



CARL T.C. GUTIERREZ
GOVERNOR OF GUAM

OCT

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The Honorable Joanne M. S. Brown
Legislative Secretary
I Mina'Bente Sais na Liheslaturan Guåhan
Twenty-Sixth Guam Legislature
Suite 200
130 Aspinal Street
Hagåtña, Guam 96910

Dear Legislative Secretary Brown:


Enclosed please find Substitute Bill No. 36 (COR) entitled: "AN ACT TO AMEND § 5.55(e) OF TITLE 8 OF THE GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE INVESTIGATORS OF THE DEPARTMENT OF LAW AS PEACE OFFICERS AND FOR OTHER PURPOSES" which I have signed into law as Public Law No. 26-38.

This legislation makes criminal investigators in the Office of the Attorney General who have held the position for at least 10 years automatically peace officers. Those criminal investigators who have held the position for less than 10 years must have completed training at the Police Academy or the Basic Law Enforcement Academy or other equivalent program as determined by the Peace Officer Standards and Training Commission.

The legislation also, as in prior legislation, allows the Attorney General to designate individuals within the Department of Law who may be peace officers, whether or not they are criminal investigators. Unlike prior law, this legislation does not make the Attorney General automatically a peace officer; if the Attorney General would like to be a peace officer, he or she must be designated.

A question remaining in this legislation is whether or not the Attorney General or other individuals designated by the Attorney General as peace officers, who are not criminal investigators, must complete police training.


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 Antonio R. Unpingco
Speaker

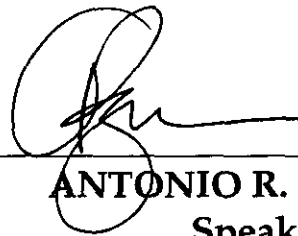
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OFFICE OF THE LEGISLATIVE SECRETARY	
ACKNOWLEDGMENT RECEIPT	
Received By	
Time	1000
Date	10/2/01

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session


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

This is to certify that Substitute Bill No. 36 (COR), "AN ACT TO AMEND § 5.55(e) OF TITLE 8 OF THE GUAM CODE ANNOTATED, RELATIVE TO DESIGNATING THE INVESTIGATORS OF THE DEPARTMENT OF LAW AS PEACE OFFICERS AND FOR OTHER PURPOSES," was on the 14th day of September, 2001, duly and regularly passed.




ANTONIO R. UNPINGCO
Speaker

Attested:



JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by *I Maga'lahen Guåhan* this 20th day of September, 2001,
at 2:00 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:



CARL T. C. GUTIERREZ
I Maga'lahen Guåhan

Date: 10.2.01

Public Law No. 26.38

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. 36 (COR)

As substituted by the Committee on Power
Public Safety and Judiciary and amended.

Introduced by:

V. C. Pangelinan

A. L.G. Santos

M. C. Charfauros

J. F. Ada

T. C. Ada

F. B. Aguon, Jr.

J. M.S. Brown

E. B. Calvo

F. P. Camacho

Mark Forbes

L. F. Kasperbauer

L. A. Leon Guerrero

K. S. Moylan

A. R. Unpingco

J. T. Won Pat

**AN ACT TO AMEND § 5.55(e) OF TITLE 8 OF THE
GUAM CODE ANNOTATED, RELATIVE TO
DESIGNATING THE INVESTIGATORS OF THE
DEPARTMENT OF LAW AS PEACE OFFICERS
AND FOR OTHER PURPOSES.**

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

2 **Section 1.** Section 5.55(e) of Article 2, Chapter 5 of Title 8 of the Guam
3 Code Annotated is hereby *amended* to read as follows:

4 **“(e) The Attorney General of Guam.** Those persons employed
5 by the Office of the Attorney General whom the Attorney General

1 designates; and investigators of the prosecution division of the
2 Department of Law, also referred to as the Office of the Attorney
3 General; *provided*, they have completed training at the Police Academy
4 or the Basic Law Enforcement Academy provided by the Guam
5 Community College or other equivalent program as determined by the
6 Peace Officer Standards and Training Commission. Investigators,
7 incumbent in that position for a period of ten (10) years or more from
8 the effective date of this Act and performing the duties of an
9 investigator during that period, shall be included in the definition of a
10 '*peace officer*.' Investigators with *less than* ten (10) years service in that
11 position shall maintain peace officer status and shall have three (3) years
12 from the effective date of this Act to complete the training provided by
13 the Basic Law Enforcement Academy, or comparable program as
14 determined by the Peace Officers Standards and Training Commission."



Chairman:
**Committee on Power,
Public Safety and
the Judiciary**

Suite 5A • Sinajana Shopping Mall II
777 Route 4 • Sinajana, Guam 96926

Phone 1.671 472-3431
Fax 1.671 472-3433

May 25, 2001

The Honorable Antonio R. Unpingco
Speaker
Twenty-Sixth Guam Legislature
155 Hesler Street
Hagatna, GU 96910


Via: Committee on Rules

The Committee on Power, Public Safety, and the Judiciary, to which was referred Bill 36, "An Act to Amend 8 GCA Subsection(e) of Section 5.55, Relative To Designating the Investigators of the Department of Law As Peace Officers, Provided They Have Completed the Basic Law Enforcement Training At the Guam Community College Or Other Equivalent Training; To Include In This Designation Investigators Incumbent In That Job For Over Ten (10) Years; And To Provide A Three Year Window For Investigators With Less Than Ten (10) Incumbency In That Position To Acquire The Necessary Training For Peace Officer Designation", herein reports back with the recommendation TO DO PASS.

