

FILE COPY

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

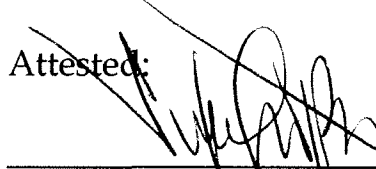
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

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



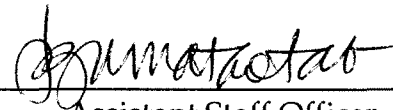
Judith T. Won Pat, Ed. D.  
Speaker

Attested:



Tina Rose Muña Barnes  
Legislative Secretary

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



Assistant Staff Officer  
*Maga'lahaen's Office*

APPROVED:

\_\_\_\_\_  
FELIX P. CAMACHO  
*I Maga'lahaen Guåhan*

Date: \_\_\_\_\_

Public Law No. \_\_\_\_\_

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

**Bill No. 108-30 (COR)**

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

Introduced by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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