleged to be in violation of the laws of Guam of any
22 standard or conduct that he or she is required to adhere to. A community
23 review commission, composed of civilians, with the authority to carry out
24 independent investigations, but without any dependence on or conflict of
25 interest with these closely linked law enforcement agencies, would best be

1 able to make an objective determination and recommendation as to the
2 disposition of the complaint.

3 It is further the intent of *I Liheslaturan Guåhan* to ensure that the rights
4 and dignity of each accused employee of the Department are protected with
5 the institution and implementation of a clear and impartial investigative
6 process.

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

13 **Section 3.** Section 77133 of Chapter 77, Division 3 of Title 10 of
14 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

15 **“Section 77133. Reporting Police Officer Violations.**

16 (a) Any person may file a written complaint with any
17 police officer or the Guam Community Police Review Commission
18 (‘Commission’) alleging the commission of a crime or misconduct
19 on the part of a police officer or employee of the Department. A
20 police officer shall, upon receipt of any credible information
21 alleging the commission of a crime by any police officer or
22 Department employee, forward within forty-eight (48) hours the
23 information so received to the Chief of Police. The Chief of Police
24 shall forward the alleged violations to the Internal Affairs unit of

1 the Department and to the Commission, and shall further forward
2 a copy of the alleged violations to the Attorney General.

3 (b) The Chief of Police shall, within thirty (30) working
4 days of receipt of the information described in Subsection (a) of
5 this Section, prepare a statement open to the public indicating the
6 preliminary disposition of the allegation. The Chief of Police shall
7 prepare a summary of all allegations filed and their final
8 disposition in the Department's annual report.

9 (c) Upon receipt of the report the Attorney General shall
10 review all records and other information submitted and may
11 initiate an independent investigation of the alleged violation.

12 (d) Any police officer or Department employee who fails
13 to forward the information or fails to make reports required by this
14 Section shall be guilty of a misdemeanor and shall be punished by
15 a fine of not more than One Thousand Dollars (\$1,000.00) or by
16 imprisonment for not more than one (1) year, or both.

17 (e) The Chief of Police shall inform the Commission in
18 writing, within three (3) days of disposition, of disciplinary
19 outcomes of cases, including adjudication and discipline imposed.
20 All such information shall be kept confidential, *unless* otherwise
21 permitted or required by law.

22 (f) Nothing herein shall prohibit the Commission from
23 jointly or separately investigating the conduct of a member of the
24 Department, or carrying out any of its authority and duties
25 authorized pursuant to Chapter 78 of this Title."

1 conclusions based upon those findings of fact. The Commission
2 shall consist of seven (7) members, all of whom shall be citizens of
3 the United States and have resided on Guam for at least five (5)
4 consecutive years preceding his or her appointment, and shall be
5 appointed as follows:

6 (1) three (3) members by *I Maga'lahaen Guåhan*;

7 (2) two (2) members by the Speaker of *I Liheslaturan*
8 *Guåhan*;

9 (3) one (1) member by the Mayors Council;

10 (4) one (1) member by the President of the Guam
11 Bar Association, who shall be an active member of the
12 Association.

13 (b) Members of the Commission shall serve for a period of
14 three (3) years each, *except* that any member appointed to fill a
15 vacancy prior to the expiration of the term for which his
16 predecessor was appointed, shall be appointed for the remainder
17 of such term. The members shall serve for terms of three (3) years,
18 *except* that in the year in which the law is enacted, of the three (3)
19 members appointed by *I Maga'lahaen Guåhan*, *I Maga'lahaen Guåhan*
20 shall appoint one (1) member for one (1) year; one (1) member for
21 two (2) years; and one (1) member for three (3) years. No member
22 shall serve more than two (2) consecutive terms or portions
23 thereof.

1 **Section 78105. Quorum.** A majority of the Commission shall
2 constitute a quorum for the transaction of business, and the concurrence
3 of a majority of the members present shall be necessary to make any
4 action of the Commission valid. No action shall be taken by the
5 Commission at any meetings or hearings, *unless* a quorum is present.

6 **Section 78106. Meetings.** The Commission shall meet once
7 every month at a regularly scheduled time and place for the purpose of
8 conducting evidentiary hearings and/or to conduct any other business
9 necessary to the operation of the Commission. Regular meetings shall
10 *not* be held in any building in which the Department is located. Special
11 meetings may be called by the Chairperson or by three (3) members of
12 the Commission at such additional times and places deemed. At least
13 once every three (3) months, or as it determines, the Commission may
14 meet in any other places and locations throughout Guam for the
15 purpose of encouraging interest and facilitating attendance by people in
16 the various municipalities in Guam at the meetings.

17 All meetings shall be open to the public, *unless* the Commission, in
18 order to protect the rights and privacy of individuals in accordance with
19 all applicable laws, decides otherwise and if such closed meeting is *not*
20 waived by the individual concerned. The Commission shall cause to be
21 kept a proper record of its proceedings. The records and files of the
22 Commission and its officers shall include, but not be limited to, all
23 official correspondence, or copies thereof, to and from the Commission
24 and its members, gathered in their official capacities, and shall be kept

1 and open for inspection by the public at reasonable times in a location to
2 be determined by the Commission.

3 **Section 78107. Compensation.** Each member of the
4 Commission shall be compensated in the same manner as are other
5 members of boards and commissions, and shall be reimbursed for
6 expenses incurred in the performance of duties in the same manner and
7 amount as other boards and commission members.

8 **Section 78108. Authority and Duties.** The Commission
9 shall have the following authority and duties:

10 (a) to receive complaints of the following alleged
11 misconduct and actions directed against the Department and any
12 of its employees and to fully and completely investigate said
13 complaints:

- 14 (1) use of excessive or deadly force;
- 15 (2) inappropriate language or attitude;
- 16 (3) harassment;
- 17 (4) discrimination in the provision of police services
18 or other discriminatory conduct on the basis of sex, race,
19 color, ethnicity, creed, religion, national origin, sex, sexual
20 preference, disability or age and other violations of civil
21 rights;
- 22 (5) theft;
- 23 (6) failure to provide adequate or timely police
24 protection;

1 (7) any other crime or misconduct which constitutes
2 a felony or felonies under the laws applicable to Guam; *and*

3 (8) any other crime or misconduct involving more
4 than one (1) employee;

5 (b) to make such guidelines and recommendations,
6 including disciplinary actions for those employees found to be in
7 violation of any laws or standards of conduct or guilty of a
8 misconduct, and give such advice without limitation, including
9 disciplinary and other action relating to departmental policies and
10 procedures, as the Commission in its discretion deems advisable;

11 (c) to ensure that investigation of all complaints filed with
12 the Commission shall begin immediately after complaints are filed
13 and proceed as expeditiously as possible in an impartial manner;
14 that regular annual reports relating to the number, kind and status
15 of all such complaints shall be made by the Commission to the
16 Chief of Police and to *I Liheslaturan Guåhan*;

17 (d) to review all cases reported to the Department under
18 §77133 of this Title, and to conduct further independent
19 investigation as it determines in accordance with the rules and
20 regulations adopted and promulgated as authorized in this
21 Chapter;

22 (e) review all records and other information submitted to
23 it from any source and initiate its own independent investigation
24 or enter into a contract for services with an Independent Special
25 Attorney and/or an Independent Special Investigator who shall be

1 a civilian ('*Civilian*' for the purpose of this Section, is a person
2 who is *not* now, and has *not* been, a sworn officer or an employee
3 of the Department within the last five (5) years of the contract of
4 services as an Independent Special Attorney or an Independent
5 Special Investigator, and shall *not* have been an employee of the
6 Department of Law within the last two (2) years of the contract of
7 services as an Independent Special Attorney or an Independent
8 Special Investigator. An Independent Special Attorney shall be an
9 active member of the Guam Bar Association. An Independent
10 Special Investigator shall have prior experience or training as an
11 investigator.);

12 (f) adopt and promulgate rules and regulations, pursuant
13 to the Administrative Adjudication Law, and subject to legislative
14 approval, governing its operations, including the duties of its
15 officers, the filing of complaints, conduct of hearings and
16 procedures for its own activities and investigations, and a process
17 for determining which cases it will review (The Commission shall
18 consult with the Chief of Police in developing these rules.);

19 (g) to recommend procedures, programs and legislation to
20 the Department and to *I Liheslaturan Guåhan*, to:

21 (1) advance and improve the relations between the
22 Department and the community;

23 (2) enhance cooperation by the community;

24 (3) increase public trust and confidence in the
25 Department; *and*

1 (4) encourage and ensure equal protection all
2 citizens under the laws of Guam; *and*

3 (h) to advise, consult and cooperate with other agencies of
4 the government of Guam; the Federal Government and interested
5 persons or groups.

6 Nothing herein shall prohibit the Chief of Police or the Police
7 Commander from investigating the conduct of an employee under his
8 or her command, or taking disciplinary or corrective action, otherwise
9 permitted by Chapter 77 of this Title, when such is warranted; and
10 nothing herein shall limit or otherwise restrict the disciplinary powers
11 vested in the Chief of Police by Chapter 77 of this Title.

12 **Section 78109. Finance and Staff.** Subject to budget
13 limitations, the Commission is authorized to, and may, contract or
14 employ, for the duration of the investigation, an Independent Special
15 Attorney and/or an Independent Special Investigator or other personnel
16 as necessary for the proper performance of its duties and to carry out
17 the purposes of this Chapter, to the extent of funds made available to it
18 for such purpose. *I Liheslaturan Guåhan* shall appropriate to the
19 Commission, from time to time, funds as are necessary to implement the
20 provisions of this Chapter.

21 **Section 78110. Complaint Filing.** (a) In addition to the
22 reporting and other terms for police officer violations enumerated
23 in §77133 of this Title, any person may file complaints of alleged
24 crime or misconduct with the Commission as listed under
25 Subsection (a) of §78108, by submitting said complaints at

1 locations and in a manner to be determined by the Commission.
2 The Commission shall select at least one (1) location for the receipt
3 of complaints that is *not* affiliated with the Department, nor
4 staffed by employees of the Department.

5 (b) The Commission shall within thirty-five (35) working
6 days of receipt of the complaint described in Subsection (a) of this
7 Section, prepare a statement open to the public indicating the
8 preliminary disposition of the allegation.

9 **Section 78111. Preliminary Review.** Within five (5) working
10 days of the date that a complaint was filed, the Commission shall
11 conduct a preliminary review of each complaint and determine whether
12 an investigation of the alleged misconduct is warranted, whether the
13 matter shall be mediated or whether no further action is necessary. This
14 decision shall be made in accordance with the rules promulgated by the
15 Commission. Preliminary review may be waived with the unanimous
16 vote of the Commission to proceed with an investigation. All
17 complaints shall be kept on file regardless of whether an investigation is
18 initiated.

19 **Section 78112. Community Petitions.** On the petition of
20 fifty (50) or more residents of Guam filed in any location or locations
21 designated by the Commission, the Commission shall hold a special
22 meeting for the individuals so petitioning for the purpose of responding
23 to the petition and hearing and inquiring into matters identified therein
24 as the concern of the petitioners. Notice of such meeting shall be given
25 in the same manner as notice is given for other meetings of the

1 (b) The employee subject of an investigation under this
2 Section shall, upon request, receive a copy of his written or
3 recorded statement at no cost to the employee. No recording or
4 transcription of the investigative interview will be made without
5 the knowledge of all participants present at the interview.

6 **Section 78124. Annual Report.** The Commission shall compile
7 and publish, by the end of each fiscal year, a report including the
8 number, kind and status of all complaints received, and any
9 recommendations and concerns to improve the implementation of the
10 provisions of this Chapter, the performance of the Department and its
11 employees, and the relationship between the Department and the
12 community.

13 **Section 78125. Severability.** *If any provision of this Act or*
14 *its application to any person or circumstances is held invalid, the*
15 *invalidity shall not affect other provisions or applications of this Act*
16 *which can be given effect without the invalid provision or application,*
17 *and to this end the provisions of this Act are severable."*

18 **Section 5.** Within ninety (90) days after its formation, the Guam
19 Community Police Review Commission shall submit to *I Liheslaturan Guåhan*
20 a plan for the organization for the Guam Community Police Review
21 Commission. The plan shall include a proposed staffing pattern, a salary
22 schedule for the staff of the office and budget requirements for the remainder
23 of the fiscal year, and for one (1) fiscal year thereafter.

Decision

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

1999 (FIRST) Regular Session

Date: 6/15/99

VOTING SHEET

Vetoed
Bill No. 51

Resolution No. _____

Question: *Notwithstanding the Governor's ~~objections~~ objections, should Vetoed Bill 51 be passed into law.*

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT ROLL CALL
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.		✓			
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V					✓
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.		✓			

TOTAL

11 2 0 0 2

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

*
3 Passes = No vote
EA = Excused Absence



Refer to
Legislative Secretary

CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

JUN 07 1999

The Honorable Antonio R. Unpingco
Speaker
I Mina'Bente Singko na Liheslaturan Guåhan
Twenty-Fifth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Hagåtña, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	<i>[Signature]</i>
Time	4:55
Office of the Speaker	<i>[Signature]</i>
ANTONIO R. UNPINGCO	6/7/99
Date:	6/7/99
Time:	2:55
Rec'd by:	<i>[Signature]</i>
Print Name:	Laurie

Dear Speaker Unpingco:

Enclosed please find Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY", which I vetoed.

This bill places a weapon in the hands of criminals for use against police officers. Given the broad range of offenses that is actionable by this commission, an incentive is provided for any suspect in a criminal case to file a complaint against investigating or arresting officers. It is not just major transgressions such as use of deadly force and bribery that are grounds for complaint under this bill. Also added to the list of actionable charges is something as vague as "inappropriate language and attitude" which is not defined in the bill.

No criminal likes to be investigated or arrested. However, this bill grants criminals the means to retaliate against police officers doing their duty by empowering them to file a charge accusing officers of having an inappropriate "attitude." Such a charge is given chilling weight because the review commission can institute, against an officer, disciplinary action that supersedes the Chief of Police and is "final" to quote the bill.

Furthermore, the bill does not provide sufficient means to protect the confidentiality of criminal investigations. Although the proposed Section 78106 does allow for closed door meetings, it does not allow the Commission to provide for similar confidentiality in it's documents and requires that these documents remain open to public inspection. This creates a situation

00276

whereby the Commission's own activities can threaten to undermine ongoing criminal investigations. Under the bill, the Commission has investigatory authority that surpasses that of any government agency including that of the Attorney General's office. If the Commission so chooses, access is granted to prosecution records in the Attorney General's office and GPD criminal investigation reports. However, the bill effectively denies the Commission the means to keep such matters confidential. In such circumstances, a criminal suspect can trigger a process that threatens to compromise sensitive criminal investigations.

This measure further threatens to undermine the effectiveness of our police force. The investiture of disciplinary power in this commission violates a cardinal principle of any paramilitary service which is unity of command. By providing a "dual track" disciplinary process that supersedes the chain of command, the bill essentially subverts the accountability of police officers to their commanders. This is a dangerous practice with which to experiment for such a crucial institution as the police force. Discipline and orderly authority in a police force is critical. This is true not only for normal administration, but also for tactical situations in which our police officers are routinely involved. What is created under this bill is a two-headed creature that would produce inconsistent disciplinary practices and muddled accountability for rank and file police officers.

I am also concerned about the violations of the rights of police officers as government employees which the legislation undermines. For example, by providing a disciplinary process that does not take into account existing Civil Service procedures, the bill fails to address the issue of adverse actions that must take place within 60 days.

Finally, the bill itself is flawed and violates the Organic Act given the structure of the Commission's membership and the powers invested in it.

It is with great concern that I note that the bill passed by the Liheslaturan Guahan goes far beyond the original bill that was introduced and publicly heard. If the Liheslaturan Guahan had confined the scope of the commission to that of an investigative body as outlined in the original measure, many of the aforementioned flaws would have been avoided. Unfortunately, you and your colleagues have elected to go further and make it a disciplinary body as well. If this had been known at the time of the public hearing, I have no doubt that much stronger opposition to the bill would have been received from the public.

I do support the concept of a police review commission. Certainly, our people should have a formal avenue to which they can bring their concerns about the behavior of individual officers. However, what is required is an investigatory body whose activities will not detract from the cause of justice, the rights of police officers, and the need for effective law enforcement to protect the lives and property of our community. Bill No. 51 fails on all these counts. If in the future, the Liheslaturan Guahan produces a measure that meets these standards, I will support it.

Very truly yours,



Carl T. C. Gutierrez
I Maga'Lahen Guåhan
Governor of Guam

Attachment: copy attached for signed bill or overridden bill
original attached for vetoed bill

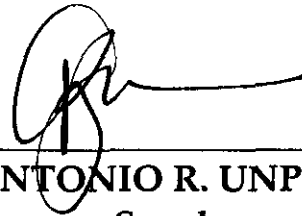
cc: The Honorable Joanne M. S. Brown
Legislative Secretary

00276

MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

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

This is to certify that Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY," was on the 24th day of May, 1999, duly and regularly passed.



ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahaen Guahan* this 26th day of May, 1999,
at 4:50 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

1 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
2 public has the right to expect all law enforcement personnel, particularly the
3 police officers within the Guam Police Department (“Department”), to adhere
4 to a professional standard of conduct and all laws governing the island and its
5 residents. Model policies and guidelines may exist in the police department
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15 with in a timely fashion so that the collective public image of and confidence
16 in the Police Department is *not* perverted.

17 *I Liheslaturan Guåhan* further finds that Public Law Number 24-23,
18 which established the Guam Police Department and stipulates the process by
19 which alleged violations of the law on the part of a police officer or an
20 employee of the Department shall be investigated, is deficient. Currently, any
21 person may file with any police officer a complaint alleging the commission of
22 a crime on the part of a police officer or employee of the Department. The
23 alleged violations are then forwarded to the Internal Affairs unit of the
24 Department. *However*, the fear of possible intimidation and reprisal by

1 imputed officers and the impression, whether legitimate or not, that the
2 Department is apathetic to public accusations against one of their own,
3 discourages the members of our community from reporting police
4 misconduct.

5 Secondly, innate reluctance on the part of officers to report abuse or
6 participate in detailed investigation of an allegation against one of their own,
7 or breaking the "code of silence," due to prospective retaliation against
8 deemed whistle-blowers or participants, renders it difficult for the effective
9 enforcement of this process. Finally, the Office of the Attorney General,
10 including its prosecutors, is placed in a tedious position to investigate the
11 same police officers it relies on for evidence in other criminal cases. Thus, the
12 investigations are frequently and unjustly perceived by the public as being
13 covered up and biased.