Votes are as follows:

___ 7 ___ To pass
_____ Not to pass
_____ To the Inactive file
_____ Abstained

Sincerely,

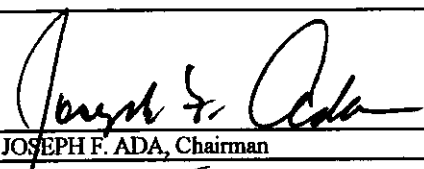



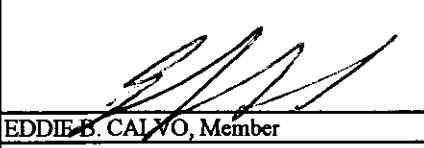



JOSEPH F. ADA
Chairman

Attachments

Committee on Power, Public Safety and the Judiciary
Mina' Bente Sais na Liheslaturan Guahan

Voting Record

Bill 36 - to designate Dept. of Law investigators as peace officers and to set minimum training requirements (as substituted by the committee).

MEMBER NAME/SIGNATURE	TO PASS	NOT TO PASS	TO REPORT OUT ONLY	ABSTAIN	TO PLACE IN INACTIVE FILE
 JOSEPH F. ADA, Chairman	✓	—	—	—	—
 ANTONIO R. UNPINGCO, Ex-Officio	✓	—	—	—	—
 LAWRENCE F. KASPERBAUER, Member	—	—	—	—	—
 KALED S. MOYLAN, Vice Chairman	✓	—	—	—	—
 THOMAS C. ADA, Member	✓	—	—	—	—
 EDDIE B. CALVO, Member	✓	—	—	—	—
 FELIX P. CAMACHO, Member	—	—	—	—	—
 MARK C. CHARFAUROS, Member	—	—	—	—	—
 MARK FORBES, Member	—	—	—	—	—
 ANGEL L.G. SANTOS, Member	✓	—	—	—	—

COMMITTEE REPORT

ON

BILL 36

BACKGROUND & PURPOSE:

According to one of the main sponsors of the bill, Senator Mark Charfauros, the purpose in introducing this bill is to remove the discretion that now lies with the Attorney General to designate personnel in the Department of Law (also referred to as the Office of the Attorney General) as peace officers and instead, to make the peace officer designation automatic as soon as a person assumes the position of investigator in the Department of Law. Under the current law, any person that the Attorney General designates as peace officer is one while the designation is in effect. However, the Attorney General is able to withdraw the designation anytime he decides to do so. In other words, the designation is discretionary. Furthermore, the personnel designated was not limited to investigators only; it included attorneys and anyone else that the Attorney General saw fit to designate.

In explaining the background or impetus for the bill, Senator Charfauros referred to a previous incident whereby three investigators in the Prosecution Division of the Department of Law went to the house of the Chief Prosecutor and arrested him for, among other things, obstruction of justice. Since he was the only person at home with his minor daughter, the investigators brought the Chief Prosecutor's daughter down to the office and kept her there with the father. After that incident, the Attorney General withdrew the designation of the investigators as peace officers. Prior to this incident, Senator Charfauros stated that the designation had been almost automatic and never a problem.

This law, which is attached to the end of the report, has been on the books since the Thirteenth Guam Legislature.

TESTIMONIES

Three investigators testified in support of Bill 36. They spoke in their own interest not on behalf of the Department of Law. The following is a summary of their testimonies:

JAMES CRUZ: He stated that in his position as Investigator IV or lead investigator, he's the only one with current peace officer status. He came to the Department of Law in 1991. Since that time he has been dealing with hostile witnesses and defendants in his criminal investigations. Not having peace officer status impedes the effectiveness of investigations, especially felony investigations.

TONY BLAZ: This investigator said he came from Guam Police Department, where he worked his way up to the rank of Detective. In describing some of his investigatory duties, he explained the dangers encountered by Prosecution Division investigators. They investigate cases referred by the Guam Police Department, do essentially the same thing as GPD officers. People, especially defendants, know they might be deprived of their freedom because of them. They often work in hostile environments but are unable to carry firearms or do more than make a citizen's arrest. He notes how the current law extends the definition of a peace officer to mayors, assistant mayors and probation officers---all of whom are peace officers by virtue of the position they hold. Yet, the criminal investigator who gathers facts for prosecution are subject to discretionary grant of peace officer status by the Attorney General. Although they confront danger in their work, they are unable to carry firearms to protect themselves or others. He states that criminal investigators ought to be able to make more than just a citizen's arrest. In relating some of his experiences, it was obvious that he felt handicapped in situations where he was out-numbered by hostile people, or when his investigation took him into deserted areas or when confronted by hostile spouses in family violence situations. If he had been able to carry a firearm, he would not have felt as helpless in defending his own life or the life of someone else who depended on him, such as a battered spouse.

He asked that one of the investigators be "grandfathered in", i.e. be given peace officer status because he/she had been an investigator for up to twenty (20) years and had not gone through any law enforcement training but had been doing the job of one and had held peace officer status in the past.

COMMITTEE FINDINGS

The following are the findings of the committee:

- (1) It is desirable to establish a minimum level of training for investigators, especially if they are to be granted the authority to carry firearms, conduct searches and seizures and to perform all the other traditional duties of a peace officer---some of which intrude on constitutional rights of citizens. One course is not sufficient for this designation, but a course of training that will result in not only the acquirement of necessary knowledge but also the inculcation of certain values and respect for individual rights and the curbing of temperament to balance these rights against the need for law and order in a society.
- (2) The investigators in the Prosecution Division of the Department of Law have all, with the exception of one who has been incumbent in that position for close to twenty years (nearly the span of a police officer's career required for retirement), undergone the required training established as a minimum in this bill. Most of them are graduates of the Police Academy and had switched to the Department of Law later in their career. The incumbent investigators support this bill.
- (3) The current law provides for the designation of investigators at the Prosecution Division of the Department of Law at the discretion of the Attorney General. Any grant of peace officer status may be retracted by the Attorney General at any time.
- (4) The Attorney General was invited to appear and testify at this hearing. He was invited again to submit his position, if in opposition, or to contradict or deny any of the statements made at the hearing, to the Committee after the hearing. The hearing was held on April 18, 2001. To date, no reply has been received from the Attorney General. Today's date is May 14, 2001, almost one month from the date of the hearing. The Committee believes sufficient notice and opportunity to object has been given to the Office of the Attorney General.
- (5) The Department of Corrections was represented at this hearing by Chief Parole Officer Mike Quinata. Parole Officers have always been included in the definition of peace officers. No other type of "officer" at the Department of Corrections was represented at the hearing. Under current law, parole officers not only have been included in this definition but there has also been no qualification as to that designation i.e. whether they must have a minimum level of training in order to assume that position. Not even the chief Parole Officer discussed the

training necessary for that position. His only purpose in testifying was to ensure that parole officers were included in the definition of peace officer, which admittedly they are under current law.

