

Refer to
Legislative Secretary

C. T. GUTIERREZ
GOVERNOR

MAY 14 1997

The Honorable Antonio R. Unpingco
Speaker
Twenty-Fourth Guam Legislature
Guam Legislature Temporary Building
155 Hesler Street
Agana, Guam 96910

OFFICE OF THE LEGISLATIVE SECRETARY
ACKNOWLEDGMENT RECEIPT
Received By: <u>[Signature]</u>
Time: <u>10:57am</u>
Date: <u>5-15-97</u>

Dear Speaker Unpingco:

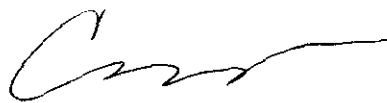
Enclosed please find a copy of Substitute Bill No. 151 (COR), "AN ACT TO ADD A NEW CHAPTER 77 TO TITLE 10 OF GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM POLICE DEPARTMENT.", which I have signed into law today as **Public Law No. 24-23**.

This legislation represents the first time since the passage of the Organic Act that Guam has successfully enacted a comprehensive statute providing for a Guam Police Department. I am very pleased to sign this legislation into law on the occasion of the celebration of "Police Week".

Although in the past there were few laws on the books describing the Guam Police Department, the dedicated men and women who are "Guam's finest" have nevertheless made great strides in the field of law enforcement. The enactment of this legislation will further these accomplishments.

I know that over the coming years, as this legislation is put into effect, that more refinements will be made to this enabling legislation, and that the field of law enforcement, in all its variety, will advance to achieve its goals of the security and protection of the people of Guam.

Very truly yours,


Carl T. C. Gutierrez
Governor of Guam

Attachment 00203

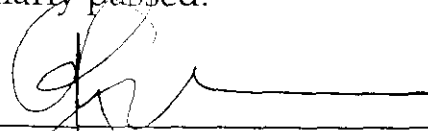
cc: The Honorable Joanne M. S. Brown
Legislative Secretary

Office of the Speaker
ANTONIO R. UNPINGCO)
Date: 5/15/97
Time: 10:10am
Rec'd by: [Signature]
Print Name: Charlene Fuentes

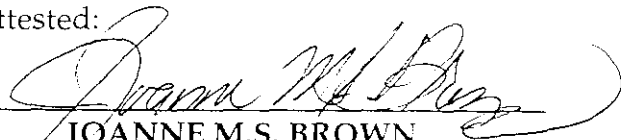
TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO THE GOVERNOR

This is to certify that Substitute Bill No. 151 (COR), "AN ACT TO ADD A NEW CHAPTER 77 TO TITLE 10 OF THE GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM POLICE DEPARTMENT," was on the 6th day of May, 1997, duly and regularly passed.

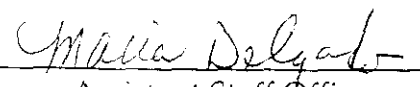


ANTONIO R. UNPINGCO
Speaker

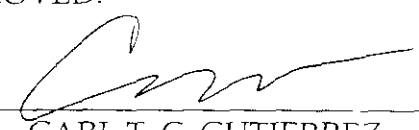
Attested:


JOANNE M.S. BROWN
Senator and Legislative Secretary

This Act was received by the Governor this 8th day of May, 1997, at
12:35 o'clock P.M.



Assistant Staff Officer
Governor's Office

APPROVED:


CARL T. C. GUTIERREZ
Governor of Guam

Date: 5-14-97

Public Law No. 24-23

TWENTY-FOURTH GUAM LEGISLATURE
1997 (FIRST) Regular Session

Bill No. 151 (COR)

As substituted by the Author and amended by the Committee on Judiciary, Public Safety and Consumer Protection, and as further amended on the floor.

Introduced by:

E. Barrett-Anderson

A. C. Blaz

L. F. Kasperbauer

AN ACT TO ADD A NEW CHAPTER 77 TO TITLE
10 OF THE GUAM CODE ANNOTATED,
RELATIVE TO ESTABLISHING THE GUAM
POLICE DEPARTMENT.