14 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
15 to provide a practicable and accessible means for the intake and processing of
16 complaints against employees of the Guam Police Department, to inquire into
17 such complaints and, when necessitated, to conduct prompt and impartial
18 investigations of legitimate public, criminal and other accusations of
19 misconduct against police officers and other employees of the Department
20 through direct community participation while ensuring the rights and dignity
21 of each employee alleged to be in violation of the laws of Guam of any
22 standard or conduct that he or she is required to adhere to. A community
23 review commission, composed of civilians, with the authority to carry out
24 independent investigations, but without any dependence on or conflict of
25 interest with these closely linked law enforcement agencies, would best be

1 able to make an objective determination and recommendation as to the
2 disposition of the complaint.

3 It is further the intent of *I Liheslaturan Guåhan* to ensure that the rights
4 and dignity of each accused employee of the Department are protected with
5 the institution and implementation of a clear and impartial investigative
6 process.

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

13 **Section 3.** Section 77133 of Chapter 77, Division 3 of Title 10 of
14 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

15 **“Section 77133. Reporting Police Officer Violations.**

16 (a) Any person may file a written complaint with any
17 police officer or the Guam Community Police Review Commission
18 (‘Commission’) alleging the commission of a crime or misconduct
19 on the part of a police officer or employee of the Department. A
20 police officer shall, upon receipt of any credible information
21 alleging the commission of a crime by any police officer or
22 Department employee, forward within forty-eight (48) hours the
23 information so received to the Chief of Police. The Chief of Police
24 shall forward the alleged violations to the Internal Affairs unit of

1 the Department and to the Commission, and shall further forward
2 a copy of the alleged violations to the Attorney General.

3 (b) The Chief of Police shall, within thirty (30) working
4 days of receipt of the information described in Subsection (a) of
5 this Section, prepare a statement open to the public indicating the
6 preliminary disposition of the allegation. The Chief of Police shall
7 prepare a summary of all allegations filed and their final
8 disposition in the Department's annual report.

9 (c) Upon receipt of the report the Attorney General shall
10 review all records and other information submitted and may
11 initiate an independent investigation of the alleged violation.

12 (d) Any police officer or Department employee who fails
13 to forward the information or fails to make reports required by this
14 Section shall be guilty of a misdemeanor and shall be punished by
15 a fine of not more than One Thousand Dollars (\$1,000.00) or by
16 imprisonment for not more than one (1) year, or both.

17 (e) The Chief of Police shall inform the Commission in
18 writing, within three (3) days of disposition, of disciplinary
19 outcomes of cases, including adjudication and discipline imposed.
20 All such information shall be kept confidential, *unless* otherwise
21 permitted or required by law.

22 (f) Nothing herein shall prohibit the Commission from
23 jointly or separately investigating the conduct of a member of the
24 Department, or carrying out any of its authority and duties
25 authorized pursuant to Chapter 78 of this Title."

1 conclusions based upon those findings of fact. The Commission
2 shall consist of seven (7) members, all of whom shall be citizens of
3 the United States and have resided on Guam for at least five (5)
4 consecutive years preceding his or her appointment, and shall be
5 appointed as follows:

6 (1) three (3) members by *I Maga'lahaen Guahan*;

7 (2) two (2) members by the Speaker of *I Liheslaturan*
8 *Guahan*;

9 (3) one (1) member by the Mayors Council;

10 (4) one (1) member by the President of the Guam
11 Bar Association, who shall be an active member of the
12 Association.

13 (b) Members of the Commission shall serve for a period of
14 three (3) years each, *except* that any member appointed to fill a
15 vacancy prior to the expiration of the term for which his
16 predecessor was appointed, shall be appointed for the remainder
17 of such term. The members shall serve for terms of three (3) years,
18 *except* that in the year in which the law is enacted, of the three (3)
19 members appointed by *I Maga'lahaen Guahan*, *I Maga'lahaen Guahan*
20 shall appoint one (1) member for one (1) year; one (1) member for
21 two (2) years; and one (1) member for three (3) years. No member
22 shall serve more than two (2) consecutive terms or portions
23 thereof.

1 (c) A member may be re-appointed to succeed himself,
2 but not for more than two (2) consecutive terms, and not for more
3 than six (6) years.

4 (d) The Commission shall elect one (1) of its members as
5 Chairperson, one (1) as Vice-Chairperson, and one (1) as Secretary,
6 who shall each hold office for one (1) year and until their
7 successors are elected. No officer shall be eligible to succeed
8 himself or herself in the same office. Officers shall be elected no
9 later than the second meeting of the Commission following its
10 appointment. All members shall continue to serve until their
11 successors have been appointed.

12 (e) No member of the Commission shall be an elected
13 official or an unclassified employee of the government of Guam.

14 (f) No person, who has been previously convicted of a
15 felony shall be appointed to the Commission.

16 **Section 78104. Vacancy.** Vacancies in the membership of the
17 Commission shall *not* affect the authority of the remaining members to
18 execute the functions of the Commission, and shall be filled in the same
19 manner and by the same appointing authority as the original
20 appointment, and such person shall serve for the unexpired term of the
21 vacancy. The appointment of any member of the Commission who has
22 been absent and not excused from three (3) consecutive regular or
23 special meetings shall automatically expire effective on the date the fact
24 of such absence is reported by the Commission. Vacancies occurring in
25 the Commission shall be filled within thirty (30) days.

1 **Section 78105. Quorum.** A majority of the Commission shall
2 constitute a quorum for the transaction of business, and the concurrence
3 of a majority of the members present shall be necessary to make any
4 action of the Commission valid. No action shall be taken by the
5 Commission at any meetings or hearings, *unless* a quorum is present.

6 **Section 78106. Meetings.** The Commission shall meet once
7 every month at a regularly scheduled time and place for the purpose of
8 conducting evidentiary hearings and/or to conduct any other business
9 necessary to the operation of the Commission. Regular meetings shall
10 *not* be held in any building in which the Department is located. Special
11 meetings may be called by the Chairperson or by three (3) members of
12 the Commission at such additional times and places deemed. At least
13 once every three (3) months, or as it determines, the Commission may
14 meet in any other places and locations throughout Guam for the
15 purpose of encouraging interest and facilitating attendance by people in
16 the various municipalities in Guam at the meetings.

17 All meetings shall be open to the public, *unless* the Commission, in
18 order to protect the rights and privacy of individuals in accordance with
19 all applicable laws, decides otherwise and if such closed meeting is *not*
20 waived by the individual concerned. The Commission shall cause to be
21 kept a proper record of its proceedings. The records and files of the
22 Commission and its officers shall include, but not be limited to, all
23 official correspondence, or copies thereof, to and from the Commission
24 and its members, gathered in their official capacities, and shall be kept

1 and open for inspection by the public at reasonable times in a location to
2 be determined by the Commission.

3 **Section 78107. Compensation.** Each member of the
4 Commission shall be compensated in the same manner as are other
5 members of boards and commissions, and shall be reimbursed for
6 expenses incurred in the performance of duties in the same manner and
7 amount as other boards and commission members.

8 **Section 78108. Authority and Duties.** The Commission
9 shall have the following authority and duties:

10 (a) to receive complaints of the following alleged
11 misconduct and actions directed against the Department and any
12 of its employees and to fully and completely investigate said
13 complaints:

14 (1) use of excessive or deadly force;

15 (2) inappropriate language or attitude;

16 (3) harassment;

17 (4) discrimination in the provision of police services
18 or other discriminatory conduct on the basis of sex, race,
19 color, ethnicity, creed, religion, national origin, sex, sexual
20 preference, disability or age and other violations of civil
21 rights;

22 (5) theft;

23 (6) failure to provide adequate or timely police
24 protection;

1 (7) any other crime or misconduct which constitutes
2 a felony or felonies under the laws applicable to Guam; *and*

3 (8) any other crime or misconduct involving more
4 than one (1) employee;

5 (b) to make such guidelines and recommendations,
6 including disciplinary actions for those employees found to be in
7 violation of any laws or standards of conduct or guilty of a
8 misconduct, and give such advice without limitation, including
9 disciplinary and other action relating to departmental policies and
10 procedures; as the Commission in its discretion deems advisable;

11 (c) to ensure that investigation of all complaints filed with
12 the Commission shall begin immediately after complaints are filed
13 and proceed as expeditiously as possible in an impartial manner;
14 that regular annual reports relating to the number, kind and status
15 of all such complaints shall be made by the Commission to the
16 Chief of Police and to *I Liheslaturan Guåhan*;

17 (d) to review all cases reported to the Department under
18 §77133 of this Title, and to conduct further independent
19 investigation as it determines in accordance with the rules and
20 regulations adopted and promulgated as authorized in this
21 Chapter;

22 (e) review all records and other information submitted to
23 it from any source and initiate its own independent investigation
24 or enter into a contract for services with an Independent Special
25 Attorney and/or an Independent Special Investigator who shall be

1 a civilian ('Civilian' for the purpose of this Section, is a person
2 who is *not* now, and has *not* been, a sworn officer or an employee
3 of the Department within the last five (5) years of the contract of
4 services as an Independent Special Attorney or an Independent
5 Special Investigator, and shall *not* have been an employee of the
6 Department of Law within the last two (2) years of the contract of
7 services as an Independent Special Attorney or an Independent
8 Special Investigator. An Independent Special Attorney shall be an
9 active member of the Guam Bar Association. An Independent
10 Special Investigator shall have prior experience or training as an
11 investigator.);

12 (f) adopt and promulgate rules and regulations, pursuant
13 to the Administrative Adjudication Law, and subject to legislative
14 approval, governing its operations, including the duties of its
15 officers, the filing of complaints, conduct of hearings and
16 procedures for its own activities and investigations, and a process
17 for determining which cases it will review (The Commission shall
18 consult with the Chief of Police in developing these rules.);

19 (g) to recommend procedures, programs and legislation to
20 the Department and to *I Liheslaturan Guåhan*, to:

21 (1) advance and improve the relations between the
22 Department and the community;

23 (2) enhance cooperation by the community;

24 (3) increase public trust and confidence in the
25 Department; *and*

1 (4) encourage and ensure equal protection all
2 citizens under the laws of Guam; *and*

3 (h) to advise, consult and cooperate with other agencies of
4 the government of Guam; the Federal Government and interested
5 persons or groups.

6 Nothing herein shall prohibit the Chief of Police or the Police
7 Commander from investigating the conduct of an employee under his
8 or her command, or taking disciplinary or corrective action, otherwise
9 permitted by Chapter 77 of this Title, when such is warranted; and
10 nothing herein shall limit or otherwise restrict the disciplinary powers
11 vested in the Chief of Police by Chapter 77 of this Title.

12 **Section 78109. Finance and Staff.** Subject to budget
13 limitations, the Commission is authorized to, and may, contract or
14 employ, for the duration of the investigation, an Independent Special
15 Attorney and/or an Independent Special Investigator or other personnel
16 as necessary for the proper performance of its duties and to carry out
17 the purposes of this Chapter, to the extent of funds made available to it
18 for such purpose. *I Liheslaturan Guåhan* shall appropriate to the
19 Commission, from time to time, funds as are necessary to implement the
20 provisions of this Chapter.

21 **Section 78110. Complaint Filing.** (a) In addition to the
22 reporting and other terms for police officer violations enumerated
23 in §77133 of this Title, any person may file complaints of alleged
24 crime or misconduct with the Commission as listed under
25 Subsection (a) of §78108, by submitting said complaints at

1 locations and in a manner to be determined by the Commission.
2 The Commission shall select at least one (1) location for the receipt
3 of complaints that is *not* affiliated with the Department, nor
4 staffed by employees of the Department.

5 (b) The Commission shall within thirty-five (35) working
6 days of receipt of the complaint described in Subsection (a) of this
7 Section, prepare a statement open to the public indicating the
8 preliminary disposition of the allegation.

9 **Section 78111. Preliminary Review.** Within five (5) working
10 days of the date that a complaint was filed, the Commission shall
11 conduct a preliminary review of each complaint and determine whether
12 an investigation of the alleged misconduct is warranted, whether the
13 matter shall be mediated or whether no further action is necessary. This
14 decision shall be made in accordance with the rules promulgated by the
15 Commission. Preliminary review may be waived with the unanimous
16 vote of the Commission to proceed with an investigation. All
17 complaints shall be kept on file regardless of whether an investigation is
18 initiated.

19 **Section 78112. Community Petitions.** On the petition of
20 fifty (50) or more residents of Guam filed in any location or locations
21 designated by the Commission, the Commission shall hold a special
22 meeting for the individuals so petitioning for the purpose of responding
23 to the petition and hearing and inquiring into matters identified therein
24 as the concern of the petitioners. Notice of such meeting shall be given
25 in the same manner as notice is given for other meetings of the

1 Commission. In no case shall the Commission meet later than five (5)
2 working days following the date the petition is filed to conduct a
3 preliminary review of the concern of the petitioners.

4 **Section 78113. Investigations.** If the Commission determines
5 that further investigation is warranted, the complaint shall be
6 investigated by an Independent Special Attorney and/or an
7 Independent Special Investigator selected and hired by the Commission.
8 Completion of investigation may be held in abeyance during such time
9 as the Commission determines that an investigation might impede or
10 harm a criminal investigation. Nothing in this Chapter shall prevent or
11 preclude taking action or the prosecution of criminal conduct under the
12 laws of Guam.

13 **Section 78114. Evidentiary Hearings.** Upon the
14 completion of the investigation of a complaint, the Commission may
15 dismiss, with the filing of written reasons for the dismissal, the
16 complaint for lack of merit or conduct an evidentiary hearing. At an
17 evidentiary hearing, the Commission shall weigh and consider all
18 evidence presented. The Commission shall make reasonable efforts to
19 commence and complete evidentiary hearings within ten (10) working
20 days of the completion of the investigation. The Chairperson of the
21 Commission shall appoint a panel of three (3) or five (5) members to
22 conduct such evidentiary hearing. The Chairperson of the Commission
23 shall designate a chairperson of each panel.

24 **Section 78115. Subpoena.** Upon approval of a majority of
25 its members, the Commission shall have power to subpoena witnesses,

1 compel their attendance, require the production of evidence and any
2 such records, books, papers and documents as it may deem necessary
3 for investigation of the case of any person before it, administer an oath
4 and examine any person under oath in connection with any subject
5 relating to a duty imposed upon or a power vested in the Commission.
6 Subpoenas shall be signed and oaths administered by the Chairperson
7 of the Commission. Subpoenas so issued may be served by any police,
8 parole or probation officer, or other law enforcement officer, or hired or
9 contracted personnel of the Commission in the same manner as similar
10 process in the Superior Court. Service of subpoena shall be made at
11 least three (3) working days *prior* to the time fixed in the subpoena for
12 appearance or production of records, *unless* a shorter period of time is
13 authorized by majority vote of all of the members of the Commission in
14 a particular instance when, in their opinion, the giving three (3) working
15 days' notice is *not* practicable; but if a shorter period of time is
16 authorized, the person to whom the subpoena is directed shall be given
17 reasonable notice consistent with the particular circumstances involved.

18 Any person who testifies falsely or fails to appear when
19 subpoenaed, or fails or refuses to produce such material pursuant to the
20 subpoena, shall be subject to the same orders and penalties to which a
21 person before a court is subject. The Superior Court, upon application
22 of the Commission, may in its discretion compel the attendance of
23 witnesses, the production of such material and the giving of testimony
24 before the Commission, by an attachment for contempt or otherwise, in

1 the same manner as production of evidence may be compelled before
2 such court.

3 **Section 78116. Testimony.** (a) The Commission shall cause
4 a record to be made of all proceedings in which testimony or other
5 evidence is received or adduced, which record shall include
6 rulings of the chair, questions of the Commission and its
7 authorized representative, the testimony or responses of
8 witnesses, sworn written statements which the Commission
9 authorizes a witness to submit and such other matters as the
10 Commission or its Chairperson may direct.

11 (b) All testimony given at a hearing shall be under oath or
12 affirmation, *unless* the requirement is dispensed with in a
13 particular instance by majority vote of the Commission members
14 present at the hearing.

15 (c) Any member of the Commission may administer an
16 oath or affirmation to a witness.

17 (d) The Chairperson or a designated presiding officer at a
18 hearing or an investigative hearing may direct a witness to answer
19 any relevant question or furnish any relevant book, paper or other
20 document. *Unless* the direction is overruled by majority vote of
21 the Commission members present, disobedience shall constitute
22 grounds for citation for contempt, *except* that production of any
23 book, paper or other document may be required only by
24 subpoena.

1 (e) A witness at a hearing, or his counsel, with the consent
2 of a majority of the Commission members present at the hearing,
3 may file with the Commission for incorporation into the record of
4 the hearing sworn written statements relevant to the purpose,
5 subject matter and scope of the Commission's investigation or
6 inquiry.

7 **Section 78117. Requirement of Cooperation by Government**
8 **Agencies and Departments.** Any official or employee of the
9 Department and all other government employees and officials shall,
10 *except* as expressly prohibited by law subsequent to this Act, respond
11 promptly to any and all reasonable requests for information, for
12 participation in meetings and evidentiary hearings, and for access to
13 data and records for the purpose of enabling the Commission to carry
14 out its responsibilities under this Chapter. The failure by any official or
15 employee of the Department or by any government employee or official
16 to comply with such requests for information, participation, or access
17 shall be guilty of a misdemeanor and shall be punishable by a fine of not
18 more than One Thousand Dollars (\$1,000.00) or by imprisonment for
19 not more than one (1) year, or both.

20 **Section 78118. Findings of Fact and Determination.** Within
21 ten (10) working days of the completion of an evidentiary hearing, and
22 within thirty-five (35) working days of the receipt of complaint, the
23 Commission shall issue a written report containing findings of fact and
24 a determination of whether the complaint is sustained to the Attorney
25 General's Office and to the Chief of Police along with its

1 recommendation for disposition. If the Commission, after the
2 evidentiary hearing, determines that further investigation is necessary
3 and directs further investigation, it shall include such finding in its
4 report and shall *not* be required to disclose any further findings until the
5 additional investigation is complete and an evidentiary hearing thereon
6 is held consistent with the provisions of this Act.