- (6) Any person completing the basic law enforcement training program (BOLEA) offered by the Guam Community College or any equivalent education approved by the Peace Officer Standards and Training Commission may be considered to have met the minimum training qualification required to apply for an investigator position at the Prosecution Division of the Department of Law.
- (7) Any applicant or incumbent with less than ten years in the position of investigator at the Department of Law, Prosecution division, has a window of three years from the passage of this Act, to obtain the necessary minimum training or equivalent as spelled out in the Act.
- (8) Only one investigator at the Department of Law Prosecution Division has over ten years experience in that position without the minimum training prescribed in this Act. However, this person has been incumbent in that position for close to twenty years and has held the designation of peace officer from time to time and has performed the duties of one for that same period. The Committee is assured that there are no others who would qualify for peace officer status under this law without the minimum qualification.

COMMITTEE RECOMMENDATIONS

- (1) The bill, as amended, should be passed.
- (2) Parole officers should not be included in the coverage of this bill. Parole officers are already covered in the definition of peace officer by 8 GCA 5.55(d) "All officers of the Department of Corrections". There being no qualification in the current law as to type of training required to hold the job of a parole officer and there being no discussion regarding that issue during the hearing, the Committee does not recommend including the category of employees, "parole officers", in the coverage of this bill, which contains a training proviso. If such a condition or training proviso is intended or requested by the Department of Corrections, the Committee recommends another bill and public hearing at which a more extensive discussion can be held on this issue.

4

I MINA' BENTE SAIS NA LIHESLATURAN GUAHAN

2001 (FIRST) Regular Session

Date: 9/14/01

VOTING SHEET

5 Bill No. 36(COR)

Resolution No. _____

Question: _____

NAME	YEAS	NAYS	NOT VOTING/ ABSTAINED	OUT DURING ROLL CALL	ABSENT
ADA, Joseph F.	✓				
ADA, Thomas C.	✓				
AGUON, Frank B., Jr.	✓				
BROWN, Joanne M. S.	✓				
CALVO, Eddie B.	✓				
CAMACHO, Felix P.	✓				
CHARFAUROS, Mark C.	✓				
FORBES, Mark	✓				
KASPERBAUER, Lawrence F.	✓				
LEON GUERRERO, Lourdes A.	✓				
MOYLAN, Kaleo S.	✓				
PANGELINAN, Vicente C.	✓				
SANTOS, Angel L.G.	✓				
UNPINGCO, Antonio R.	✓				
WON PAT, Judith T.	✓				

TOTAL 15 0 0 0 0

CERTIFIED TRUE AND CORRECT:

Clerk of the Legislature

* 3 Passes = No vote
EA = Excused Absence

**MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session**

Bill No. *2001*
Introduced by:

v. c. pangelinan
A. Santos
M. Charfauros

**AN ACT TO ADD A NEW SUBSECTION (n) TO
§5.55 OF TITLE 8, GUAM CODE ANNOTATED,
RELATIVE TO DESIGNATING THE
INVESTIGATORS OF THE DEPARTMENT OF
LAW AS PEACE OFFICERS.**

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

2 **Section 1.** A new subsection (n) is added to §5.55 of Title 8, Guam Code
3 Annotated, to read:

4 “(n) Investigators of the Prosecution Division of the Department
5 of Law who have completed training in basic law enforcement provided
6 by the Guam Community College or comparable program as
7 determined by the Peace Officer Standards and Training Commission.”

APRIL 18 PUBLIC HEARING ON BILL NO. 36

J. ADA: Year 2001, the meeting will now come to order to discuss Bill 55, regarding the Public Utility Commission, the confirmation of Mr., Sgt Maj Jose Q. Salas to the Guam Parole Board, and the confirmation to the Guam Power Authority Board of Directors of Daniel Swavely, Roger Slater, and Grace Low and also we will discuss Bill 36, designating the Dept. of Law investigators as peace officers.

I was requested by a member of the Cte. to deviate from the agenda in order of the hearing to allow the members of the law community to testify because I understand that they all have taken annual leave- short annual leave to testify on Bill No. 36 which was slated to be last on the agenda so without the objection of the Committee members, we will move Bill No. 36 to the top of the agenda & allow the members of the law community to testify. So with that in mind, please come forward and identify yourself and we shall begin with Bill 35, or rather Bill 36.

For you information, I'd like to introduce the memebtrs of th cte. At the extreme left is Sen Frank Aguon.

Thank you. Just go ahead and identify yourself. and then we'll proceed.

JAMES CRUZ: Good morning, my name is James Cruz. Let me just emphacize that I'm here on my personal support for this bill 36 and I am an employee of the govt, which is the Attorney General's Office, Prosecution Division. I'm not here representing them.

ANTHONY BLAZ: My name is Anthony Blaz. I'm an investigator with the Attorney General's Prosecution Division. Like Mr. Cruz here, I took annual leave to be here to testify on behalf of or in support of Bill 36 and to present my personal views on it.

J. ADA: Good, go ahead & proceed if you want to say anything.

JAMES CRUZ: Let me just start off basically by emphasizing that with this bill 36 allowing the investigators of the Department of Law to be peace officers, I can basically speak on behalf of my experience while being with the prosecution division because this division actually deals with an environment where we're constantly in contact with defendants, with witnesses, with defendants where we may deal with hostile defendants and you know not having that availability as peace officers, we can't react upon it; we can only go to the nearest phone and call 911, for example.

Right now, I am actually the only one with peace officer status. My actual position is the lead investigator. The rest of my personnel aren't peace officers within this agency. But from my past experience actually, I came into the Dept of Law in 1991 and within that time frame that I came in, I don't know if you all recall that we were dealing with a case called---well, actually this case deals with---I can speak about it freely because it's a completed case and it's closed. It dealt with a group called caballo where it was dealing with a cult that they believed they were involved in and they committed homicides and I believe a good number of robberies to a good number of thefts from burglaries and all but with courtesy to them without indicating their names, I want to say that factor that once I came in I was already a peace officer with the Prosecution Division and having this status allowed me automatically to have that ability if needed to restrain anyone, arrest anyone but with all the right intentions and of course, with always conferring with my supervisor at that time. Bottomline here of how I actually feel about this bill is I'm in appreciation of it being brought forward and acknowledged in this public hearing because actually like I said, it is really needed within the area that I'm at right now.

I can't speak directly for the other divisions there but I just want to maintain talking about my personal experience where you can just notate from that as to actually why it may be needed. And please feel free to ask me questions because I just heard about this hearing this morning from my co-worker, right next to me, Mr. Tony Blaz, so I wasn't quite aware or well-prepared but actually the way I'm talking to all of you senators from the panel, from my heart and experience, so whatever questions that you may ask me and whatever answers that I may give you, I will provide you facts about why I strongly feel that the peace officers status at least within our division should be fulfilled and obligated to have. I just want to keep it at that level right now and I'll transfer it over to my co-worker.

officer status. If you look at Title 8 or 8 GCA 5.55, peace officer defined, all municipal commissioners or mayors, all assistant municipal commissioners --- they automatically become peace officers when they hold that office. I'm an investigator for the prosecutor's office. We do criminal investigation and I have to be designated by the Attorney General before I get that peace officer status. Why can't it just be automatically given to us when we hold the position. We've all been thru some law enforcement experience throughout the prosecutor's office in our nation. The people who get hired there have had investigator or peace officer background and that's one of the criterias. So if I go down the list, conservation officers, compliance officers of Revenue and Tax, Superior Court marshals, probation officers. These people --probation officers_ they come into the picture after we prosecute them. That's when they come into the picture. They're dealing with post-conviction type of situation. We're in the middle of investigating a case. We're in the middle of depriving people of their freedom legally. We go out and investigate a person and we find that that person committed a crime. Our job is to ensure that person is punished for what he did and in essence, we're depriving him of his freedom and as we know from past experience that violent crimes --family violence is very volatile type situation and that could be compared as one or the other because when you have a person who's leading a normal life, then I come in because of the facts I gather, deny him of his freedom, take him away from his family, have him arrested or prosecuted, he can just blow up and go after me, you know, for doing my job. I want to also share with you that the basic argument an investigator has to have in the prosecutor's office---we conduct routine investigation relating to civil/criminal cases or complaints of alleged violation of law, rules and regulations, filed with the office of Attorney General. WE interview victims, witnesses and suspects, collect and preserve evidence, examine records and documents, serve warrants of arrest, searches and seizures as necessary, perform surveillance and stake out, assist and coordinate with federal military law enforcement, local law enforcement personnel; investigate consumer complaints, gather, analyze, evaluate, determine facts for information obtained in each complaint lodged. I've prepared case file for consumer counsel to act upon. These -- these are basic requirements that we do. This is just our job on a daily basis and we're not peace officers. This is similar to what a Guam police office conducts. This is similar to what an FBI agent does and they're all designated peace officers the minute they're given that position. We have to wait and see if we're going to be designated or not and so that's that's where I come in my support of this bill.

Another situation I like to share with you was one of the investigator who's working a family violence case. He was charge formally in court. He came to a plea agreement and what happened is --he failed to meet conditions of the plea agreement plus he had another incidence of family violence with the victim. So not only that he violated the condition of the plea but he also committed another crime of family violence so there was a police report on him. He's wanted by the police. I believe there was a warrant for his arrest. This investigator from my information came in contact with this suspect -- a family violence suspect -- who has committed a crime, before that who has violated his conditions of his plea agreement and he couldn't detain him. He couldn't prevent him from further committing a crime because he wasn't a peace officer. If he had done something, he was on his own basically. He tried to contact other peace officers -- the police couldn't respond in time. The marshals said that they, they have no knowledge that this person is wanted or has a warrant of arrest so I can't do anything---so the guy walked out and left. He could've gone to commit further family violence. So I'm just asking that you support this bill for those reasons. If you do pass this bill one of the elements in the bill indicates that the investigator must've completed training in basic law enforcement provided by GCC. In our office, we have an investigator who's been in that position for over 10 years. We're looking at 15 or close to 20 years as an investigator. However, that investigator did not go thru any law enforcement type of training. I ask you to look into that and possibly consider grandfathering investigators who've done this job on a daily basis--grandfathering them in as peace officers once this is passed and that make the bill be or the requirement of law enforcement training be for those incoming investigators who've not gone thru law enforcement training. And if you do require that they, that people for into law enforcement training, also consider the funding for that when the budget comes out, that it be included in the Attorney General's funding for training purposes to become peace officers. The bottomline is that, we are criminal invstigators. We're not out there to meet people who are passive who conduct themselves in a non-violent manner. WE put ourselves in that situation and that's the nature of our job. Thank you very much.

J. ADA: Thank you. Do you want to testify?

ED NIEVES: Yes Sir, if I could briefly --My name is Ed Nieves. I'm also an investigator at the A.G. 's office, currently on leave right now. Ditto, Tony. I was the investigator Tony Blaz was speaking about recently. I just wanted to express my--excuse me for a moment --the- how do you say--the feeling that I

felt in that position, knowing that the person, that was the victim that was going back-the defendant that was going on the street, the victim that had an idea that we were taking care of this circumstance and I was in the power to do something and I couldn't—so it was such a feeling knowing that I was trained to do things in those circumstances—I couldn't because it was taken away from me and knowing that there was somebody out there who depended on people like me and there was a circumstance that prevented me from doing what I was trained to do and basically, that's all I wanted to say.