7 **Section 78119. Chief of Police Disciplinary Decision.** When a
8 complaint is sustained, the findings of fact and the determination shall
9 be submitted to the Chief of Police, who shall make a disciplinary
10 decision based upon this information. The Chief of Police shall provide
11 the Commission with a written explanation of the reason or reasons for
12 his or her disciplinary decision. In any case in which the Commission
13 disagrees with the decision of the Chief of Police, the Commission may
14 investigate the matter further and shall determine the disciplinary
15 action to be carried out by the Chief of Police. Such decision by the
16 Commission shall be deemed final and binding and *not* subject to
17 reversal by the Chief of Police.

18 **Section 78120. Mediation.** The Commission shall
19 consider, when agreed upon by the complainant, the Commission, the
20 Department and the subject employee, mutually agreeable resolution of
21 any complaint in all cases *except* those involving the death or deaths of
22 an individual or individuals. The Commission shall adopt rules and
23 regulations to effectuate this provision. Nothing in this Section shall be

1 construed to preclude or prevent the prosecution of criminal conduct
2 under any laws applicable to Guam.

3 **Section 78121. Notice to Parties.** The Commission shall
4 notify in a timely fashion, in writing, the complainant(s) and police
5 officer(s) of the status or disposition of the complaint in a reasonable
6 manner.

7 **Section 78122. Period of Limitation.** No person may file a
8 complaint with the Commission if one hundred twenty (120) days has
9 elapsed since the alleged misconduct, or since its discovery, whichever
10 is later.

11 **Section 78123. Rights of Employees.** (a) When an
12 employee is to be questioned or interviewed concerning a
13 complaint or allegation, the employee shall be informed *prior to*
14 the interview of the nature of the investigation and whether he or
15 she is the subject of the investigation or a witness in an
16 investigation. Where requested, an employee shall be given up to
17 twenty-four (24) hours to contact, consult with and secure the
18 attendance of a representative at the interview. *If* he or she is the
19 subject of the investigation, the employee will also be informed of
20 each complaint or allegation against him and be permitted to
21 review all written statements made by the complainant and
22 witnesses immediately prior to the beginning of the investigative
23 interview.

1 (b) The employee subject of an investigation under this
2 Section shall, upon request, receive a copy of his written or
3 recorded statement at no cost to the employee. No recording or
4 transcription of the investigative interview will be made without
5 the knowledge of all participants present at the interview.

6 **Section 78124. Annual Report.** The Commission shall compile
7 and publish, by the end of each fiscal year, a report including the
8 number, kind and status of all complaints received, and any
9 recommendations and concerns to improve the implementation of the
10 provisions of this Chapter, the performance of the Department and its
11 employees, and the relationship between the Department and the
12 community.

13 **Section 78125. Severability.** *If any provision of this Act or*
14 *its application to any person or circumstances is held invalid, the*
15 *invalidity shall not affect other provisions or applications of this Act*
16 *which can be given effect without the invalid provision or application,*
17 *and to this end the provisions of this Act are severable."*

18 **Section 5.** Within ninety (90) days after its formation, the Guam
19 Community Police Review Commission shall submit to *I Liheslaturan Guåhan*
20 a plan for the organization for the Guam Community Police Review
21 Commission. The plan shall include a proposed staffing pattern, a salary
22 schedule for the staff of the office and budget requirements for the remainder
23 of the fiscal year, and for one (1) fiscal year thereafter.

**MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session**

Bill No. 51 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development and
amended on the Floor.

Introduced by:

V. C. Pangelinan

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

E. B. Calvo

M. G. Camacho

Mark Forbes

L. F. Kasperbauer

A.C. Lamorena, V

C. A. Leon Guerrero

K. S. Moylan

J. C. Salas

S. A. Sanchez, II

A. R. Unpingco

**AN ACT TO REPEAL AND REENACT §77133, AND TO
ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10
OF THE GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING THE GUAM COMMUNITY POLICE
REVIEW COMMISSION, TO IMPROVE POLICE-
COMMUNITY RELATIONS AND TO BETTER
ENSURE POLICE ACCOUNTABILITY.**

1

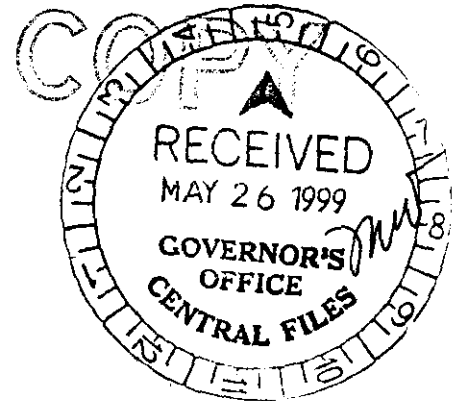
BE IT ENACTED BY THE PEOPLE OF GUAM:



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

May 26, 1999

The Honorable Carl T.C. Gutierrez
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Gutierrez:

Transmitted herewith are Bill Nos. 118 (COR) and 133 (COR) and Substitute Bill Nos. 51 (COR), 121 (COR) and 145 (COR) which were passed by *I Mina' Bente Singko Na Liheslaturan Guåhan* on May 24, 1999.

Sincerely,


JOANNE M.S. BROWN
Senator and Legislative Secretary

Enclosure (5)


MINA'BENT SINGKO NA LIHESLATUR I GUAHAN
1999 (FIRST) Regular Session

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


This is to certify that Substitute Bill No. 51 (COR), "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD CHAPTER 78, ALL TO DIVISION 3 OF TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW COMMISSION, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY," was on the 24th day of May, 1999, duly and regularly passed.


ANTONIO R. UNPINGCO
Speaker

Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by I Maga'lahaen Guahan this 26th day of May, 1999,
at 4:50 o'clock P.M.


Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

CARL T. C. GUTIERREZ
I Maga'lahaen Guahan

Date: _____

Public Law No. _____

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 51 (COR)

As substituted by the Committee
on Judiciary, Public Safety,
Consumer Protection and Human
Resources Development and
amended on the Floor.

Introduced by:

V. C. Pangelinan

F. B. Aguon, Jr.

E. C. Bermudes

A. C. Blaz

J. M.S. Brown

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**AN ACT TO REPEAL AND REENACT §77133, AND TO
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ESTABLISHING THE GUAM COMMUNITY POLICE
REVIEW COMMISSION, TO IMPROVE POLICE-
COMMUNITY RELATIONS AND TO BETTER
ENSURE POLICE ACCOUNTABILITY.**

1

BE IT ENACTED BY THE PEOPLE OF GUAM:

1 **Section 1. Legislative Findings.** *I Liheslaturan Guåhan* finds that the
2 public has the right to expect all law enforcement personnel, particularly the
3 police officers within the Guam Police Department (“Department”), to adhere
4 to a professional standard of conduct and all laws governing the island and its
5 residents. Model policies and guidelines may exist in the police department
6 to deter and punish misconduct, *however*, such standards, without objective
7 and aggressive enforcement and compliance, will be rendered ineffective.
8 Silence and unresponsiveness, perceived or real, undermines the community-
9 police relations, and the public may lose their trust and confidence in those
10 who are empowered to protect them, their families and their properties.

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

17 *I Liheslaturan Guåhan* further finds that Public Law Number 24-23,
18 which established the Guam Police Department and stipulates the process by
19 which alleged violations of the law on the part of a police officer or an
20 employee of the Department shall be investigated, is deficient. Currently, any
21 person may file with any police officer a complaint alleging the commission of
22 a crime on the part of a police officer or employee of the Department. The
23 alleged violations are then forwarded to the Internal Affairs unit of the
24 Department. *However*, the fear of possible intimidation and reprisal by

1 imputed officers and the impression, whether legitimate or not, that the
2 Department is apathetic to public accusations against one of their own,
3 discourages the members of our community from reporting police
4 misconduct.

5 Secondly, innate reluctance on the part of officers to report abuse or
6 participate in detailed investigation of an allegation against one of their own,
7 or breaking the "code of silence," due to prospective retaliation against
8 deemed whistle-blowers or participants, renders it difficult for the effective
9 enforcement of this process. Finally, the Office of the Attorney General,
10 including its prosecutors, is placed in a tedious position to investigate the
11 same police officers it relies on for evidence in other criminal cases. Thus, the
12 investigations are frequently and unjustly perceived by the public as being
13 covered up and biased.

14 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
15 to provide a practicable and accessible means for the intake and processing of
16 complaints against employees of the Guam Police Department, to inquire into
17 such complaints and, when necessitated, to conduct prompt and impartial
18 investigations of legitimate public, criminal and other accusations of
19 misconduct against police officers and other employees of the Department
20 through direct community participation while ensuring the rights and dignity
21 of each employee alleged to be in violation of the laws of Guam of any
22 standard or conduct that he or she is required to adhere to. A community
23 review commission, composed of civilians, with the authority to carry out
24 independent investigations, but without any dependence on or conflict of
25 interest with these closely linked law enforcement agencies, would best be

1 able to make an objective determination and recommendation as to the
2 disposition of the complaint.

3 It is further the intent of *I Liheslaturan Guåhan* to ensure that the rights
4 and dignity of each accused employee of the Department are protected with
5 the institution and implementation of a clear and impartial investigative
6 process.

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

13 **Section 3.** Section 77133 of Chapter 77, Division 3 of Title 10 of
14 the Guam Code Annotated is hereby *repealed and reenacted* to read as follows:

15 **“Section 77133. Reporting Police Officer Violations.**

16 (a) Any person may file a written complaint with any
17 police officer or the Guam Community Police Review Commission
18 (‘Commission’) alleging the commission of a crime or misconduct
19 on the part of a police officer or employee of the Department. A
20 police officer shall, upon receipt of any credible information
21 alleging the commission of a crime by any police officer or
22 Department employee, forward within forty-eight (48) hours the
23 information so received to the Chief of Police. The Chief of Police
24 shall forward the alleged violations to the Internal Affairs unit of

1 the Department and to the Commission, and shall further forward
2 a copy of the alleged violations to the Attorney General.

3 (b) The Chief of Police shall, within thirty (30) working
4 days of receipt of the information described in Subsection (a) of
5 this Section, prepare a statement open to the public indicating the
6 preliminary disposition of the allegation. The Chief of Police shall
7 prepare a summary of all allegations filed and their final
8 disposition in the Department's annual report.

9 (c) Upon receipt of the report the Attorney General shall
10 review all records and other information submitted and may
11 initiate an independent investigation of the alleged violation.

12 (d) Any police officer or Department employee who fails
13 to forward the information or fails to make reports required by this
14 Section shall be guilty of a misdemeanor and shall be punished by
15 a fine of not more than One Thousand Dollars (\$1,000.00) or by
16 imprisonment for not more than one (1) year, or both.

17 (e) The Chief of Police shall inform the Commission in
18 writing, within three (3) days of disposition, of disciplinary
19 outcomes of cases, including adjudication and discipline imposed.
20 All such information shall be kept confidential, *unless* otherwise
21 permitted or required by law.

22 (f) Nothing herein shall prohibit the Commission from
23 jointly or separately investigating the conduct of a member of the
24 Department, or carrying out any of its authority and duties
25 authorized pursuant to Chapter 78 of this Title."

1 conclusions based upon those findings of fact. The Commission
2 shall consist of seven (7) members, all of whom shall be citizens of
3 the United States and have resided on Guam for at least five (5)
4 consecutive years preceding his or her appointment, and shall be
5 appointed as follows:

6 (1) three (3) members by *I Maga'lahaen Guåhan*;

7 (2) two (2) members by the Speaker of *I Liheslaturan*
8 *Guåhan*;

9 (3) one (1) member by the Mayors Council;

10 (4) one (1) member by the President of the Guam
11 Bar Association, who shall be an active member of the
12 Association.

13 (b) Members of the Commission shall serve for a period of
14 three (3) years each, *except* that any member appointed to fill a
15 vacancy prior to the expiration of the term for which his
16 predecessor was appointed, shall be appointed for the remainder
17 of such term. The members shall serve for terms of three (3) years,
18 *except* that in the year in which the law is enacted, of the three (3)
19 members appointed by *I Maga'lahaen Guåhan*, *I Maga'lahaen Guåhan*
20 shall appoint one (1) member for one (1) year; one (1) member for
21 two (2) years; and one (1) member for three (3) years. No member
22 shall serve more than two (2) consecutive terms or portions
23 thereof.

1 (c) A member may be re-appointed to succeed himself,
2 but not for more than two (2) consecutive terms, and not for more
3 than six (6) years.

4 (d) The Commission shall elect one (1) of its members as
5 Chairperson, one (1) as Vice-Chairperson, and one (1) as Secretary,
6 who shall each hold office for one (1) year and until their
7 successors are elected. No officer shall be eligible to succeed
8 himself or herself in the same office. Officers shall be elected no
9 later than the second meeting of the Commission following its
10 appointment. All members shall continue to serve until their
11 successors have been appointed.

12 (e) No member of the Commission shall be an elected
13 official or an unclassified employee of the government of Guam.

14 (f) No person, who has been previously convicted of a
15 felony shall be appointed to the Commission.

16 **Section 78104. Vacancy.** Vacancies in the membership of the
17 Commission shall *not* affect the authority of the remaining members to
18 execute the functions of the Commission, and shall be filled in the same
19 manner and by the same appointing authority as the original
20 appointment, and such person shall serve for the unexpired term of the
21 vacancy. The appointment of any member of the Commission who has
22 been absent and not excused from three (3) consecutive regular or
23 special meetings shall automatically expire effective on the date the fact
24 of such absence is reported by the Commission. Vacancies occurring in
25 the Commission shall be filled within thirty (30) days.

1 **Section 78105. Quorum.** A majority of the Commission shall
2 constitute a quorum for the transaction of business, and the concurrence
3 of a majority of the members present shall be necessary to make any
4 action of the Commission valid. No action shall be taken by the
5 Commission at any meetings or hearings, *unless* a quorum is present.

6 **Section 78106. Meetings.** The Commission shall meet once
7 every month at a regularly scheduled time and place for the purpose of
8 conducting evidentiary hearings and/or to conduct any other business
9 necessary to the operation of the Commission. Regular meetings shall
10 *not* be held in any building in which the Department is located. Special
11 meetings may be called by the Chairperson or by three (3) members of
12 the Commission at such additional times and places deemed. At least
13 once every three (3) months, or as it determines, the Commission may
14 meet in any other places and locations throughout Guam for the
15 purpose of encouraging interest and facilitating attendance by people in
16 the various municipalities in Guam at the meetings.

17 All meetings shall be open to the public, *unless* the Commission, in
18 order to protect the rights and privacy of individuals in accordance with
19 all applicable laws, decides otherwise and if such closed meeting is *not*
20 waived by the individual concerned. The Commission shall cause to be
21 kept a proper record of its proceedings. The records and files of the
22 Commission and its officers shall include, but not be limited to, all
23 official correspondence, or copies thereof, to and from the Commission
24 and its members, gathered in their official capacities, and shall be kept

1 and open for inspection by the public at reasonable times in a location to
2 be determined by the Commission.

3 **Section 78107. Compensation.** Each member of the
4 Commission shall be compensated in the same manner as are other
5 members of boards and commissions, and shall be reimbursed for
6 expenses incurred in the performance of duties in the same manner and
7 amount as other boards and commission members.

8 **Section 78108. Authority and Duties.** The Commission
9 shall have the following authority and duties:

10 (a) to receive complaints of the following alleged
11 misconduct and actions directed against the Department and any
12 of its employees and to fully and completely investigate said
13 complaints:

14 (1) use of excessive or deadly force;

15 (2) inappropriate language or attitude;

16 (3) harassment;

17 (4) discrimination in the provision of police services
18 or other discriminatory conduct on the basis of sex, race,
19 color, ethnicity, creed, religion, national origin, sex, sexual
20 preference, disability or age and other violations of civil
21 rights;

22 (5) theft;

23 (6) failure to provide adequate or timely police
24 protection;

1 (7) any other crime or misconduct which constitutes
2 a felony or felonies under the laws applicable to Guam; *and*

3 (8) any other crime or misconduct involving more
4 than one (1) employee;

5 (b) to make such guidelines and recommendations,
6 including disciplinary actions for those employees found to be in
7 violation of any laws or standards of conduct or guilty of a
8 misconduct, and give such advice without limitation, including
9 disciplinary and other action relating to departmental policies and
10 procedures; as the Commission in its discretion deems advisable;

11 (c) to ensure that investigation of all complaints filed with
12 the Commission shall begin immediately after complaints are filed
13 and proceed as expeditiously as possible in an impartial manner;
14 that regular annual reports relating to the number, kind and status
15 of all such complaints shall be made by the Commission to the
16 Chief of Police and to *I Liheslaturan Guåhan*;

17 (d) to review all cases reported to the Department under
18 §77133 of this Title, and to conduct further independent
19 investigation as it determines in accordance with the rules and
20 regulations adopted and promulgated as authorized in this
21 Chapter;

22 (e) review all records and other information submitted to
23 it from any source and initiate its own independent investigation
24 or enter into a contract for services with an Independent Special
25 Attorney and/or an Independent Special Investigator who shall be

1 a civilian ('*Civilian*' for the purpose of this Section, is a person
2 who is *not* now, and has *not* been, a sworn officer or an employee
3 of the Department within the last five (5) years of the contract of
4 services as an Independent Special Attorney or an Independent
5 Special Investigator, and shall *not* have been an employee of the
6 Department of Law within the last two (2) years of the contract of
7 services as an Independent Special Attorney or an Independent
8 Special Investigator. An Independent Special Attorney shall be an
9 active member of the Guam Bar Association. An Independent
10 Special Investigator shall have prior experience or training as an
11 investigator.);

12 (f) adopt and promulgate rules and regulations, pursuant
13 to the Administrative Adjudication Law, and subject to legislative
14 approval, governing its operations, including the duties of its
15 officers, the filing of complaints, conduct of hearings and
16 procedures for its own activities and investigations, and a process
17 for determining which cases it will review (The Commission shall
18 consult with the Chief of Police in developing these rules.);

19 (g) to recommend procedures, programs and legislation to
20 the Department and to *I Liheslaturan Guåhan*, to:

21 (1) advance and improve the relations between the
22 Department and the community;

23 (2) enhance cooperation by the community;

24 (3) increase public trust and confidence in the
25 Department; *and*

1 (4) encourage and ensure equal protection all
2 citizens under the laws of Guam; *and*

3 (h) to advise, consult and cooperate with other agencies of
4 the government of Guam; the Federal Government and interested
5 persons or groups.

6 Nothing herein shall prohibit the Chief of Police or the Police
7 Commander from investigating the conduct of an employee under his
8 or her command, or taking disciplinary or corrective action, otherwise
9 permitted by Chapter 77 of this Title, when such is warranted; and
10 nothing herein shall limit or otherwise restrict the disciplinary powers
11 vested in the Chief of Police by Chapter 77 of this Title.

12 **Section 78109. Finance and Staff.** Subject to budget
13 limitations, the Commission is authorized to, and may, contract or
14 employ, for the duration of the investigation, an Independent Special
15 Attorney and/or an Independent Special Investigator or other personnel
16 as necessary for the proper performance of its duties and to carry out
17 the purposes of this Chapter, to the extent of funds made available to it
18 for such purpose. *I Liheslaturan Guåhan* shall appropriate to the
19 Commission, from time to time, funds as are necessary to implement the
20 provisions of this Chapter.

21 **Section 78110. Complaint Filing.** (a) In addition to the
22 reporting and other terms for police officer violations enumerated
23 in §77133 of this Title, any person may file complaints of alleged
24 crime or misconduct with the Commission as listed under
25 Subsection (a) of §78108, by submitting said complaints at

1 locations and in a manner to be determined by the Commission.
2 The Commission shall select at least one (1) location for the receipt
3 of complaints that is *not* affiliated with the Department, nor
4 staffed by employees of the Department.

5 (b) The Commission shall within thirty-five (35) working
6 days of receipt of the complaint described in Subsection (a) of this
7 Section, prepare a statement open to the public indicating the
8 preliminary disposition of the allegation.

9 **Section 78111. Preliminary Review.** Within five (5) working
10 days of the date that a complaint was filed, the Commission shall
11 conduct a preliminary review of each complaint and determine whether
12 an investigation of the alleged misconduct is warranted, whether the
13 matter shall be mediated or whether no further action is necessary. This
14 decision shall be made in accordance with the rules promulgated by the
15 Commission. Preliminary review may be waived with the unanimous
16 vote of the Commission to proceed with an investigation. All
17 complaints shall be kept on file regardless of whether an investigation is
18 initiated.

19 **Section 78112. Community Petitions.** On the petition of
20 fifty (50) or more residents of Guam filed in any location or locations
21 designated by the Commission, the Commission shall hold a special
22 meeting for the individuals so petitioning for the purpose of responding
23 to the petition and hearing and inquiring into matters identified therein
24 as the concern of the petitioners. Notice of such meeting shall be given
25 in the same manner as notice is given for other meetings of the

1 Commission. In no case shall the Commission meet later than five (5)
2 working days following the date the petition is filed to conduct a
3 preliminary review of the concern of the petitioners.

4 **Section 78113. Investigations.** If the Commission determines
5 that further investigation is warranted, the complaint shall be
6 investigated by an Independent Special Attorney and/or an
7 Independent Special Investigator selected and hired by the Commission.
8 Completion of investigation may be held in abeyance during such time
9 as the Commission determines that an investigation might impede or
10 harm a criminal investigation. Nothing in this Chapter shall prevent or
11 preclude taking action or the prosecution of criminal conduct under the
12 laws of Guam.

13 **Section 78114. Evidentiary Hearings.** Upon the
14 completion of the investigation of a complaint, the Commission may
15 dismiss, with the filing of written reasons for the dismissal, the
16 complaint for lack of merit or conduct an evidentiary hearing. At an
17 evidentiary hearing, the Commission shall weigh and consider all
18 evidence presented. The Commission shall make reasonable efforts to
19 commence and complete evidentiary hearings within ten (10) working
20 days of the completion of the investigation. The Chairperson of the
21 Commission shall appoint a panel of three (3) or five (5) members to
22 conduct such evidentiary hearing. The Chairperson of the Commission
23 shall designate a chairperson of each panel.

24 **Section 78115. Subpoena.** Upon approval of a majority of
25 its members, the Commission shall have power to subpoena witnesses,

1 compel their attendance, require the production of evidence and any
2 such records, books, papers and documents as it may deem necessary
3 for investigation of the case of any person before it, administer an oath
4 and examine any person under oath in connection with any subject
5 relating to a duty imposed upon or a power vested in the Commission.
6 Subpoenas shall be signed and oaths administered by the Chairperson
7 of the Commission. Subpoenas so issued may be served by any police,
8 parole or probation officer, or other law enforcement officer, or hired or
9 contracted personnel of the Commission in the same manner as similar
10 process in the Superior Court. Service of subpoena shall be made at
11 least three (3) working days *prior* to the time fixed in the subpoena for
12 appearance or production of records, *unless* a shorter period of time is
13 authorized by majority vote of all of the members of the Commission in
14 a particular instance when, in their opinion, the giving three (3) working
15 days' notice is *not* practicable; but if a shorter period of time is
16 authorized, the person to whom the subpoena is directed shall be given
17 reasonable notice consistent with the particular circumstances involved.

18 Any person who testifies falsely or fails to appear when
19 subpoenaed, or fails or refuses to produce such material pursuant to the
20 subpoena, shall be subject to the same orders and penalties to which a
21 person before a court is subject. The Superior Court, upon application
22 of the Commission, may in its discretion compel the attendance of
23 witnesses, the production of such material and the giving of testimony
24 before the Commission, by an attachment for contempt or otherwise, in

1 the same manner as production of evidence may be compelled before
2 such court.

3 **Section 78116. Testimony.** (a) The Commission shall cause
4 a record to be made of all proceedings in which testimony or other
5 evidence is received or adduced, which record shall include
6 rulings of the chair, questions of the Commission and its
7 authorized representative, the testimony or responses of
8 witnesses, sworn written statements which the Commission
9 authorizes a witness to submit and such other matters as the
10 Commission or its Chairperson may direct.

11 (b) All testimony given at a hearing shall be under oath or
12 affirmation, *unless* the requirement is dispensed with in a
13 particular instance by majority vote of the Commission members
14 present at the hearing.

15 (c) Any member of the Commission may administer an
16 oath or affirmation to a witness.

17 (d) The Chairperson or a designated presiding officer at a
18 hearing or an investigative hearing may direct a witness to answer
19 any relevant question or furnish any relevant book, paper or other
20 document. *Unless* the direction is overruled by majority vote of
21 the Commission members present, disobedience shall constitute
22 grounds for citation for contempt, *except* that production of any
23 book, paper or other document may be required only by
24 subpoena.

1 (e) A witness at a hearing, or his counsel, with the consent
2 of a majority of the Commission members present at the hearing,
3 may file with the Commission for incorporation into the record of
4 the hearing sworn written statements relevant to the purpose,
5 subject matter and scope of the Commission's investigation or
6 inquiry.

7 **Section 78117. Requirement of Cooperation by Government**
8 **Agencies and Departments.** Any official or employee of the
9 Department and all other government employees and officials shall,
10 *except* as expressly prohibited by law subsequent to this Act, respond
11 promptly to any and all reasonable requests for information, for
12 participation in meetings and evidentiary hearings, and for access to
13 data and records for the purpose of enabling the Commission to carry
14 out its responsibilities under this Chapter. The failure by any official or
15 employee of the Department or by any government employee or official
16 to comply with such requests for information, participation, or access
17 shall be guilty of a misdemeanor and shall be punishable by a fine of not
18 more than One Thousand Dollars (\$1,000.00) or by imprisonment for
19 not more than one (1) year, or both.

20 **Section 78118. Findings of Fact and Determination.** Within
21 ten (10) working days of the completion of an evidentiary hearing, and
22 within thirty-five (35) working days of the receipt of complaint, the
23 Commission shall issue a written report containing findings of fact and
24 a determination of whether the complaint is sustained to the Attorney
25 General's Office and to the Chief of Police along with its

1 recommendation for disposition. If the Commission, after the
2 evidentiary hearing, determines that further investigation is necessary
3 and directs further investigation, it shall include such finding in its
4 report and shall *not* be required to disclose any further findings until the
5 additional investigation is complete and an evidentiary hearing thereon
6 is held consistent with the provisions of this Act.

7 **Section 78119. Chief of Police Disciplinary Decision.** When a
8 complaint is sustained, the findings of fact and the determination shall
9 be submitted to the Chief of Police, who shall make a disciplinary
10 decision based upon this information. The Chief of Police shall provide
11 the Commission with a written explanation of the reason or reasons for
12 his or her disciplinary decision. In any case in which the Commission
13 disagrees with the decision of the Chief of Police, the Commission may
14 investigate the matter further and shall determine the disciplinary
15 action to be carried out by the Chief of Police. Such decision by the
16 Commission shall be deemed final and binding and *not* subject to
17 reversal by the Chief of Police.

18 **Section 78120. Mediation.** The Commission shall
19 consider, when agreed upon by the complainant, the Commission, the
20 Department and the subject employee, mutually agreeable resolution of
21 any complaint in all cases *except* those involving the death or deaths of
22 an individual or individuals. The Commission shall adopt rules and
23 regulations to effectuate this provision. Nothing in this Section shall be

1 construed to preclude or prevent the prosecution of criminal conduct
2 under any laws applicable to Guam.

3 **Section 78121. Notice to Parties.** The Commission shall
4 notify in a timely fashion, in writing, the complainant(s) and police
5 officer(s) of the status or disposition of the complaint in a reasonable
6 manner.

7 **Section 78122. Period of Limitation.** No person may file a
8 complaint with the Commission if one hundred twenty (120) days has
9 elapsed since the alleged misconduct, or since its discovery, whichever
10 is later.

11 **Section 78123. Rights of Employees.** (a) When an
12 employee is to be questioned or interviewed concerning a
13 complaint or allegation, the employee shall be informed *prior to*
14 the interview of the nature of the investigation and whether he or
15 she is the subject of the investigation or a witness in an
16 investigation. Where requested, an employee shall be given up to
17 twenty-four (24) hours to contact, consult with and secure the
18 attendance of a representative at the interview. *If* he or she is the
19 subject of the investigation, the employee will also be informed of
20 each complaint or allegation against him and be permitted to
21 review all written statements made by the complainant and
22 witnesses immediately prior to the beginning of the investigative
23 interview.

1 (b) The employee subject of an investigation under this
2 Section shall, upon request, receive a copy of his written or
3 recorded statement at no cost to the employee. No recording or
4 transcription of the investigative interview will be made without
5 the knowledge of all participants present at the interview.

6 **Section 78124. Annual Report.** The Commission shall compile
7 and publish, by the end of each fiscal year, a report including the
8 number, kind and status of all complaints received, and any
9 recommendations and concerns to improve the implementation of the
10 provisions of this Chapter, the performance of the Department and its
11 employees, and the relationship between the Department and the
12 community.

13 **Section 78125. Severability.** *If any provision of this Act or*
14 *its application to any person or circumstances is held invalid, the*
15 *invalidity shall not affect other provisions or applications of this Act*
16 *which can be given effect without the invalid provision or application,*
17 *and to this end the provisions of this Act are severable."*

18 **Section 5.** Within ninety (90) days after its formation, the Guam
19 Community Police Review Commission shall submit to *I Liheslaturan Guåhan*
20 a plan for the organization for the Guam Community Police Review
21 Commission. The plan shall include a proposed staffing pattern, a salary
22 schedule for the staff of the office and budget requirements for the remainder
23 of the fiscal year, and for one (1) fiscal year thereafter.

6

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session

Date: 5/24/99

VOTING SHEET

Bill No. 51 (COR)

Resolution No. _____

Question: _____

<u>NAME</u>	<u>YEAS</u>	<u>NAYS</u>	<u>NOT VOTING/ ABSTAINED</u>	<u>OUT DURING ROLL CALL</u>	<u>ABSENT ROLL CALL</u>
AGUON, Frank B., Jr.					✓
BERMUDES, Eulogio C.					✓
BLAZ, Anthony C.	✓				
BROWN, Joanne M.S.	✓				
CALVO, Eduardo B.	✓				
CAMACHO, Marcel G.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LAMORENA, Alberto C., V	✓				
LEON GUERRERO, Carlotta A.	✓				
MOYLAN, Kaleo Scott	✓				
PANGELINAN, Vicente C.	✓				
SALAS, John C.	✓				
SANCHEZ, Simon A., II	✓				
UNPINGCO, Antonio R.	✓				

TOTAL

13 0 0 0 2

CERTIFIED TRUE AND CORRECT:

 Clerk of the Legislature

* 3 Passes = No vote
 EA = Excused Absence



MINA' BENTE SINGKO NA LIHESLATURAN GUÅHAN
TWENTY-FIFTH GUAM LEGISLATURE
155 Hesler Street, Hagåtña, Guam 96910

April 21, 1999

(DATE)

Memorandum

FILE

To: Senator V.C. PANGELINAN

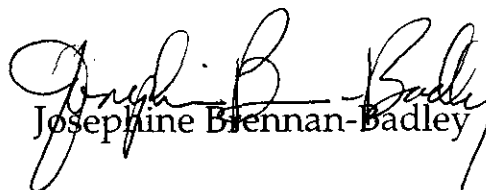
COPY

From: Clerk of the Legislature

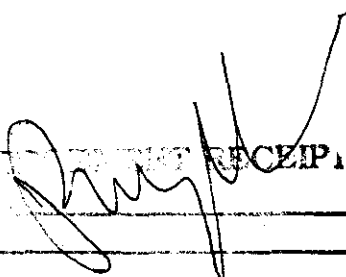
Subject: Report on Bill No. 51 (COR)

Pursuant to §7.04 of Rule VII of the 25th Standing Rules, transmitted herewith is a copy of the Committee Report on Bill No. 51 (COR) for which you are the prime sponsor.

Should you have any questions or need further information, please call the undersigned at 472-3464/5.


Josephine Brennan-Badley

Attachment

RECEIVED

Date: _____



✓

COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

April 20, 1999

The Honorable Antonio R. Unpingco
Speaker
Mina' Bente Kuattro na Liheslaturan Guahan
155 Hesler Street
Hagatna, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Public Safety, Consumer Protection & Human Resources Development to which was referred Bill No. 51, has had the same under consideration and now wishes to report back the same with the recommendation **TO DO PASS**, as substituted.

The Committee votes are as follows:

To Do Pass	<u>4</u>
Not To Pass	<u>0</u>
Abstain	<u>0</u>
Other (Off-Island)	<u>0</u>

A copy of the Committee's report and other pertinent documents are attached for your reference and information.

Sincerely,

Senator John Camacho Salas
Chairman



25th GUAM LEGISLATURE

SENATOR JOHN CAMACHO SALAS

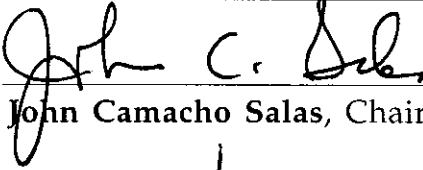
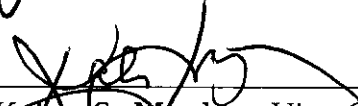
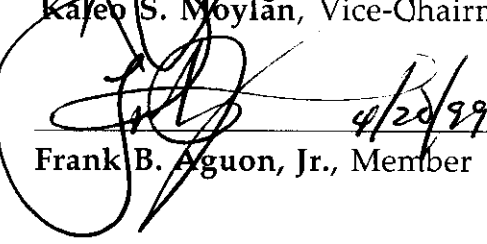
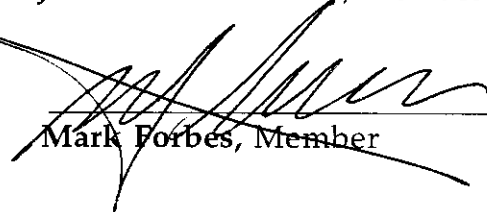
CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION AND HUMAN RESOURCES DEVELOPMENT

VOTING SHEET

BILL NUMBER **51**

TITLE AN ACT TO REPEAL AND REENACT §77133, AND TO ADD A NEW CHAPTER 78, ALL OF TITLE 10 GCA, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW BOARD, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY. (AS SUBSTITUTED)

	TO DO PASS	NOT TO PASS	ABSTAIN	INACTIVE FILE
 John Camacho Salas, Chairman	<input checked="" type="checkbox"/>			
 Kaleo S. Moylan, Vice-Chairman	<input checked="" type="checkbox"/>			
 Frank B. Aguon, Jr., Member	<input checked="" type="checkbox"/>			
Joanne M.S. Brown, Member				
 Mark Forbes, Member	<input checked="" type="checkbox"/>			
Alberto C. Lamorena V, Member				
Carlotta A. Leon Guerrero, Member				
Antonio R. Unpingco, Ex-Officio				

Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Committee Report on Bill 76
Publicly Heard Friday, February 26, 1999

Bill 76: An act to amend 22 GCA §49106, relative to inspection of pawnbroker's register by police officers.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Kaleo S. Moylan, Co-Chairman
- Senator Frank B. Aguon, Jr., Committee Member
- Senator Vicente C. Pangelinan

II. MAIN SPONSORS

Senator John Camacho Salas
Senator Kaleo S. Moylan
Speaker Antonio R. Unpingco

III. SYNOPSIS

Existing law allows any person appointed by the Chief of Police to demand disclosure of a pawnbroker's register. This act seeks to protect pawnbrokers and eliminate such inspection without proper warrant.

IV. TESTIMONY

Chairman Salas, sponsor of the bill, provided an overview, explaining that current law allows Guam Police Department to search without warrant if the investigation of records is ordered by a judge.

Jim Adkins, a pawnbroker, testified in favor of the bill. He stated he is very much opposed to existing law which gives too much power to the Chief of Police.

Acting Attorney General Michael Stern said he would reserve his judgment for now because he was not aware of a previous court ruling in favor of Mr. Adkins' protection from such inspection. Mr. Stern said he is willing to submit written testimony should he find any opposition to the bill, but otherwise he will stand in favor.

V. COMMITTEE FINDINGS & RECOMMENDATION

Current statute allows the Chief of Police to assign anyone to commandeer a pawnbroker's records without a warrant, whereas a uniformed police officer does require a warrant for the same purpose. The Committee finds that this bill satisfies a need to extend fair protection to pawnbrokers. Therefore, the Committee recommends **TO DO PASS Bill 76**.