J. ADA: Thank you.

TONY BLAZ: Could I just add one more thing, Senator, That's very true. Whenever I come in contact with a victim in a case, number one concern is I'm scared. What can you do to protect me. What can you do. We tried to insure them a much as we can. We got Guam police. I said dial 911 right away – whatever, but we go out with victims to crime scenes to just review the crime. WE go out with victims to check on neighbors. We talk to them at their place of residence or other places and so as a peace officer, I kind of react appropriately if I'm with a victim. I mean I have to wait for 911 or if I do act, it'ss be on my own as a citizen. It's my own shoulder that I have to –whatever action I take it's as acitizen if I make a citizen's arrest or whatever. I think that we should be protected by that peace officer status that we have. Thank you very much.

J. ADA: Thank you. Before I recognize the sponsor of the bill—one of the major sponsors of the bill---does the Attorney General's office support this bill? Do you know?

JAMES CRUZ: I think, Senator, it would be in our best interest, as I indicated earlier, that we are there on our personal leave and we would like to just maintain that. We don't feel obligated to opionate , we just prefer....

J. ADA: OK, so you don't know what position they have on this bill?

JAMES CRUZ: Exactly.

J. ADA: Thank you very much. WE appreciate that.

MARK CHARFAUROS: James, I think we were classmates –the 23rd police cycle. I basically worked the streets with these two guys. Were you in GPD?

JAMES CRUZ: 32d.

MARK C.: 32D CYCLE. Ok Ay, I feel old now. But anyway, let's cut to the chase. I know that you guys are here in support of this bill but let's cut to the chase on the reason why this bill is here now. Maybe you can't mention it and you know the history of this bill but before Attorney General Calvin Holloway was in, you guys had peace powers and there was no question that the office of the Attorney General that you guys had peace powers. The problem happened when the Attorney General's office had arrested a high-ranking member of this Administration, then the Attorney General's office looked at the books and said, "You know what, I'm going to turn off your peace powers cause I want to make sure that when you guys do an arrest, it's going to clear through me first." And that's the reason why this bill was created—to ensure that when you administer justice, you administer justice fairly and equally in this territory regardless of position and this bill is going to pass and that's what we want you to do. WE want you to go out there and do your job. And if we have to give you any protection for that, we will, but no one in this Administration has the right to turn off a law enforcement officer's ability to arrest or not to arrest. That's your decision and you went to the training and the 3 officers that are here I know went to the Police Academy and made several arrests prior to coming to this position and I don't think that there's a problem about ability or your office's ability to conduct investigations and make arrests. The problem you guys had was you're doing your job too good and that you're applying it fairly and equally across this territory. We're going to fix that problem now and also now my understanding now that there's also a problem over at the Dept of Corrections. Mike Quinata, can you please come up here cause I understand we also have a similar problem in regards to the designation of peace officers for your division and can you share that with us because basically what we can do is also amend this bill to cover other law enforcement entities in this territory to make sure that they're also recognized as peace officers.

MIKE QUINATA: For the record, my name is Mike Quinata... I also was not aware of this bill until earlier this morning, but first I'm here to support them and also if you can consider including the parole officers. It says in the law right now that officers of the Dept of Corrections were not clear as to what kind of officers --you could be a supply officer and you could be designated as a peace officer. But it said some clarity, as far as the bill's concerned, and amendment to 5.55.

MARK C: Ok we'll consider it.

J. ADA: I heard twice already that yo folks mentioned the term could be designated or aiting to be designated, so you're saying that the director of the agency , in this particular case the Attorney General's office and in your case, the Division of Dept of Corrections, may designate you as peace officers from time to time and can take it away from you from time to time as well.

JAMES OR TONY: That's how the law's developed. Right now---

J. ADA: Ok

MIKE QUINATA: As far as Dept of Corrections, I have no problem exercising the authority as peace officer. It was never taken away. We just want to include it.

FELIX C: I have a question with regard to whether, as designation as a peace officer, does it in any way positively affect your pay? Is there an increase in pay?

JAMES CRUZ: Not at all.

FELIX: Not at all. Ok, so you would maintain this. Have there ever been any requests either by Dept of Law or DoC, you know, to conduct a desk audit? Or is there any clearance thru Civil Service where they've reviewed this, as far as justification for this?

Administratively, is what I'm wondering--of course, the legislature has the power by introducing a law and passing it--a bill and passing it into law to amend it, but I'm wondering if there's ever been

any attempt done by the Administration thru Dept of Administration personnel division or thru Civil Service Commission to conduct a desk audit to basically back up what you're asking that the designation as peace officer is something that is warranted.

TONY: Not to my knowledge.

FELIX: Not to your knowledge? Ok.

MIKE QUINATA: As far as parole's concerned, we were never worried about that because it says officers, but we jus wanted clarity as far as the law.

FELIX: So the bottomline is that again you feel that being designated as a peace office, it allows you to carry out your job more effectively and also provides you with tools you need as far as protection and so forth as you go about your duties. If you're not designated as a peace office and you're doing your job, are you allowed to carry firearms?

TONY: No, not at all.

FELIX: Not at all, ok, so as

TONY: And also, it's a requirement in order to carry a firearm, it must ensure that proper trainin is available quarterly or excuse me, every 12 months at least is desired for the prosecution division.

FELIX: It also grants you arrest powers as a peace officer, right? And a

TONY: That's correct.

FELIX: And administratively, you would also get training with regard to how to properly execute an arrest.

TONY: A situation in this --a good --I'm sorry --a good situation in this is a good majority of the investigators that had either joined, that had crossed over from GPD into the A. G.'s office--they had been ---already underwent the police academy. They had been a patrol officer, an

investigator with the police dept, so basically that period in time, they basically are already fine-tuned as police officers when they come in.

J. ADA: ok.

FELIX: Again a concern that I have –as I’ve seen in my role at Civil Service –a majority of the cases lost by GPD, Dept of Law or whatever with regard to investigation or arrest have been because paperwork not being properly followed, documentation not being complete or accurate so in addition to training with firearms, there might need to be additional training with regard to proper procedure with arrests and documentation, so...