Committee on Judiciary, Public Safety, Consumer Protection, and
Human Resources Development
Committee Report on Bill 51
Publicly Heard Friday, February 26, 1999

Bill 51: An act to repeal and reenact §77133, and to add a new Chapter 78, all of Title 10, Guam Code Annotated, relative to establishing the Guam Community Police Review Board, to improve police-community relations and to better ensure police accountability.

I. ATTENDANCE

- Senator John C. Salas, Chairman
- Senator Kaleo S. Moylan, Co-Chairman
- Senator Frank B. Aguon, Jr., Committee Member
- Senator Vicente C. Pangelinan

II. MAIN SPONSORS

Senator Vicente C. Pangelinan

III. SYNOPSIS

This act established a Community Review Board composed of civilians to take and process complaints against employees of the Guam Police Department (GPD). This board has authority to carry out independent investigations in order to determine and recommend action for the complaint.

IV. TESTIMONY

Senator Pangelinan, sponsor of the bill, provided an overview of the Community Review Board.

Mr. Ron Dervish, Deputy Chief of the Guam Police Department, provided testimony opposing the bill. He felt the bill is redundant in the reporting of crimes according to the GPD Enabling Act. He also cited a serious conflict this bill poses with the POST Commission. Mr. Dervish is concerned that the bill mingles and obscures administrative violations with criminal violations of GPD employees, which are currently handled by Internal Affairs. Mr. Dervish acknowledged that the bill extends investigation time from 60 to 120 days, which he advocates as a change that can be made to the existing Civil Service rules. Mr. Dervish closed his comments with concern over the power of the Board - the members would be unqualified to understand police matters, the Board would become another funded government agency, and the Board would have as much power as a *de facto* grand jury.

Senator Pangelinan responded that the Board's power is what defines it as an independent entity. He believes the community, and even police officers, want and need this type of accountability for actions of police officers. He explained that the Legislature currently holds the oversight power over GPD, and this bill transfers the same power to a civilian board.

Mr. Dervish pointed out that the POST Commission is already obligated to set standards for conduct and performance.

Senator Pangelinan insisted that the POST Commission has neither the power to enforce nor review the standards.

Mr. Dervish insisted that GPD has enough review on a daily basis, from the Legislature, the public and the media.

Chairman Salas said the conflicting points are understood with POST. He mentioned that the current Police Commission is made up of Governor appointees, and asked if these people represent a cross-section of the community.

Mr. Dervish confirmed that the Commission comes from a variety of ethnic and professional backgrounds. He suggested that the current commission be recognized with power of review.

Chairman Salas asked for an account of the Commission's activity, in the form of an annual report as required of all government entities.

Mr. Dervish did not know that any such report has been completed.

Acting Attorney General Michael Stern began his testimony about the bill by stating he does not have a problem with the purpose of the bill. He is concerned that the bill identifies no source of funding. He pointed out that any employee subject to a criminal investigation is protected by 5th Amendment rights, and is not obligated to be forthcoming with information for a Board investigation. He expressed further concerns that the Board would be an unchecked authority, and would become too big.

Chairman Salas formally invited Mr. Stern to the Mark-up hearing of this bill.

Mr. Hugh Williams, Officer with the Port Authority Police Department, provided testimony on his own behalf opposing the bill. He was concerned that the bill is a vote of no confidence for the GPD and all of Guam's law enforcement. He insisted that Internal Affairs is very good at ensuring the enforcement of rules among employees. His concern is that this bill will destroy the public trust in all law enforcement on island.

Senator Frank B. Aguon disagreed that this bill destroys public trust.

Senator Pangelinan also said this bill supports the good officers and seeks to account for the few bad officers.

Mr. Williams stated that he would like to be included on the Committee Mark-up as well. Chairman Salas also extended an invitation to Mr. Williams.

V. **COMMITTEE FINDINGS & RECOMMENDATION**

The Committee finds that Bill 51 has an appropriate purpose, and after further review does not conflict with the Chief of Police's authority nor the internal affairs process. While the Commission determines if a violation occurred, the internal review process still carries out disciplinary action. The bill is expected to fulfill a need for greater accountability and community involvement in the law enforcement agencies. The author offered an amendment to the bill which would include a Guam Bar Association member as one of three Governor's appointees to the Commission. Therefore, the Committee recommends **TO DO PASS Bill 51**, as substituted.

MINA'BENTE SINGKO NA LIHESLATURAN GUÅHAN
1999 (FIRST) Regular Session

Bill No. 51 (COR)

As substituted by the Committee on Judiciary,
Public Safety, Consumer Protection & Human Resources
Development

V. C. Pangelinan

**AN ACT TO REPEAL AND REENACT §77133, AND TO ADD A
NEW CHAPTER 78, ALL OF TITLE 10, GUAM CODE
ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM
COMMUNITY POLICE REVIEW COMMISSION, TO
IMPROVE POLICE-COMMUNITY RELATIONS AND TO
BETTER ENSURE POLICE ACCOUNTABILITY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative Findings. *I Liheslaturan Guåhan* finds that the public has the right to expect all law enforcement personnel, particularly the police officers within the Guam Police Department (the Department), to adhere to a professional standard of conduct and all laws governing the island and its residents. Model policies and guidelines may exist in the police department to deter and punish misconduct, however, such standards, without objective and aggressive enforcement and compliance, will be rendered ineffective. Silence and unresponsiveness—perceived or real—undermines the community-police relations, and the public may lose their trust and confidence in those who are empowered to protect them, their families, and their properties.

Conversely, the rights and dignity of each accused personnel of the Department must not be compromised, but protected in all cases.

1 Unprofessional and transgressive officers are an exception and not the rule.
2 Those officers who demonstrate signs of aberrant behaviors must be dealt
3 with in a timely fashion so that the collective public image of and confidence
4 in the Police Department is not perverted.

5 *I Liheslaturan Guåhan* further finds that Public Law No. 24-23, which
6 established the Guam Police Department and stipulates the process by which
7 alleged violations of the law on the part of a police officer or an employee of
8 the Department shall be investigated, is deficient. Currently, any person may
9 file with any police officer a complaint alleging the commission of a crime on
10 the part of a police officer or employee of the Department. The alleged
11 violations are then forwarded to the 'Internal Affairs' unit of the Department.
12 However, the fear of possible intimidation and reprisal by imputed officers
13 and the impression, whether legitimate or not, that the Department is
14 apathetic to public accusations against one of their own, discourages the
15 members of our community from reporting police misconduct.

16 Secondly, innate reluctance on the part of officers to report abuse or
17 participate in detailed investigation of an allegation against one of their own,
18 or breaking the "code of silence", due to prospective retaliation against
19 deemed whistle-blowers or participants, renders it difficult for the effective
20 enforcement of this process. Finally, the Office of the Attorney General,
21 including its prosecutors, is placed in a tedious position to investigate the
22 same police officers it relies on for evidence in other criminal cases. Thus, the
23 investigations are frequently and unjustly perceived by the public as being
24 covered up and biased.

25 **Section 2. Legislative Intent.** It is the intent of *I Liheslaturan Guåhan*
26 to provide a practicable and accessible means for the intake and processing of

1 complaints against employees of the Guam Police Department, to inquire into
2 such complaints and, when necessitated, to conduct prompt and impartial
3 investigations of legitimate public, criminal and other accusations of
4 misconduct against police officers and other employees of the Department
5 through direct community participation while ensuring the rights and dignity
6 of each employee alleged to be in violation of the laws of Guam of any
7 standard or conduct that he or she is required to adhere to. A community
8 review commission, composed of civilians, with the authority to carry out
9 independent investigations, but without any dependence on or conflict of
10 interest with these closely linked law enforcement agencies, would best be
11 able to make an objective determination and recommendation as to the
12 disposition of the complaint.

13 It is further the intent of *I Liheslaturan Guåhan* to ensure that the rights
14 and dignity of each accused employee of the Department are protected with
15 the institution and implementation of a clear and impartial investigative
16 process.

17 Maintenance of community credibility and restoration of the public trust
18 begins with and hinges on police accountability—aggressive enforcement of
19 internal policies to regulate those who protect our lives and our properties.
20 Such a process would insure public confidence in the impartiality of the
21 investigation process and results, and more importantly, in the administration
22 of justice by our men and women in blue.

23 **Section 3. 10 GCA §77133 is repealed and reenacted to read:**

24 **“§77133. Reporting Police Officer Violations.** (a) Any person
25 may file a complaint with any police officer or the Guam Community
26 Police Review Commission (the “Commission”) alleging the

1 commission of a crime or misconduct on the part of a police officer or
2 employee of the Department. A police officer shall, upon receipt of any
3 credible information alleging the commission of a crime by any police
4 officer or Department employee, forward within forty-eight (48) hours
5 the information so received to the Chief of Police. The Chief of Police
6 shall forward the alleged violations to the 'Internal Affairs' unit of the
7 Department and to the Commission, and shall further forward a copy of
8 the alleged violations to the Attorney General.

9 (b) The Chief of Police shall, within thirty (30) working
10 days of receipt of the information described in Subsection (a) of this
11 Section, prepare a statement open to the public indicating the
12 preliminary disposition of the allegation. The Chief of Police shall
13 prepare a summary of all allegations filed and their final disposition in
14 the Department's annual report.

15 (c) Upon receipt of the report the Attorney General shall review
16 all records and other information submitted and may initiate an
17 independent investigation of the alleged violation.

18 (d) Any police officer or Department employee who fails to
19 forward the information or fails to make reports required by this Section
20 shall be guilty of a misdemeanor and shall be punished by a fine of not
21 more than One Thousand Dollars (\$1,000.00) or by imprisonment for not
22 more than one (1) year, or both.

23 (e) The Chief of Police shall inform the Commission in writing,
24 within three (3) days of disposition, of disciplinary outcomes of cases,
25 including adjudication and discipline imposed. All such information
26 shall be kept confidential unless otherwise permitted or required by law.

1 (f) Nothing herein shall prohibit the Commission from jointly
2 or separately investigating the conduct of a member of the Department,
3 or carrying out any of its authority and duties authorized pursuant to
4 Chapter 78 of this Title.”

5 **Section 4. A new Chapter 78 is added to 10 GCA to read:**

6 **“Chapter 78**

7 **Guam Community Police Review Commission**

8 **§78101. Title.** This Chapter shall be known and cited as the
9 “Community Partnership for Police Accountability Law of 1999”.

10 **§78102. Definitions.** Unless the context otherwise
11 requires, the definitions set forth herein and in Chapter 77 of this Title
12 shall govern the construction and interpretation of this Chapter.

13 (a) *Employee* means an officer or employee of the Guam
14 Police Department, including the Chief of Police, the Deputy Chief
15 of Police and the Police Commander.

16 (b) *Hearing* means any meeting in the course of an
17 investigatory proceeding (other than a preliminary conference or
18 interview at which no testimony is taken under oath) conducted
19 by an investigating committee for the purpose of taking or
20 adducing testimony or receiving other evidence. A hearing may
21 be open to the public or closed to the public in accordance with all
22 applicable laws of Guam.

23 **§78103. Community Police Review Commission Established.**

24 (a) There is hereby created a Guam Community Police Review
25 Commission (hereinafter referred to as the “Commission”) for the
26 purpose of receiving and investigating allegations of misconduct on the

1 part of an employee or employees and making findings of fact and
2 conclusions based upon those findings of fact. The Commission shall
3 consist of seven (7) members, all of whom shall be citizens of the United
4 States and have resided on Guam for at least five (5) consecutive years
5 preceding his or her appointment, and shall be appointed as follows:

6 (1) Three (3) members by *I Maga'lahaen Guåhan*;

7 (2) One (1) member by the Speaker of *I Liheslaturan*
8 *Guåhan*;

9 (3) One (1) member by the Minority Leader of *I*
10 *Liheslaturan Guåhan*;

11 (4) One (1) member by the Mayors Council;

12 (5) One (1) member by the President of the Guam Bar
13 Association, who shall be an active member of the Association.

14 Of the three (3) members appointed by *I Maga'lahaen Guåhan*, at
15 least one (1) member shall be an active member in good standing of the
16 Guam Bar Association.

17 (b) Members of the Commission shall serve for a period of three
18 (3) years each, except that any member appointed to fill a vacancy prior
19 to the expiration of the term for which his predecessor was appointed,
20 shall be appointed for the remainder of such term. The members shall
21 serve for terms of three (3) years, except that in the year in which the
22 law is enacted, of the three (3) members appointed by *I Maga'lahaen*, *I*
23 *Maga'lahaen* shall appoint one (1) member for one (1) year; one (1)
24 member for two (2) years; and one (1) member for three (3) years. No
25 member shall serve more than two (2) consecutive terms or portions
26 thereof.

1 (c) A member may be reappointed to succeed himself but not
2 for more than two (2) consecutive terms, and not for more than six (6)
3 years.

4 (d) The Commission shall elect one of its members as
5 Chairperson, one as Vice-Chairperson, and one as Secretary, who shall
6 each hold office for one (1) year and until their successors are elected.
7 No officer shall be eligible to succeed himself or herself in the same
8 office. Officers shall be elected no later than the second meeting of
9 Commission following its appointment. All members shall continue to
10 serve until their successors have been appointed.

11 (e) No member of the Commission shall be an elected official or
12 an unclassified employee of the government of Guam.

13 (f) No person, who has been previously convicted of a felony
14 shall be appointed to the Commission.

15 **§78104. Vacancy.** Vacancies in the membership of the
16 Commission shall not affect the authority of the remaining members to
17 execute the functions of the Commission, and shall be filled in the same
18 manner and by the same appointing authority as the original
19 appointment, and such person shall serve for the unexpired term of the
20 vacancy. The appointment of any member of the Commission who has
21 been absent and not excused from three (3) consecutive regular or
22 special meetings shall automatically expire effective on the date the fact
23 of such absence is reported by the Commission. Vacancies occurring in
24 the Commission shall be filled within thirty (30) days.

25 **§78105. Quorum.** A majority of the Commission shall
26 constitute a quorum for the transaction of business, and the concurrence

1 of a majority of the members present shall be necessary to make any
2 action of the Commission valid. No action shall be taken by the
3 Commission at any meetings or hearings unless a quorum is present.

4 **§78106. Meetings.** The Commission shall meet once every
5 month at a regularly scheduled time and place for the purpose of
6 conducting evidentiary hearings and/or to conduct any other business
7 necessary to the operation of the Commission. Regular meetings shall
8 not be held in any building in which the Department is located. Special
9 meetings may be called by the Chairperson or by three (3) members of
10 the Commission at such additional times and places deemed. At least
11 once every three (3) months, or as it determines, the Commission may
12 meet in any other places and locations throughout Guam for the
13 purpose of encouraging interest and facilitating attendance by people in
14 the various municipalities in Guam at the meetings.

15 All meetings shall be open to the public, unless the Commission,
16 in order to protect the rights and privacy of individuals in accordance
17 with all applicable laws, decides otherwise and if such closed meeting is
18 not waived by the individual concerned. The Commission shall cause to
19 be kept a proper record of its proceedings. The records and files of the
20 Commission and its officers shall include, but not be limited to, all
21 official correspondence, or copies thereof, to and from the Commission
22 and its members, gathered in their official capacities, and shall be kept
23 and open for inspection by the public at reasonable times in a location to
24 be determined by the Commission.

25 **§78107. Compensation.** Each member of the Commission
26 shall be compensated in the same manner as are other members of

1 boards and commissions, and shall be reimbursed for expenses incurred
2 in the performance of duties in the same manner and amount as other
3 boards and commission members.

4 **§78108. Authority and Duties.** The Commission shall have the
5 following authority and duties:

6 (a) To receive complaints of the following alleged
7 misconduct and actions directed against the Department and any
8 of its employees and to fully and completely investigate said
9 complaints:

10 (1) Use of excessive or deadly force;

11 (2) Inappropriate language or attitude;

12 (3) Harassment;

13 (4) Discrimination in the provision of police services
14 or other discriminatory conduct on the basis of sex, race,
15 color, ethnicity, creed, religion, national origin, sex, sexual
16 preference, disability or age and other violations of civil
17 rights;

18 (5) Theft;

19 (6) Failure to provide adequate or timely police
20 protection;

21 (7) Any other crime or misconduct which constitutes
22 a felony or felonies under the laws applicable to Guam;

23 (8) Any other complaints of police misconduct or
24 that an employee has not properly performed a duty, except
25 those complaints which on their face clearly indicate that the

1 acts complained of were proper and those complaints
2 lodged by other employees of the Department; and

3 (9) Any other crime or misconduct involving more
4 than one employee.

5 (b) To make such guidelines and recommendations,
6 including disciplinary actions for those employees found to be in
7 violation of any laws or standards of conduct or guilty of a
8 misconduct, and give such advice without limitation including
9 disciplinary and other action relating to departmental policies and
10 procedures, as the Commission in its discretion deems advisable.

11 (c) To ensure that investigation of all complaints filed
12 with the Commission shall begin immediately after complaints are
13 filed and proceed as expeditiously as possible in an impartial
14 manner; that regular annual reports relating to the number, kind,
15 and status of all such complaints shall be made by the
16 Commission to the Chief of Police and to *I Liheslaturan Guåhan*.

17 (d) To review all cases reported to the Department under
18 §77133 of this Title and to conduct further independent
19 investigation as it determines in accordance with the rules and
20 regulations adopted and promulgated as authorized in this
21 Chapter.

22 (e) Review all records and other information submitted to
23 it from any source and initiate its own independent investigation
24 or enter into a contract for services with an Independent Special
25 Attorney and/or an Independent Special Investigator who shall be
26 a civilian. "Civilian," for the purpose of this section, is a person

1 who is not now, and has not been, a sworn officer or an employee
2 of the Department within the last five (5) years of the contract of
3 services as an Independent Special Attorney or an Independent
4 Special Investigator, and shall not have been an employee of the
5 Department of Law within the last two (2) years of the contract of
6 services as an Independent Special Attorney or an Independent
7 Special Investigator. An Independent Special Attorney shall be an
8 active member of the Guam Bar Association. An Independent
9 Special Investigator shall have prior experience or training as an
10 investigator.

11 (f) Adopt and promulgate rules and regulations, pursuant
12 to the Administrative Adjudication Law, and subject to legislative
13 approval, governing its operations, including the duties of its
14 officers, the filing of complaints, conduct of hearings and
15 procedures for its own activities and investigations, and a process
16 for determining which cases it will review. The Commission shall
17 consult with the Chief of Police in developing these rules.

18 (g) To recommend procedures, programs and legislation
19 to the Department and to *I Liheslaturan Guåhan*, to:

20 (1) Advance and improve the relations between the
21 Department and the community;

22 (2) Enhance cooperation by the community;

23 (3) Increase public trust and confidence in the
24 Department; and

25 (4) Encourage and ensure equal protection all
26 citizens under the laws of Guam.

1 (h) To advise, consult and cooperate with other agencies
2 of the government of Guam; the Federal Government and
3 interested persons or groups.

4 Nothing herein shall prohibit the Chief of Police or the Police
5 Commander from investigating the conduct of an employee under his or
6 her command, or taking disciplinary or corrective action, otherwise
7 permitted by Chapter 77 of this Title, when such is warranted; and
8 nothing herein shall limit or otherwise restrict the disciplinary powers
9 vested in the Chief of Police by Chapter 77 of this Title.

10 **§78109. Finance and Staff.** Subject to budget limitations,
11 The Commission is authorized to, and may, contract or employ, for the
12 duration of the investigation, an Independent Special Attorney and/or
13 an Independent Special Investigator or other personnel as necessary for
14 the proper performance of its duties and to carry out the purposes of
15 this Chapter, to the extent of funds made available to it for such
16 purpose. *I Liheslaturan Guåhan* shall appropriate to the Commission,
17 from time to time, funds as are necessary to implement the provisions of
18 this Chapter.

19 **§78110. Complaint Filing.** (a) In addition to the
20 reporting and other terms for police officer violations enumerated in
21 §77133 of this Title, any person may file complaints of alleged crime or
22 misconduct with the Commission as listed under subsection (a) of
23 §78108, by submitting said complaints at locations and in a manner to be
24 determined by the Commission. The Commission shall select at least
25 one location for the receipt of complaints that is not affiliated with the
26 Department, nor staffed by employees of the Department.

1 (b) The Commission shall within thirty-five (35) working days
2 of receipt of the complaint described subsection (a) of this section,
3 prepare a statement open to the public indicating the preliminary
4 disposition of the allegation.

5 **§78111. Preliminary Review.** Within five (5) working days of
6 the date that a complaint was filed, the Commission shall conduct a
7 preliminary review of each complaint and determine whether an
8 investigation of the alleged misconduct is warranted, whether the
9 matter shall be mediated or whether no further action is necessary. This
10 decision shall be made in accordance with the rules promulgated by the
11 Commission. Preliminary review may be waived with the unanimous
12 vote of the Commission to proceed with an investigation. All
13 complaints shall be kept on file regardless of whether an investigation is
14 initiated.

15 **§78112. Community Petitions.** On the petition of fifty (50) or
16 more residents of Guam filed in any location or locations designated by
17 the Commission, the Commission shall hold a special meeting for the
18 individuals so petitioning for the purpose of responding to the petition
19 and hearing and inquiring into matters identified therein as the concern
20 of the petitioners. Notice of such meeting shall be given in the same
21 manner as notice is given for other meetings of the Commission. In no
22 case shall the Commission meet later than five (5) working days
23 following the date the petition is filed to conduct a preliminary review
24 of the concern of the petitioners.

25 **§78113. Investigations.** If the Commission determines that
26 further investigation is warranted, the complaint shall be investigated

1 by an Independent Special Attorney and/or an Independent Special
2 Investigator selected and hired by the Commission. Completion of
3 investigation may be held in abeyance during such time as the
4 Commission determines that an investigation might impede or harm a
5 criminal investigation. Nothing in this Chapter shall prevent or
6 preclude taking action or the prosecution of criminal conduct under the
7 laws of Guam.

8 **§78114. Evidentiary Hearings.** Upon the completion of the
9 investigation of a complaint, the Commission may dismiss, with the
10 filing of written reasons for the dismissal, the complaint for lack of merit
11 or conduct an evidentiary hearing. At an evidentiary hearing, the
12 Commission shall weigh and consider all evidence presented. The
13 Commission shall make reasonable efforts to commence and complete
14 evidentiary hearings within ten (10) working days of the completion of
15 the investigation. The Chairperson of the Commission shall appoint a
16 panel of three (3) or five (5) members to conduct such evidentiary
17 hearing. The Chairperson of the Commission shall designate a
18 chairperson of each panel.

19 **§78115. Subpoena.** Upon approval of a majority of its
20 members, the Commission shall have power to subpoena witnesses,
21 compel their attendance, require the production of evidence and any
22 such records, books, papers and documents as it may deem necessary
23 for investigation of the case of any person before it, administer an oath
24 and examine any person under oath in connection with any subject
25 relating to a duty imposed upon or a power vested in the Commission.
26 Subpoenas shall be signed and oaths administered by the Chairperson

1 of the Commission. Subpoenas so issued may be served by any police,
2 parole or probation officer, or other law enforcement officer, or hired or
3 contracted personnel of the Commission in the same manner as similar
4 process in the Superior Court. Service of subpoena shall be made at
5 least three (3) working days prior to the time fixed in the subpoena for
6 appearance or production of records unless a shorter period of time is
7 authorized by majority vote of all of the members of the Commission in
8 a particular instance when, in their opinion, the giving three (3) working
9 days' notice is not practicable; but if a shorter period of time is
10 authorized, the person to whom the subpoena is directed shall be given
11 reasonable notice consistent with the particular circumstances involved.

12 Any person who testifies falsely or fails to appear when
13 subpoenaed, or fails or refuses to produce such material pursuant to the
14 subpoena, shall be subject to the same orders and penalties to which a
15 person before a court is subject. The Superior Court, upon application
16 of the Commission, may in its discretion compel the attendance of
17 witnesses, the production of such material and the giving of testimony
18 before the Commission, by an attachment for contempt or otherwise, in
19 the same manner as production of evidence may be compelled before
20 such court.

21 **§78116. Testimony.**(a) The Commission shall cause a record to
22 be made of all proceedings in which testimony or other evidence is
23 received or adduced, which record shall include rulings of the chair,
24 questions of the Commission and its authorized representative, the
25 testimony or responses of witnesses, sworn written statements which

1 the Commission authorizes a witness to submit and such other matters
2 as the Commission or its Chairperson may direct.

3 (b) All testimony given at a hearing shall be under oath or
4 affirmation unless the requirement is dispensed with in a particular
5 instance by majority vote of the Commission members present at the
6 hearing.

7 (c) Any member of the Commission may administer an oath or
8 affirmation to a witness.

9 (d) The Chairperson or a designated presiding officer at a
10 hearing or an investigative hearing may direct a witness to answer any
11 relevant question or furnish any relevant book, paper or other
12 document. Unless the direction is overruled by majority vote of the
13 Commission members present, disobedience shall constitute grounds
14 for citation for contempt, except that production of any book, paper or
15 other document may be required only by subpoena.

16 (e) A witness at a hearing, or his counsel, with the consent of a
17 majority of the Commission members present at the hearing, may file
18 with the Commission for incorporation into the record of the hearing
19 sworn written statements relevant to the purpose, subject matter and
20 scope of the Commission's investigation or inquiry.

21 **§78117. Requirement of Cooperation by Government**
22 **Agencies and Departments.** Any official or employee of the
23 Department and all other government employees and officials shall,
24 except as expressly prohibited by law subsequent to this Act, respond
25 promptly to any and all reasonable requests for information, for
26 participation in meetings and evidentiary hearings, and for access to

1 data and records for the purpose of enabling the Commission to carry
2 out its responsibilities under this Chapter. The failure by any official or
3 employee of the Department or by any government employee or official
4 to comply with such requests for information, participation, or access
5 shall be guilty of a misdemeanor and shall be punishable by a fine of not
6 more than One Thousand Dollars (\$1,000.00) or by imprisonment for not
7 more than one (1) year, or both.

8 **§78118. Findings of Fact and Determination.** Within ten
9 (10) working days of the completion of an evidentiary hearing, and
10 within thirty-five (35) working days of the receipt of complaint, the
11 Commission shall issue a written report containing findings of fact and
12 a determination of whether the complaint is sustained to the Attorney
13 General's office and to the Chief of Police along with its
14 recommendation for disposition. If the Commission, after the
15 evidentiary hearing, determines that further investigation is necessary
16 and directs further investigation, it shall include such finding in its
17 report and shall not be required to disclose any further findings until the
18 additional investigation is complete and an evidentiary hearing thereon
19 is held consistent with the provisions of this Act.

20 **§78119. Chief of Police Disciplinary Decision.** When a
21 complaint is sustained, the findings of fact and the determination shall
22 be submitted to the Chief of Police, who shall make a disciplinary
23 decision based upon this information. The Chief of Police shall provide
24 the Commission with a written explanation of the reason or reasons for
25 his or her disciplinary decision. In any case in which the Commission
26 disagrees with the decision of the Chief of Police, the Commission may

1 investigate the matter further and shall determine the disciplinary action
2 to be carried out by the Chief of Police. Such decision by the
3 Commission shall be deemed final and binding and not subject to
4 reversal by the Chief of Police.

5 **§78120. Mediation.** The Commission shall consider, when
6 agreed upon by the complainant, the Commission, the Department, and
7 the subject employee, mutually agreeable resolution of any complaint in
8 all cases except those involving the death or deaths of an individual or
9 individuals. The Commission shall adopt rules and regulations to
10 effectuate this provision. Nothing in this Section shall be construed to
11 preclude or prevent the prosecution of criminal conduct under any laws
12 applicable to Guam.

13 **§78121. Notice to parties.** The Commission shall notify in
14 a timely fashion, in writing, the complainant(s) and police officer(s) of
15 the status or disposition of the complaint in a reasonable manner.

16 **§78122. Period of Limitation.** No person may file a complaint
17 with the Commission if one hundred twenty (120) days has elapsed
18 since the alleged misconduct, or since its discovery, whichever is later.

19 **§78123. Rights of Employees.** (a) When an employee is to
20 be questioned or interviewed concerning a complaint or allegation, the
21 employee shall be informed prior to the interview of the nature of the
22 investigation and whether he or she is the subject of the investigation or
23 a witness in an investigation. Where requested, an employee shall be
24 given up to twenty-four (24) hours to contact, consult with and secure
25 the attendance of a representative at the interview. If he or she is the
26 subject of the investigation, the employee will also be informed of each

1 complaint or allegation against him and be permitted to review all
2 written statements made by the complainant and witnesses immediately
3 prior to the beginning of the investigative interview.

4 (b) The employee subject of an investigation under this section
5 shall, upon request, receive a copy of his written or recorded statement
6 at no cost to the employee. No recording or transcription of the
7 investigative interview will be made without the knowledge of all
8 participants present at the interview.

9 **§78124. Annual Report.** The Commission shall compile and
10 publish, by the end of each fiscal year, a report including the number,
11 kind, and status of all complaints received, and any recommendations
12 and concerns to improve the implementation of the provisions of this
13 Chapter, the performance of the Department and its employees, and the
14 relationship between the Department and the community.

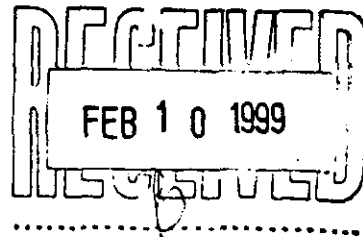
15 **§78125. Severability.** If any provision of this Act or its
16 application to any person or circumstances is held invalid, the invalidity
17 does not affect other provisions or applications of this Act which can be
18 given effect without the invalid provision or application, and to this end
19 the provisions of this Act are severable."

20 **Section 5.** Within ninety (90) days after its formation, the Guam
21 Community Police Review Commission shall submit to *I Liheslaturan Guåhan* a
22 plan for the organization for the Guam Community Police Review
23 Commission. The plan shall include a proposed staffing pattern, a salary
24 schedule for the staff of the office and budget requirements for the remainder
25 of the fiscal year and for one (1) fiscal year thereafter."



MINA' BENTE SINGKO NA LIHESLATURAN GUAHAN
Kumitean Areklamento, Refotman Gubetnamento Siha, Inetnon di Nuebu, yan Asunton Fidirat
Senator Mark Forbes, Chairman

FEB 10 1999



MEMORANDUM

TO: Chairman
Committee on Judiciary, Public Safety, Consumer Protection
and Human Resources Development

FROM: Chairman ~~Mark Forbes~~
Committee on Rules, Government Reform, Reorganization
and Federal Affairs

SUBJECT: Principal Referral – Bill No. 51

The above bill is referred to your Committee as the Principal Committee. In accordance with Section 6.04.05. of the Standing Rules, your Committee "shall be the Committee to perform the public hearing and have the authority to amend or substitute the bill, as well as report the bill out to the Body." It is recommended that you schedule a public hearing at your earliest convenience.

Thank you for your attention to this matter.

MARK FORBES

Attachment

**MINA' BENTE SING'KO NA LIHESLATURAN GUAHAN
1999 (FIRST) Regular Session**

Bill No. 51 (cop)
Introduced by:

v. c. pangelinan

**AN ACT TO REPEAL AND REENACT §77133, AND TO
ADD A NEW CHAPTER 78, ALL OF TITLE 10, GUAM
CODE ANNOTATED, RELATIVE TO ESTABLISHING
THE GUAM COMMUNITY POLICE REVIEW BOARD, TO
IMPROVE POLICE-COMMUNITY RELATIONS AND TO
BETTER ENSURE POLICE ACCOUNTABILITY.**

BE IT ENACTED BY THE PEOPLE OF GUAM:

Section 1. Legislative findings. I Liheslaturan Guahan finds that the public has the right to expect all law enforcement personnel, particularly the police officers within the Guam Police Department (the Department), to adhere to a professional standard of conduct and all laws governing the island and its residents. Model policies and guidelines may exist in the police department to deter and punish misconduct, however, such standards, without objective and aggressive enforcement and compliance, will be rendered ineffective. Silence and unresponsiveness—perceived or real—undermines the community-police relations, and the public may lose their trust and confidence in those who are empowered to protect them, their families, and their properties.

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

I Liheslaturan Guahan further finds that Public Law No. 24-23, which established the Guam Police Department and stipulates the process by which alleged violations of the law on the part of a police officer or an employee of the Department shall be investigated, is deficient. Currently, any person may file with any police officer a complaint alleging the commission of a crime on the part of a police officer or employee of the Department. The alleged violations are then forwarded to the 'Internal Affairs' unit of the Department. However, the fear of possible

1 intimidation and reprisal by imputed officers and the impression, whether legitimate or not, that
2 the Department is apathetic to public accusations against one of their own, discourages the
3 members of our community from reporting police misconduct.

4 Secondly, innate reluctance on the part of officers to report abuse or participate in detailed
5 investigation of an allegation against one of their own, or breaking the "code of silence", due to
6 prospective retaliation against deemed whistle-blowers or participants, renders it difficult for the
7 effective enforcement of this process. Finally, Office of the Attorney General, including its
8 prosecutors, is placed in a tedious position to investigate the same police officers it relies on for
9 evidence in other criminal cases. Thus, the investigations are frequently and unjustly perceived
10 by the public as being covered up and biased.

11 **Section 2. Legislative intent.** It is the intent of I Liheslaturan Guahan to provide a
12 practicable and accessible means for the intake and processing of complaints against employees of
13 the Guam Police Department, to inquire into such complaints and, when necessitated, to conduct
14 prompt and impartial investigations of legitimate public, criminal and other accusations of
15 misconduct against police officers and other employees of the Department through direct
16 community participation while ensuring the rights and dignity of each employee alleged to be in
17 violation of the laws of Guam of any standard or conduct that he or she is required to adhere to.
18 A community review board, composed of civilians, with the authority to carry out independent
19 investigations, but without any dependence on or conflict of interest with these closely linked law
20 enforcement agencies, would best be able to make an objective determination and
21 recommendation as to the disposition of the complaint.

22 It is further the intent of I Liheslaturan Guahan to ensure that the rights and dignity of
23 each accused employee of the Department are protected with the institution and implementation
24 of a clear and impartial investigative process.

25 Maintenance of community credibility and restoration of the public trust begins with and
26 hinges on police accountability--aggressive enforcement of internal policies to regulate those who
27 protect our lives and our properties. Such a process would insure public confidence in the
28 impartiality of the investigation process and results, and more importantly, in the administration of
29 justice by our men and women in blue.

30 **Section 3. 10 GCA §77133 is repealed and reenacted to read:**

1 **“§77133. Reporting Police Officer Violations.** (a) Any person may file a
2 complaint with any police officer or the Guam Community Police Review Board (the
3 “Board”) alleging the commission of a crime or misconduct on the part of a police officer
4 or employee of the Department. A police officer shall, upon receipt of any credible
5 information alleging the commission of a crime by any police officer or Department
6 employee, forward within forty-eight (48) hours the information so received to the Chief
7 of Police. The Chief of Police shall forward the alleged violations to the ‘Internal Affairs’
8 unit of the Department and to the Board, and shall further forward a copy of the alleged
9 violations to the Attorney General.

10 (b) The Chief of Police shall within thirty (30) working days of receipt of the
11 information described in Subsection (a) of this Section, prepare a statement open to the
12 public indicating the preliminary disposition of the allegation. The Chief of Police shall
13 prepare a summary of all allegations filed and their final disposition in the Department’s
14 annual report.

15 (c) Upon receipt of the report the Attorney General shall review all records
16 and other information submitted and may initiate an independent investigation of the
17 alleged violation.

18 (d) Any police officer or Department employee who fails to forward the
19 information or fails to make reports required by this Section shall be guilty of a
20 misdemeanor and shall be punished by a fine of not more than One Thousand Dollars
21 (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

22 (e) The Chief of Police shall inform the Board in writing, within three (3) days
23 of disposition, of disciplinary outcomes of cases, including adjudication and discipline
24 imposed. All such information shall be kept confidential unless otherwise permitted or
25 required by law.

26 (f) Nothing herein shall prohibit the Board from jointly or separately
27 investigating the conduct of a member of the Department, or carrying out any of its
28 authority and duties authorized pursuant to Chapter 78 of this Title.”

29 **Section 4. A new Chapter 78 is added to 10 GCA to read:**

30 **“Chapter 78**

1 **Guam Community Police Review Board**

2 **§78101. Title.** This Chapter shall be known and cited as the "Community
3 Partnership for Police Accountability Law of 1999".

4 **§78102. Definitions.** Unless the context otherwise requires, the
5 definitions set forth herein and in Chapter 77 of this Title shall govern the construction and
6 interpretation of this Chapter.