JAMES CRUZ: AS a matter of fact, we do, when we do undergo training, it’s always brought up to and re-emphasized during meetings pertaining to trainings and at. Oh and _____ concern with the firearms and its usage---situation here with regard to the peace officer status at least to those that may not have received proper training to that effect as Mr. Blaz has indicated here, there’s some that has already been a peace officer who had been in their position for a long period of time. I could understand if those that are now joining the Dept of Law, e.g., they would probably be the ones, unless they had already been with GPA coming over that could be understood as having the ability and knowledge as a peace officer.

FELIX: Is this where the---Tony, you mentioned that you’re interested in a grandfather clause for existing investigators ---that would make sense as long as they did meet the qualifications because I, you know, from what I take, they may have come from Guam Police or some other enforcement agency and maybe the training is not equal across the board so there’s a danger in grandfathering everyone in.

TONY: Exactly and that’s why it has to be really considered and looked into as to –at least as to the training aspect or what type of experience is available.

FELIX: Yuh, and that’s where Dept of Administration, personnel should come in and conduct at least an audit of personnel to determine who would qualify for example and who doesn’t.

TONY: With regard to their background?

FELIX: With regard to a grandfather clause.

TONY: I think, Senators, I think we just need for you to consider this bill highly and then once it's passed and this bill or regulations or policies and procedures how to, how to designate or present the peace officer status would be taken care of by the Dept of Lae. One of the things I like to add is we're like in a perfect situation. We have case where there's technicality like you mentioned—there's problem with the arrest. I think the attorneys who are handling the case were right there. They'll immediately share those things with us. They'll say, "Hey, next time we come into this particular situation, this is how it should be handled." You know we're right there with the people working with these types of cases, working with technicalities and problems and just for the record, the Investigator I, the basic requirement to be an investigator I in our office. I was looking at this position description basically and it was signed by Felix P. Camacho, who was Executive Director of Civil Service Commission, at that point in time, so you should be aware of the position.

FELIX: Yes.

JAMES CRUZ: That's why—when you were kind of asking that question, I was wondering about the Civil Service situation.

ADA: Ok. Lou, then Senator Kasperbauer.

LOU L.G: I wanted to ask Tony. Do you have any information of other investigators of other states that work in prosecution divisions. Are they also designated as peace officers?

TONY: Oh yes, most definitely, they are. AS peace officers, they carry firearms and their main role is basically like what we do—is to prepare case to go to trial, plus they take investigators from ground zero like for instance, police corruption or other govt corruptions. They do that, just like here on Guam. It's been done in the past—the Dept of Law, the A.G.'s office have done govt corruption cases, police corruption

cases. WE need someone to police the people and they're designated as peace officers.

LOU L.G.: So the standard is usually they use peace officers.

TONY: Yes, that's the standard.

LOU L.G.: I also wanted to say that I certainly don't have problems supporting policies and laws that would allow you to do your job much more effectively and efficiently. I am not too concerned about the grandfathering I ___ if we write something in the legislation, Mr. Chair, that our parameters and again my biggest concern is the training aspect – the capacity and capability to provide the services as a result of improved skills and training. So I don't really have a problem about that but I would like to ask the Chair if he could maybe officially request the Attorney General for his position on this issue just to see if there's any reason why we should not be able or whatever his explanation. I would like to know what his position on this issue.

ADA: yes, The Chair will make the request according to the recommendation. Senator Kasperbauer?

Dr. K: Si Yuus Maase. A couple of questions and maybe to the Chairman, was the Attorney General and the director of Corrections invited to be here today? Were they aware?

J.ADA: Well, the notice went out and it went out appropriately—whether or not they elected to come and testify is another thing that I can't respond to.

Dr. K: We don't know..

J. ADA: Obviously, with Dept of Corrections, it may not have gone to them because the bill wa not, did not include Dept of Corrections.

Dr. K: Something we might add in...

J. ADA: parole officers

Dr. K: I guess my question would be to any of the gentlemen. What is—maybe just a review —what's the Peace Officer Standards and training Commission? Are you familiar with that in the bill?

TONY: I believe it---I believe that's part of that Colonel Sgambelluri program that he's in --BOLEA—Has to do with peace officer training.

DR. K: Is there any annual or I think you alluded to it earlier --an annual not brush up but some kind of in --service that you have to go back once you've been---gone thru the training—Do you ever have to go back for any kind of ---

JAMES CRUZ: Basically and that came from me --that only actually refers only to being able to carry and maintain a firearm while on official duty.

DR. K: So there is ...

JAMES C: There is training for that to make sure there are no liabilities.

DR. K: But do you ever have to go back or brush up or (inaudible)_____able.....

JAMES: No, it would be mostly conducted in house from those that already underwent training.

TONY: Let me answer. Once you've gone thru Police Academy per se or BOLEA or some kind of police academy-type training or law enforcement training then it's only one time --just like you graduate from college only one time. However, you do have...

DR. K: Not like teachers or nurses that have to go back for --get so much credit --continue...

TONY: But we do have training within the year that includes other law enforcement officers. The U.S. Attorney's office are constantly giving training and inviting us --our office has given some training with regard to firearms, it's a requirement that it's an annual type training with

regard also to use of force policy. Those things also should be included on a regular basis.

DR. K: So---the language of the bill --it simply says who have completed training in basic law enforcement. UoG e.g. offers a course in law enforcement. It sounds like this is very vague in the bill and "completed training in basic law enforcement"--What are you thinking about when you read this bill here--when it talks about having completed basic training or training in basic law enforcement by GCC or a comparable program? What does that mean to you?

JAMES: You know, Senator, to me, it sounds fine at least for those coming in now to an agency.

DR. K: But what does that mean? Is it just a course that you might take?

JAMES: It's a course to my understanding that's on-going right now.

DR. K: a course at the Police Academy or what are we talking about?

JAMES: See, it's the same, a similar type training that those who had underwent the police academy--where all the procedures dealing with arrest procedures, searches and seizures to the effect of officer survival, officer safety, it all is similar to those that had already went thru police academy training e.g --that's why we brought up to your attention pertaining to the grandfathering --excuse me to the grandfathering--at least that portion where those that actually underwent training to become police officers because a good majority of where I'm employed at---there are--a good percentage are police officers --former police officers.

DR.K: It sounds like we don't have several dissenters -- at least here today--- don't have any problem with grandfathering as long as we're assured that --or grandmothering--I don't know--what is it or if ---grandpersoning?---if they've actually had similar training in a capacity....

JAMES: See, that portion --that BOLEA--that's what's available I believe right now that can provide the training--instead of a person waiting to be a police officer or police academy...

TONY: Senator, let me try to put it really simple. If you want to be a police officer on Guam, you have to go to the police academy or law enforcement training ---BOLEA---to that effect just once. Once you graduate from that, you're a police officer for the rest of your career. That's basically the same thing. That is peace officer and the investigator in the Attorney General's office- as an investigator, once you've completed the police academy, you're, you're, you meet that criteria for the rest of your career.

DR. K: I guess what my concern is---the language in the bill is very generic. It's not talking about the Capital Police- Capital "A" Academy. It's simply completed training in basic law enforcement and maybe a given course could be interpreted by the Police Officer Standards and Training Commission or whoever has to certify that this is adequate and I was wondering if and I'll and I'm sure I'll talk with the authors about this later and maybe we need to be a little more specific as to what we're talking about that meets this requirement.

TONY: Another thing, Senator, if you look at Section 5.55 , 8 GCA...

DR. K: That's the other difficulty when we do bills, that we're only amending and adding a new section --we don't have all the background and so ---like you say, it's probably all explained in the statute.

TONY: Thank you.

DR. K: Thank you, Mr. Chair.

ADA: Any other... ?

FRANK AGUON: Tony, if I can ask you to just respond to this. First of all, the employment prerequisites --what are they in terms of being able to become an Investigator I or Investigator II? This all goes back to the question of the grandfathering aspect.

Tony: Well, the minimum knowledge I believe in skills, your --- knowledge of principles, practices and techniques of civil and criminal investigation; a knowledge of rules of legal evidence; ability to gather

facts and information thru interviews, research, observation and examination and maintain confidentiality; ability to interpret, apply and make decisions in accordance with law, regulations...

AGUON: So there's no pre-requisite for training similar to what the bill provides ---completed training in basic law enforcement at GCC or equivalent, any equivalent?

TONY: There's nothing in there specifically. However, if you have worked as an investigator for other law enforcement offices, you would have fulfilled the requirements of a designated or that's in writing with regards to being an investigator with the A.G.'s office.

AGUON: I believe this goes back to what I'm leading up to --what Senator Camacho said, had mentioned earlier---because this may to some extent because we're going to allow automatically allow an investigator to become classified as peace officer so this may--because of the requirement of having to complete an equivalent course --may have to change the initial pre-requisites and descriptions of the ---of the job.

TONY: correct

AGUON: Just be mindful of that because the Civil Service Commission may have to come into play on this.

TONY: I have no problem with that. IN fact, I highly recommend that if I was in that position.

AGUON: Let me also say this: I know that you highlighted that there may be one or two individuals who apparently may have been investigators for the past 10 years. I have no problem with perhaps giving or grandparenting that particular individual into the program. What I do have a concern about though is that someone who has perhaps been an investigator for 2 years or 4 years because this requires that in fact, they completed training in BOLEA or an equivalent course so Mr. Chairman, we may have to consider the possibility of allowing those who do not meet that minimum criteria because I don't know if you want to grandfather every one automatically without having at least without having at least the level of experience --work experience as an

investigator. Maybe someone who has the time frame of service between two to four years, looking at having them, giving them, that general allowance of 3 years within that 3 year time frame to meet that criteria. So that in fact we feel a comfort level that all of our investigators are properly trained and well-informed.

TONY: I don't think there should be a problem with setting a minimum requirement.

AGUON: Yuh, ok, so just be mindful of that because that's certainly a consideration as we discuss this. But aside from that, I certainly support the provisions and you have my support on this. Thank you, Mr. Chairman.

TONY: Thank you, Senator.

ADA: Alright any other questions?

MARK: I kind of like to apologize to some of the panel members here asking about the intent of this bill that was written by myself, Senator Santos and Pangelinan. Let me just go ahead and clarify some of the questions that were brought up. This is the subsection (n) of existing Guam law that says who will be designated as peace officers. And part of this subsection—like I mentioned from (a) to (n) includes individuals such as the mayors or commissioners—mayors of this territory. Basically the only thing it says here is those who have completed a basic law enforcement at GCC and the only basic law enforcement training that's up at GCC at least to my knowledge that's in existence right now is the police academy or the BOLEA program and the POST which establishes standards for law enforcement which composes of the—every law enforcement entity in this territory that has under its control anyone from the airport police to the Guam police to, you know, anyone with the powers of arrest will be establishing standards for the territory as far as training is concerned. So as the bill is written, anyone that has gone through any type of law enforcement training will be considered as or will be designated as peace officer—the grandfathering clause that's not set in stone yet. We have to take a look at that and see—maybe we need it not because my understanding is BOLEA and POST is a continuing program at GCC and anyone can take that to qualify for this. But again, I said,

that's not etched in stone. We have to take a look at that—maybe establish a minimum requirement —maybe we don't even have to do that at all. But it goes back to the question as to you're the chief investigator?

JAMES: Actually, the proper position for me is Investigator IV, which can be acknowledged a lead investigator.

MARK: In your section, how many individuals have gone thru law enforcement training and how many are lacking?

JAMES: 8, including myself.

MARK: 8, and how many are lacking?

JAMES: 2.

Mark: two.

JAMES: But actually, they're not within the section of investigators, They're process officers.

MARK: Process officers? Wh—

JAMES: Process officers, contained within the investigators division.