7 (a) *Employee* means an officer or employee of the Guam Police
8 Department, including the Chief of Police, the Deputy Chief of Police and the
9 Police Commander.

10 (b) *Hearing* means any meeting in the course of an investigatory
11 proceeding (other than a preliminary conference or interview at which no
12 testimony is taken under oath) conducted by an investigating committee for the
13 purpose of taking or adducing testimony or receiving other evidence. A hearing
14 may be open to the public or closed to the public in accordance with all applicable
15 laws of Guam.

16 **§78103. Community Police Review Board Established.** (a) There is
17 hereby created a Guam Community Police Review Board (hereinafter referred to as the
18 "Board") for the purpose of receiving and investigating allegations of misconduct on the
19 part of an employee or employees and making findings of fact and conclusions based upon
20 those findings of fact. The Board shall consist of seven (7) members, all of whom shall be
21 citizens of the United States and have resided on Guam for at least five (5) consecutive
22 years preceding his or her appointment, and shall be appointed as follows:

- 23 (1) Three (3) members by I Maga'lahaen Guahan;
24 (2) One (1) member by the Speaker of I Liheslaturan Guahan;
25 (3) One (1) member by the Minority Leader of I Liheslaturan Guahan;
26 (4) One (1) member by the Mayors Council;
27 (5) One (1) member by the President of the Guam Bar Association,
28 who shall be an active member of the Association.

29 (b) Members of the Board shall serve for a period of three (3) years each,
30 except that any member appointed to fill a vacancy prior to the expiration of the term for
31 which his predecessor was appointed, shall be appointed for the remainder of such term.

1 The members shall serve for terms of three (3) years, except that in the year in which the
2 law is enacted, of the three (3) members appointed by I Maga'lahaen, I Maga'lahaen shall
3 appoint one (1) member for one (1) year; one (1) member for two (2) years; and one (1)
4 member for three (3) years. No member shall serve more than two (2) consecutive terms
5 or portions thereof.

6 (c) A member may be reappointed to succeed himself but not for more than
7 two (2) consecutive terms, and not for more than six (6) years.

8 (d) The Board shall elect one of its members as Chairperson, one as Vice-
9 Chairperson, and one as Secretary, who shall each hold office for one (1) year and until
10 their successors are elected. No officer shall be eligible to succeed himself or herself in the
11 same office. Officers shall be elected no later than the second meeting of Board following
12 its appointment. All members shall continue to serve until their successors have been
13 appointed.

14 (e) No member of the Board shall be an elected official or an unclassified
15 employee of the government of Guam.

16 **§78104. Vacancy.** Vacancies in the membership of the Board shall not
17 affect the authority of the remaining members to execute the functions of the Board, and
18 shall be filled in the same manner and by the same appointing authority as the original
19 appointment, and such person shall serve for the unexpired term of the vacancy. The
20 appointment of any member of the Board who has been absent and not excused from three
21 (3) consecutive regular or special meetings shall automatically expire effective on the date
22 the fact of such absence is reported by the Board. Vacancies occurring in the Board shall
23 be filled within thirty (30) days.

24 **§78105. Quorum.** A majority of the Board shall constitute a quorum
25 for the transaction of business, and the concurrence of a majority of the members present
26 shall be necessary to make any action of the Board valid. No action shall be taken by the
27 Board at any meetings or hearings unless a quorum is present.

28 **§78106. Meetings.** The Board shall meet once every month at a
29 regularly scheduled time and place for the purpose of conducting evidentiary hearings
30 and/or to conduct any other business necessary to the operation of the Board. Regular
31 meetings shall not be held in any building in which the Department is located. Special

1 meetings may be called by the Chairperson or by three (3) members of the Board at such
2 additional times and places deemed. At least once every three (3) months, or as it
3 determines, the Board may meet in any other places and locations throughout Guam for
4 the purpose of encouraging interest and facilitating attendance by people in the various
5 municipalities in Guam at the meetings.

6 All meetings shall be open to the public, unless the Board, in order to protect the
7 rights and privacy of individuals in accordance with all applicable laws, decides otherwise
8 and if such closed meeting is not waived by the individual concerned. The Board shall
9 cause to be kept a proper record of its proceedings. The records and files of the Board
10 and its officers shall include, but not be limited to, all official correspondence, or copies
11 thereof, to and from the Board and its members, gathered in their official capacities, and
12 shall be kept and open for inspection by the public at reasonable times in a location to be
13 determined by the Board.

14 **§78107. Compensation.** Each member of the Board shall be
15 compensated in the same manner as are other members of boards and commissions, and
16 shall be reimbursed for expenses incurred in the performance of duties in the same manner
17 and amount as other boards and commission members.

18 **§78108. Authority and Duties.** The Board shall have the following
19 authority and duties:

20 (a) To receive complaints of the following alleged misconduct and
21 actions directed against the Department and any of its employees and to fully and
22 completely investigate said complaints:

23 (1) Use of excessive or deadly force;

24 (2) Inappropriate language or attitude;

25 (3) Harassment;

26 (4) Discrimination in the provision of police services or other
27 discriminatory conduct on the basis of sex, race, color, ethnicity, creed,
28 religion, national origin, sex, sexual preference, disability or age and other
29 violations of civil rights;

30 (5) Theft;

31 (6) Failure to provide adequate or timely police protection;

1 (7) Any other crime or misconduct which constitutes a felony or
2 felonies under the laws applicable to Guam;

3 (8) Any other complaints of police misconduct or that an employee
4 has not properly performed a duty, except those complaints which on their
5 face clearly indicate that the acts complained of were proper and those
6 complaints lodged by other employees of the Department; and

7 (9) Any other crime or misconduct involving more than one
8 employee.

9 (b) To make such guidelines and recommendations, including
10 disciplinary actions for those employees found to be in violation of any laws or
11 standards of conduct or guilty of a misconduct, and give such advice without
12 limitation including disciplinary and other action relating to departmental
13 policies and procedures, as the Board in its discretion deems advisable.

14 (c) To ensure that investigation of all complaints filed with the
15 Board shall begin immediately after complaints are filed and proceed as
16 expeditiously as possible in an impartial manner; that regular annual reports
17 relating to the number, kind, and status of all such complaints shall be made by
18 the Board to the Chief of Police and to I Liheslaturan Guahan.

19 (d) To review all cases reported to the Department under §77133 of
20 this Title and to conduct further independent investigation as it determines in
21 accordance with the rules and regulations adopted and promulgated as authorized
22 in this Chapter.

23 (e) Review all records and other information submitted to it from any
24 source and initiate its own independent investigation or enter into a contract for
25 services with an Independent Special Attorney and/or an Independent Special
26 Investigator who shall be a civilian. "Civilian," for the purpose of this section, is a
27 person who is not now, and has not been, a sworn officer or an employee of the
28 Department within the last five (5) years of the contract of services as an
29 Independent Special Attorney or an Independent Special Investigator, and shall not
30 have been an employee of the Department of Law within the last two (2) years of
31 the contract of services as an Independent Special Attorney or an Independent

1 Special Investigator. An Independent Special Attorney shall be an active member
2 of the Guam Bar Association. An Independent Special Investigator shall have
3 prior experience or training as an investigator.

4 (f) Adopt and promulgate rules and regulations, subject to legislative
5 approval pursuant to the Administrative Adjudication Law, governing its
6 operations, including the duties of its officers, the filing of complaints, conduct of
7 hearings and procedures for its own activities and investigations, and a process for
8 determining which cases it will review. The Board shall consult with the chief of
9 police in developing these rules.

10 Nothing herein shall prohibit the Chief of Police or the Police Commander from
11 investigating the conduct of an employee under his or her command, or taking disciplinary
12 or corrective action, otherwise permitted by Chapter 77 of this Title, when such is
13 warranted; and nothing herein shall limit or otherwise restrict the disciplinary powers
14 vested in the Chief of Police by Chapter 77 of this Title.

15 **§78109. Finance and Staff.** The Board may contract or employ for the
16 duration of the investigation an Independent Special Attorney and/or an Independent
17 Special Investigator or other personnel as necessary for the proper performance of its
18 duties, to the extent of funds made available to it for such purpose. *I Liheslaturan*
19 *Guahan* shall appropriate to the Board, from time to time, funds as are necessary to
20 implement the provisions of this Chapter.

21 **§78110. Complaint Filing.** In addition to the reporting and other terms
22 for police officer violations enumerated in §77133 of this Title, any person may file
23 complaints of alleged crime or misconduct with the Board as listed under subsection (a) of
24 §78108, by submitting said complaints at locations and in a manner to be determined by
25 the Board. The Board shall select at least one location for the receipt of complaints that is
26 not affiliated with the Department, nor staffed by employees of the Department.

27 **§78111. Preliminary Review.** Within thirty (30) days of the date that a
28 complaint was filed, the Board shall conduct a preliminary review of each complaint and
29 determine whether an investigation of the alleged misconduct is warranted, whether the
30 matter shall be mediated or whether no further action is necessary. This decision shall be
31 made in accordance with the rules promulgated by the Board. Preliminary review may be

1 waived with the unanimous vote of the Board to proceed with an investigation. All
2 complaints shall be kept on file regardless of whether an investigation is initiated.

3 **§78112. Community Petitions.** On the petition of fifty (50) or more
4 residents of Guam filed in any location or locations designated by the Board, the Board
5 shall hold a special meeting for the individuals so petitioning for the purpose of responding
6 to the petition and hearing and inquiring into matters identified therein as the concern of
7 the petitioners. Notice of such meeting shall be given in the same manner as notice is
8 given for other meetings of the Board. In no case shall the Board meet later than five (5)
9 working days following the date the petition is filed to conduct a preliminary review of the
10 concern of the petitioners.

11 **§78113. Investigations.** If the Board determines that further
12 investigation is warranted, the complaint shall be investigated by an Independent Special
13 Attorney and/or an Independent Special Investigator selected and hired by the Board.
14 Such investigation shall be completed within sixty (60) days of the date that the complaint
15 was filed. The Board may once extend this deadline by an additional sixty (60) days, with
16 a written explanation of the reason or reasons for the extension. The application of this
17 deadline may be held in abeyance during such time as the Board determines that an
18 investigation might impede or harm a criminal investigation.

19 **§78114. Evidentiary Hearings.** Upon the completion of the
20 investigation of a complaint, the Board may dismiss, with the filing of written reasons for
21 the dismissal, the complaint for lack of merit or conduct an evidentiary hearing. At an
22 evidentiary hearing, the Board shall weigh and consider all evidence presented. The Board
23 shall make reasonable efforts to commence and complete evidentiary hearings within sixty
24 (60) days of the completion of the investigation. The Chairperson of the Board shall
25 appoint a panel of three (3) or five (5) members to conduct such evidentiary hearing. The
26 Chairperson of the Board shall designate a chairperson of each panel.

27 **§78115. Subpoena.** Upon approval of a majority of its members, the
28 Board shall have power to subpoena witnesses, compel their attendance, require the
29 production of evidence and any such records, books, papers and documents as it may
30 deem necessary for investigation of the case of any person before it, administer an oath
31 and examine any person under oath in connection with any subject relating to a duty

1 imposed upon or a power vested in the Board. Subpoenas shall be signed and oaths
2 administered by the Chairperson of the Board. Subpoenas so issued may be served by any
3 police, parole or probation officer, or other law enforcement officer, or hired or
4 contracted personnel of the Board in the same manner as similar process in the Superior
5 Court. Service of subpoena shall be made at least seven (7) days prior to the time fixed in
6 the subpoena for appearance or production of records unless a shorter period of time is
7 authorized by majority vote of all of the members of the Board in a particular instance
8 when, in their opinion, the giving seven (7) days' notice is not practicable; but if a shorter
9 period of time is authorized, the person to whom the subpoena is directed shall be given
10 reasonable notice consistent with the particular circumstances involved.

11 Any person who testifies falsely or fails to appear when subpoenaed, or fails or
12 refuses to produce such material pursuant to the subpoena, shall be subject to the same
13 orders and penalties to which a person before a court is subject. The Superior Court,
14 upon application of the Board, may in its discretion compel the attendance of witnesses,
15 the production of such material and the giving of testimony before the Board, by an
16 attachment for contempt or otherwise, in the same manner as production of evidence may
17 be compelled before such court.

18 **§78116. Testimony.** (a) The Board shall cause a record to be made of all
19 proceedings in which testimony or other evidence is received or adduced, which record
20 shall include rulings of the chair, questions of the Board and its authorized representative,
21 the testimony or responses of witnesses, sworn written statements which the Board
22 authorizes a witness to submit and such other matters as the Board or its Chairperson may
23 direct.

24 (b) All testimony given at a hearing shall be under oath or affirmation unless the
25 requirement is dispensed with in a particular instance by majority vote of the Board
26 members present at the hearing.

27 (c) Any member of the Board may administer an oath or affirmation to a witness.

28 (d) The Chairperson or a designated presiding officer at a hearing or an
29 investigative hearing may direct a witness to answer any relevant question or furnish any
30 relevant book, paper or other document. Unless the direction is overruled by majority
31 vote of the Board members present, disobedience shall constitute grounds for citation for

1 contempt, except that production of any book, paper or other document may be required
2 only by subpoena.

3 (e) A witness at a hearing, or his counsel, with the consent of a majority of the
4 Board members present at the hearing, may file with the Board for incorporation into the
5 record of the hearing sworn written statements relevant to the purpose, subject matter and
6 scope of the Board's investigation or inquiry.

7 **§78117. Requirement of Cooperation by Government Agencies and**
8 **Departments.** Any official or employee of the Department and all other government
9 employees and officials shall, except as expressly prohibited by law subsequent to this Act,
10 respond promptly to any and all reasonable requests for information, for participation in
11 meetings and evidentiary hearings, and for access to data and records for the purpose of
12 enabling the Board to carry out its responsibilities under this Chapter. The failure by any
13 official or employee of the Department or by any government employee or official to
14 comply with such requests for information, participation, or access shall be guilty of a
15 misdemeanor and shall be punishable by a fine of not more than One Thousand Dollars
16 (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

17 **§78118. Findings of Fact and Determination.** Within thirty (30)
18 days of the completion of an evidentiary hearing, the Board shall issue a written report
19 containing findings of fact and a determination of whether the complaint is sustained to the
20 Attorney General's office and to the Chief of Police along with its recommendation for
21 disposition. If the Board, after the evidentiary hearing, determines that further
22 investigation is necessary and directs further investigation, it shall include such finding in
23 its report and shall not be required to disclose any further findings until the additional
24 investigation is complete and an evidentiary hearing thereon is held consistent with the
25 provisions of this Act.

26 **§78119. Chief of Police Disciplinary Decision.** When a complaint is
27 sustained, the findings of fact and the determination shall be submitted to the Chief of
28 Police, who shall make a disciplinary decision based upon this information. The Chief of
29 Police shall provide the Board with a written explanation of the reason(s) for his or her
30 disciplinary decision. In any case in which the Board disagrees with the decision of the

1 Chief of Police, the Board may investigate the matter further, or shall include such
2 concerns in its regular annual reports.

3 **§78120. Mediation.** The Board shall consider, when agreed upon by the
4 complainant, the Board, the Department, and the subject employee, mutually agreeable
5 resolution of any complaint in all cases except those involving the death or deaths of an
6 individual or individuals. The Board shall adopt rules and regulations to effectuate this
7 provision. Nothing in this Section shall be construed to preclude or prevent the
8 prosecution of criminal conduct under any laws applicable to Guam.

9 **§78121. Notice to parties.** The Board shall notify in a timely fashion, in
10 writing, the complainant(s) and police officer(s) of the status or disposition of the
11 complaint in a reasonable manner.

12 **§78122. Period of Limitation.** No person may file a complaint with the
13 Board if one hundred twenty (120) days has elapsed since the alleged misconduct, or since
14 its discovery, whichever is later.

15 **§78123. Rights of Employees.**(a) When an employee is to be
16 questioned or interviewed concerning a complaint or allegation, the employee shall be
17 informed prior to the interview of the nature of the investigation and whether he is the
18 subject of the investigation or a witness in an investigation. Where requested, an
19 employee shall be given up to twenty-four (24) hours to contact, consult with and secure
20 the attendance of a representative at the interview. If he is the subject of the investigation,
21 the employee will also be informed of each complaint or allegation against him and be
22 permitted to review all written statements made by the complainant and witnesses
23 immediately prior to the beginning of the investigative interview.

24 (b) The employee subject of an investigation under this section shall, upon
25 request, receive a copy of his written or recorded statement at no cost to the employee.
26 No recording or transcription of the investigative interview will be made without the
27 knowledge of all participants present at the interview.

28 **§78124. Annual Report.** The Board shall compile and publish, by the
29 end of each fiscal year, a report including the number, kind, and status of all complaints
30 received, and any recommendations and concerns to improve the implementation of the

1 provisions of this Chapter, the performance of the Department and its employees, and the
2 relationship between the Department and the community.”

3 **§78125. Severability.** If any provision of this Act or its application to any
4 person or circumstances is held invalid, the invalidity does not affect other provisions or
5 applications of this Act which can be given effect without the invalid provision or
6 application, and to this end the provisions of this Act are severable.”

Notice of Public Hearing
 Senator John Camacho Sales
 Chairman of the Committee on
 Judicial, Public Safety, Consumer Protection & Human Resources Development

Bill 47: An act to add Chapter 1 to Division 2 of Title 18 GCA, relative to adopting the Uniform Transfer on Death Security Registration Act. Sponsored by Antonio R. Lindborg.

Bill 51: An act to repeal and reword §77133, and to add a new Chapter 78, all of Title 10 GCA, relative to establishing the Guam Community Police Review Board, to improve Police-Community relations and to better ensure police accountability. Sponsored by Vicente C. Pangestian.

Bill 52: An act to repeal P.L. 24-258, temporarily establish the Office of Public Prosecutor and permanently establish the Office of the Elected Attorney General. Sponsored by Mark Forbes.

Bill 53: An act to add a new Chapter 18 to Title 7, Guam Code Annotated, relative to providing certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers. Sponsored by Vicente C. Pangestian.

Bill 76: An act to amend 22 GCA §49106, relative to inspection of developer's register by police officers. Sponsored by John C. Sales.

Bill 82: An act to amend §8129 and §81201, Article I, Chapter 8 of Title 4 of the Guam Code Annotated, relative to retirement of uniformed personnel. Sponsored by John C. Sales.


Friday, February 26, 1999, 2:00 pm to 5:00 pm, Legislature Public Hearing Rooms

Address: 777 Shilpa Commercial Bldg., Route 4, Shilpa, Guam 96928
 e-mail: jsales@senators.guam.net
 Telephone: 472-3431, fax: 472-3433
 Website: KUENTOS-<http://www.guam.net/senales>
 TALA YA-<http://www2.ka.net/senators/senales>
 John Memo tel: 472-3431



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 Applicants please apply at Guam Employment Service with the One Stop Career Center, 125 Tim Jesus St. Suite 101 (Sunny Plaza) Tamuning, Guam. #990216

NOTICE OF COMPLETION
 Bernard, Buana, Barmont, Bernadette and Brian Marasigan, 145 Dago C. Ligan Terrace, Dededo, Guam 96912, the "Owners", own in fee simple the following property: Lot No. P15-45-1AB-3-2, Dededo, Guam. The contractor, Sun Woo Corporation on Jan. 5, 1999 has completed construction of a residential unit on said property.
 Owners: /s/ Bernard Marasigan
 /s/ Buana Marasigan
 /s/ Barmont Marasigan
 /s/ Bernadette Marasigan
 /s/ Brian Marasigan

The Department of Labor is currently seeking individuals with four (4) years experience to fill the following position:
2 KOREAN SPECIALTY COOKS - \$10.03/Hr
 Duties: Plans menus for and cooks traditional Korean style dishes, lunches, dinners, desserts, and other foods according to recipes, seasons and prepares foods in accordance with traditional Korean style and prescribed Korean methods and rains. Supervises and coordinates activities of cooks in preparing, seasoning, and cooking traditional Korean style food. Estimates food consumption and requisitions supplies accordingly. Must possess health certificate after hiring.
 Interested applicants please apply at Guam Employment Service at the One Stop Career Center, 125 Tim Jesus Crisostomo St. Ste. 101, Tamuning, Guam 96911 (Sunny Plaza) (Ref. No. 99-0208)

PUBLIC HEARING REMINDER NOTICE
COMMITTEE
 Committee on Judiciary, Public Safety, Consumer Protection, Human Resources Development
AGENDA
 Bill 17: Uniform Transfer on Death Security Registration Act
 Bill 51: Establishing the Guam Company Review Board
 Bill 52: Establishing the Guam Elected Attorney General
 Bill 53: Director of Government and Non-Profit Organizations
 Bill 54: Amendment of Uniformed Services
 Bill 72: Inspector of Employment Security and Public Safety
DATE, TIME, LOCATION
 Friday, February 26, 1999, 2:00 PM, 5:00 PM
 Legislative Public Hearing Room

For additional information, contact the Office of Senator John Camacho Saas. Ph. 472-3431 Fax: 472-3433
 http://www.guam.net/sensalas e-mail: jsalas@sensalas.guam.net
 http://www2.its.net/senators/sensalas ntlp://www2.its.net/senators/sensalas
 American Disabilities Coordinator: John Mendel tel: 472-3431

GUAM POWER AUTHORITY
 ATURIDAD ELÉCTRICA DE GUAYAN
 P.O. BOX 29772, AGANA, GUAM (1-671) 969-10-2977
 Telephone Nos. (671) 46-3231/2/3 or Fax No. (671) 646-3163

INVITATION TO BID

Q. NO.	DUE DATE	TIME	DESCRIPTION
01	03/11/99	2:00PM	Harmon USKV Substation Expansion Project (\$500,000 non-refundable fee)

Bid packages may be picked up at the GPA Procurement Office, GPA Central Office, 1st Floor, 1911 Route 16 Harmon. Non-refundable payment must be made at the GPA Procurement Services Department prior to issuance of documents. **ATTENDANCE IS MANDATORY AT ANY PROPOSED PRE-BID CONFERENCE.**
 Carl T.C. Guerrero, Governor of Guam; Madeleine Z. Bordallo, Lt. Governor of Guam; Ricardo S. Umpinco, General Manager

GUAM POWER AUTHORITY
 ATURIDAD ELÉCTRICA DE GUAYAN
 P.O. BOX 29772, AGANA, GUAM (1-671) 969-10-2977
 Telephone Nos. (671) 46-3231/2/3 or Fax No. (671) 646-3163

INVITATION TO BID

BID NO.	DUE DATE	TIME	DESCRIPTION
01	03/11/99	2:00PM	Replacement of 1500V 1500A Air Breaker, Air Breaker Slab, and Diaphragm Assembly

Bid Packages may be picked up and must be submitted before scheduled time and date above to: Attilio Mary Celis Cruz, Procurement Manager, Procurement Office located at the 1st Floor, GPA Central Office, 1911 Route 16, Harmon, Guam 96911.
 Carl T.C. Guerrero, Governor of Guam; Madeleine Z. Bordallo, Lt. Governor of Guam; Ricardo S. Umpinco, General Manager

COMITÉ DE SUPERVISIÓN DE RECURSOS NATURALES
Committee on Natural Resources
Senator Joanne M. S. Brown
Chairperson
Notice of Oversight Hearing on

1999-02-26



COMMITTEE ON JUDICIARY, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

AGENDA PUBLIC HEARING

FRIDAY, FEBRUARY 26, 1999
Legislature Public Hearing Room
2:00 P.M. - 5:00 P.M.

1. Bill 47, "An act to add Chapter 1 to Division 2 of Title 15 GCA, relative to adopting the Uniform Death Security Registration Act," sponsored by Speaker Antonio R. Unpingco.
2. Bill 51, "An act to repeal and reenact §77133, and to add a new Chapter 78, all of Title 10 GCA, relative to establishing the Guam Community Police Review Board," sponsored by Senator Vicente C. Pangelinan.
3. ~~Bill 52, "An act to repeal P.L. No. 24-288, temporarily establish the office of the Public Prosecutor and permanently establish the office of the Elected Attorney General," sponsored by Senator Mark Forbes.~~
4. Bill 62, "An act to add a new Chapter 16 to Title 7 GCA, relative to providing certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers," sponsored by Senator Vicente C. Pangelinan.
5. Bill 76, "An act to amend 22 GCA §49106, relative to inspection of pawnbroker's register by police officers," sponsored by Senator John Camacho Salas.
6. Bill 82, "An act to amend §8120 and §8120.1, Article 1, Chapter 8 of Title 4 GCA, relative to retirement of uniformed personnel," sponsored by Senator John Camacho Salas.



SENATOR JOHN CAMACHO SALAS CHAIRMAN

COMMITTEE ON JUDICIARY, PUBLIC SAFETY, CONSUMER PROTECTION
AND HUMAN RESOURCES DEVELOPMENT

TESTIMONY SIGN IN SHEET

Friday, February 26, 1999

Bill Number **51**

Title AN ACT TO REPEAL AND REENACT §77133, AND TO ADD A NEW CHAPTER 78, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW BOARD, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY.

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CONTACT	MAILING ADDRESS	
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**TESTIMONY REGARDING
BILL 51**

**Testimony by the Guam Police Department
Friday, February 26, 1999**

The Guam Police Department under Chief of Police James M. Marques has always maintained a policy of openness and accessibility to the people of Guam. We have always welcomed the scrutiny of both the Guam Legislature and the citizens of this island. Observing both the laws of Guam and personnel regulations of the Department of Administration, the Guam Police Department has fairly and objectively investigated all allegations of officer misconduct and administered appropriate punishments when warranted.

We continue to welcome the oversight of the Guam Legislature and look forward to our continued cooperation with the Senate in constantly improving our department. However, we find Bill 51 to be deficient in a number of areas and counterproductive in fostering the spirit of cooperation that now exists with the Legislature.

The Guam Legislature has recently passed two laws that would sufficiently address any problems of police abuse. These laws are The Guam Police Department Enabling Act and the Police Officer Standards and Training (POST) Act. We feel that both of these laws are sufficient in addressing this issue. In giving these two laws time to become fully implemented, there is no need for Bill 51.

The premise for which this bill seems to have been introduced is flawed. Although under legislative findings, the bill states that "Unprofessional and transgressive (sic) officers are an exception and not the rule," Section 2 indicates that this bill is needed for the "restoration of the public trust." To our knowledge, there is no crisis of public trust with the Guam Police Department. This also begs the question as to why only the Guam Police Department is subject to this type of review when the number of law enforcement agencies has proliferated as it has.

Currently, when any allegation of employee misconduct is reported, an investigation is immediately instituted and an investigation is completed within 40 days to comply with DOA Personnel Regulations. If the allegation is also criminal in nature, an investigation is initiated by the Criminal Investigation Division, and forwarded to the Attorney General's Office when completed. In all administrative investigations, the complainant is always advised as to whether the allegation has been sustained or cleared.

Bill 51 would amend Public Law 24-23 (the GPD Enabling Act) Section 77133 to include "misconduct" in addition to a "commission of crime" as a reportable allegation under this section. Misconduct can be any violation of departmental rules to include being out of uniform, disrespect, etc. This amendment would require this department to report such "violations" to the Attorney General's Office as well as to the Review Board. It further allows the Attorney General and the Review Board to separately initiate investigations on any reported violation. Conceivably, there could be four investigations being concurrently conducted on one complaint, two by GPD, one by

Testimony on Bill 51

Page 2

the Attorney General and one by the Review Board. It is further noted that the Board of Review under Section 78108 would have the authority to receive and investigate such violations as "Inappropriate language or attitude;" "Harassment;" and "Failure to provide adequate or timely police protection." These alleged violations are clearly subjective and open to interpretation. It is inconceivable that a Board of Review would have the knowledge or experience to determine the validity of these allegations.

Further, Section 78119 allows the Board of Review to institute an investigation if it disagrees with the disciplinary action being taken by the Chief of Police. It is noted that the Chief of Police can only administer discipline in administrative matters. This is done on or before the 60th day following the complaint. Under Civil Service regulations, an administrative investigation and adverse action must be taken within the 60 day requirement. Even if the Board of Review disagrees with the disciplinary action taken, it is not allowed to institute any additional punitive action. Indeed, the bill, contrary to Civil Service regulations, allows complaints to be received up to 120 days after the violation occurs or is discovered. Any complaint past the 60 day rule is moot.

Also, Section 78120 allows for mediation of complaints. It is noted that criminal allegations cannot be mediated. Is this section intended to apply only to administrative actions? Is this binding on any of the parties? If not, why attempt mediation if it has no binding resolution?

Section 78123 indicates that any employee is entitled to representation at an interview. This once again confuses the administrative process with the criminal investigation. An employee, by law, are not entitled to representation during an administrative interview.

Finally, this bill infringes upon the POST Commission's lawful responsibilities. Section 78108 authorizes the Board of Review "[t]o make such guidelines and recommendations...and give such advice without limitation including disciplinary and other action relating to departmental policies and procedures, as the Board [of Review] in its discretion deems advisable." Such guidelines and recommendations are clearly within the mandated responsibility of the POST Commission.

The Board of Review

This department also has a number of issues to raise with the structure, funding and duties of the Board of Review.

The Guam Legislature went to great lengths to ensure that the Chief of Police, Deputy Chief of Police, Police Commander, and indeed, all officers of the Guam Police Department meet very high qualifications. Public Law 24-23 requires the Chief of Police and Deputy Chief of Police to not only be qualified law enforcement professionals, but to undergo polygraph testing, psychological evaluation, drug testing, and background investigations, as do all officers of this department before they are hired.

Testimony on Bill 51

Page 3

Members of the Board of Review undergo no such scrutiny whatsoever. The only qualification stated in the bill is citizenship and residency requirement. Indeed, the only other qualification appears to be political affiliation. Could an ex-felon be appointed to the Board of Review? Why are there no more stringent requirements or confirmation for the board members?

Although indicated as a "board," it appears that this bill instead creates another government agency. There are numerous requirements for this board to maintain records, to contract independent special attorneys, independent special investigators, and process servers, receive complaints and maintain files "regardless of whether an investigation is initiated," and to notify in writing all parties of the complaint. Will this require a permanent staff? Cannot the funding that this bill authorizes be better utilized for other law enforcement purposes?

Further, this bill gives a politically appointed board the power to subpoena individuals and records, and to compel testimony under oath. This is basically a de facto grand jury.

Summary

In summary, our objection to this bill is that it is redundant with the GPD Enabling Act and POST Commission laws, confuses and mingles administrative and criminal investigations, creates an unqualified board, creates another funded government agency, and gives too much power to the board.

Solutions

We are not without solutions to address any perceived problems within the police department. We fully endorse and propose that:

- The POST Commission be allowed to formulate rules and regulations, as well as standards for conduct and disciplinary actions.
- The currently empaneled Police Commission be legislatively recognized and authorized to conduct, among other things, reviews of disciplinary matters.
- Civil Service rules be changed to allow agencies additional time to conduct administrative investigations (120 days is indicated in this bill).

28 February 1998

Hon. Sen. Ben Pangelinan, (D)
25th. Guam Legislature
Government of Guam
Hagatna, GUAM 96910

Subject: Bill 51

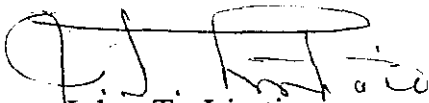
Senator Pangelinan:

I hereby submit my letter in full support of Bill 51 "Police Review Board". I find it quite ironic for police officer Hughe Williams to publicly appear during the public hearing testifying against Bill 51. Isn't this the same officer who was once in charge of the Crime Stopper before? I once read an article in the PDN that Officer Williams was alerting those who were alleged to have been involved in a criminal activities that they are being reported through the "Crime Stopper" program.

It is not surprising that the Police Department are against Bill 51. What happen to the officer who was caught smoking pot. What about the former major in the police force who couldn't find the \$50,000 cash evidence confiscated during a drug raid? What about the officers who were caught using police boat for private fishing? We can fill a whole book of what happen in the police department. These people do have a Comraderie spirit and must protect their kind and not to let the zipper come loose.

In closing, kindly review Bill 51 and remove whatever is unconstitutional and make the bill much stronger and remove the word "may" and replace it with "will". We will not allow our island to turn into a police state.

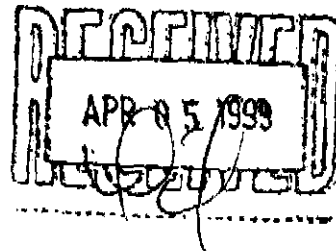
Sincerely,



John T. Lintiac
P. O. Box 10838
Tamuning, Guam 96931

March 31, 1999

Senator Vicente C. Pangelinan
Minority Leader
Mina Bente Sing'ko Na Liheslaturan Guåhan
Ada's Commercial & Professional Center
Suite 108
215-A Chalan Santo Papa
Hagåtña, GU 96910



Dear Senator Pangelinan,

Thank you for introducing Bill 51 into the 25th Guam Legislature, and thanks to your staff for telefaxing me a copy of the bill.

In addition to comments on this bill which I sent to you in January, I want to give you my further reflections. I forget exactly when a hearing was held on the bill, but I remember reading and seeing news reports about the hearing.

Employees of the Guam Police Department spoke against the bill, saying that it would hamper and obstruct enforcement of the law. This reasoning is ridiculous, of course, and exactly the opposite is the truth. The people of Guam need and merit this citizens' police review board or commission precisely because the police do not want it enacted into law. The more light that is shed on police behavior and actions, the more accountable they must become.

Individual police who act ethically and lawfully have nothing to fear from public scrutiny. If police are enforcing the law in a lawful manner, then they can answer any questions put to them about their actions without being threatened by recriminations.

Further, again I wish to encourage you to include the Guam Airport Police within the purview of this bill--or outright place the Guam Airport Police administratively under the Guam Police Department, which is more familiar with police procedures and practices than the airport manager.

Thank you for your attention and consideration--un dangkulo na si agradesimalotol

Sincerely,

Mark C. Goniwiecha
P.O. Box 20010 GMF
Barrigada, GU 96921

Home phone 734-5929
Office phone 735-2340

w7:9-98:bill51



COMMITTEE ON JUDICIAL, PUBLIC SAFETY,
CONSUMER PROTECTION, AND HUMAN RESOURCES
DEVELOPMENT

I MINA'BENTE SINGKO NA LIHESLATURAN GUAHAN

JOHN CAMACHO SALAS, CHAIRMAN

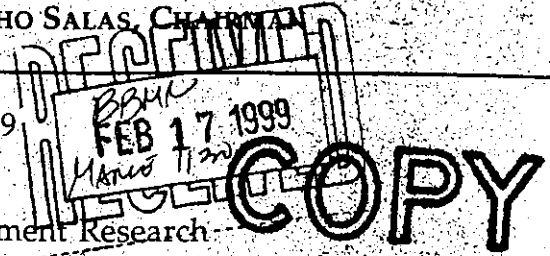
February 17, 1999

Memorandum

To: Director, Bureau of Budget Management Research

From: Senator John Camacho Salas

Subject: Request for Fiscal Notes



Please find attached Committee Bills 47, 51, 62, and 76, for which I respectfully request issuance of Fiscal Notes.

1. Bill 47, "AN ACT TO ADD CHAPTER 1 TO DIVISION 2 OF TITLE 15 OF THE GUAM CODE ANNOTATED, RELATIVE TO ADOPTING THE UNIFORM TRANSFER ON DEATH SECURITY REGISTRATION ACT."
2. Bill 51, "AN ACT TO REPEAL AND REENACT §77133, AND TO ADD A NEW CHAPTER 78, ALL OF TITLE 10, GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM COMMUNITY POLICE REVIEW BOARD, TO IMPROVE POLICE-COMMUNITY RELATIONS AND TO BETTER ENSURE POLICE ACCOUNTABILITY."
3. Bill 62, "AN ACT TO ADD A NEW CHAPTER 16 TO TITLE 7, GUAM CODE ANNOTATED, RELATIVE TO PROVIDING CERTAIN PROTECTIONS TO VOLUNTEERS, NONPROFIT ORGANIZATIONS, AND GOVERNMENTAL ENTITIES IN LAWSUITS BASED ON THE ACTIVITIES OF VOLUNTEERS."
4. Bill 76, "AN ACT TO AMEND 22 GCA §49106, RELATIVE TO INSPECTION OF PAWNBROKER'S REGISTER BY POLICE OFFICERS."

These bills are scheduled to be heard on February 26, 1999. Your issuance of these fiscal notes will be greatly appreciated.

Senator John Camacho Salas, Chairman

Attachments