MARK: So these two that are—who have not taken any kind of law enforcement training, are they required to go out and do surveillance, pick up individuals out of the territory.

JAMES: No. I'm just indicating that because they're just —are a part of our division, but actually they're not required . They're just focused mostly on legal documents.

MARK: And how long have they been employed-doing this work at the Dept of Lw—the 2?

JAMES: Basically, they---One had been employed for I believe 3, close to 4 years. There's another individual that's been employed for over 5 years.

MARK: over 5 years?

JAMES: yah

MARK: So if we were to pass this bill as is, you guys won't have a problem if we were to require this individual to go ahead and go thru basic law enforcement training?

Tony: Senator, if I may just make a slight correction. We do have one investigator who has not gone thru training –basic law enforcement training or comparable training. We do have one investigator, Mr. Cruz was referring to 2 process officers.

JAMES: Process officers –that's why I said...

TONY: Two process officers. Their job is to serve subpoenas or other documents.

JAMES: This is the one that we were in discussion that this individual had past experience of over 10 years. He's an investigator now and at certain point in time, this individual had peace officer status and currently

MARK: And the one that hasn't had any training, how long has this person been doing that job?

TONY: I know it's more than 10 years.

MARK: More than 10 years?

TONY: Yes, I say, a little over 20 years.

MARK: More than 20 years?

TONY: Yes.

MARK: But you don't have a problem with the bill written as is requiring that those to be designated a peace officers must go thru some type of basic law enforcement training.

TONY: Correct, with the consideration..

MARK: without the grandfather clause.

TONY: Right. Without the grandfather clause? Is that what you're saying? And so, what would that do to the position of that one investigator?

MARK: That would mean that basically that you would have to go through BOLEA or a basic law enforcement course at GCC.

TONY: Well, one concern I have is that she's that ---more than 10 years that investigator has also been promoted to Investigator II in our office and with the position description that she's been doing --it still fits within the --an officer that's gone through that type of training. That's why I'm asking if you could consider that grandfather.

MARK: OK. All right.

JAMES: That's where we're referring to—we're mostly speaking in our positions --being in the prosecution division.

MARK: So basically we're only talking about one individual.

TONY: Correct, so if you have...

MARK: Who has more than—who has approximately 20 years of experience in this field.

TONY: Yes.

MARK: ok.

TONY: and at certain point in time maintained peace officer status.

MARK: and everyone else who has done law enforcement has been through law enforcement?

TONY: Yes.

MARK: ALRIGHT. That's good.

ADA: Any other?

MIKE Q: One brief---for my director, if he knew about this, he would be in support of this as far as parole officers.

ADA: The Committee will take that into consideration but if you can relay to him --if he can officially submit a written endorsement of the bill.

MIKE Q: Yes, Sir.

ADA: Thank you. Since there are no other questions, thank you very much for your testimonies.

JAMES: Senators, Si Yuus Maase.

ADA: Is there anyone else who wishes to testify on this particular bill? Yes?

T.ANN PEREZ: Buenas and Si Yuus Maase. I—I'm glad to hear what has been presented to this committee. I have family members that both serve the public in terms of public safety. I have worked with Tony Blaz. I know Ed. I know what these guys are going thru and in the proces and Tony's right, in the process of doing _____ (inaudible). He's assisted me at GPA and by the way, I'm wearing my hat as a private citizen. I believe the framers of this particular bill is nt he right track in order to ensure that there's consistency.

Citation/Title
GU ST T. 8, § 5.55, Peace Officer Defined.

***5049 G.C.A. T. 8, § 5.55**

**GUAM CODE ANNOTATED
TITLE 8. CRIMINAL PROCEDURE
CHAPTER 5. CONSTRUCTION; DEFINITIONS
ARTICLE 1. CONSTRUCTION**

Current through P.L. 24-335 (1998)


§ 5.55. Peace Officer Defined.


As used in this Code, peace officer includes:


- (a) All municipal commissioners;
- (b) All assistant municipal commissioners;
- (c) All members of the police force;
- (d) All officers of the Department of Corrections;
- (e) The Attorney General and those persons employed by the Attorney General's Office whom he specifically designates;
- (f) Customs and Quarantine Officers of the Customs and Quarantine Agency, and those persons under the service of the Agency whom the Director of Customs specifically designates.
- (g) Conservation Officers of the Department of Agriculture;
- (h) Compliance Officers and Criminal Investigation Supervisors and Criminal tax investigators of the Department of Revenue and Taxation;
- (i) The Superior Court Marshal, Deputy Marshals of the Superior Court, and Special Deputy Marshals of the Superior Court;
- (j) Employees of the Department of Youth Affairs who are engaged in juvenile detention and rehabilitation work as designated by the Director of the Department of Youth Affairs.
- (k) Probation Officers of the Superior Court of Guam;
- (l) Criminal Investigators of the U.S. Government defined as any individual duly authorized by a department, agency or armed force of the United States to conduct or engage in investigations of or prosecutions for violations of the criminal laws of the United States. Included, but not limited to this Subsection, would be Criminal Investigators of the Drug Enforcement Administration; and
- (m) Fire personnel when engaged in the enforcement of the Fire Prevention Code and designated by the Fire Chief.

MINA'BENTE SAIS NA LIHESLATURAN GUÅHAN
2001 (FIRST) Regular Session

Bill No. *MD (LOR)*
Introduced by:

v. c. pangelinan 

A. Santos 

M. Charfauros 

**AN ACT TO ADD A NEW SUBSECTION (n) TO
§5.55 OF TITLE 8, GUAM CODE ANNOTATED,
RELATIVE TO DESIGNATING THE
INVESTIGATORS OF THE DEPARTMENT OF
LAW AS PEACE OFFICERS.**

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

2 **Section 1.** A new subsection (n) is added to §5.55 of Title 8, Guam Code
3 Annotated, to read:

4 “(n) Investigators of the Prosecution Division of the Department
5 of Law who have completed training in basic law enforcement provided
6 by the Guam Community College or comparable program as
7 determined by the Peace Officer Standards and Training Commission.”