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

2 Section 1. A new Chapter 77 is added to Title 10 Guam Code
3 Annotated to read as follows:

4 "CHAPTER 77.

5 Guam Police Department.

6 Section 77101. Definitions. As used in this Chapter:

7 (a) 'Crimes' for which criminal offender information is required
8 means any offense as defined in Title 9 GCA §1.18(a);

9 (b) 'Criminal justice agency' means any agency of the
10 government of Guam or U.S. Government having law enforcement
11 functions.

12 (c) 'Criminal offender information' means records and related
13 data, fingerprints received and compiled by the Department for

1 purposes of identifying criminal offenders and alleged offenders,
2 records of arrests and the nature and disposition of criminal charges,
3 including sentencing, confinement and release, but such information
4 shall be restricted to that recorded as the result of the initiation of a
5 criminal proceeding or of any related later proceedings.

6 (d) 'Department' means the Guam Police Department
7 established pursuant to Section 77102 of this Chapter;

8 (e) 'Law enforcement agencies' means police departments of
9 any state or possession of the United States or a law enforcement agency
10 of the federal government;

11 (f) 'Police officer' means an employee of the department, who is
12 charged with preserving the public peace and enforcing laws and court
13 orders, and is appointed pursuant to this Chapter and as defined in 8
14 GCA §5.55(c), or is a civilian volunteer police reserve appointed
15 pursuant to 10 GCA Chapter 66.

16 **Section 77102. Guam Police Department.** (a) There is established
17 within the executive branch of the government of Guam the Guam Police
18 Department.

19 (b) The director or head of the Guam Police Department shall be
20 known as the 'Chief of Police,' which shall be an unclassified position
21 appointed by the Governor, subject to confirmation by the Guam Legislature.

22 (c) The deputy director of the Guam Police Department shall be
23 known as the 'Deputy Chief of Police', which shall be an unclassified position
24 appointed by the Chief of Police.

1 **Section 77103. Powers and Duties of Department.** (a) The
2 Department is charged with the enforcement of all criminal laws. Each police
3 officer is authorized to:

- 4 (1) Protect life and property;
- 5 (2) Enforce the law;
- 6 (3) Prevent crime;
- 7 (4) Preserve the peace;
- 8 (5) Arrest violators pursuant to Title 8 Guam Code Annotated;
- 9 (6) Serve the public;
- 10 (7) Conduct searches and seizures of property pursuant to Title
11 8 Guam Code Annotated; and
- 12 (8) Perform the duties of a peace officer.

13 (b) The Department is authorized to cooperate with any Federal,
14 state, national or international law enforcement agency, including any law
15 enforcement entity of any possession of the United States, where a reciprocal
16 agreement exists in detecting crime, apprehending criminal offenders and
17 preserving law and order.

18 (c) The Guam Police Department shall have jurisdiction within the
19 Territory of Guam over all lands, whether titled to the government or not,
20 including submerged lands, all waterways whether navigable or not, and
21 over all air space above such land and waterways with respect to which the
22 Territory has jurisdiction.

23 **Section 77104. Department to Enforce Highway Safety.** The
24 Department shall enforce all laws relating to the operation of vehicles on
25 public roadways within the Territory. A police officer is authorized to arrest

1 or cite persons violating any provision of Title 16, Guam Code Annotated,
2 Guam Vehicle Code.

3 **Section 77105. Department to Enforce Governmental Regulations.**
4 The Department, upon the request of any other branch or department of the
5 government, may enforce criminal laws or any regulation which such branch
6 or department is charged to enforce.

7 **Section 77106. Commanding Assistance of Citizens.** The Chief of
8 Police may establish guidelines, with the approval of the Attorney General,
9 enabling a police officer in an emergency to direct and command the
10 assistance of any able-bodied person to aid in maintaining law and order.

11 **Section 77107. Power of the Chief of Police.** The Chief of Police shall
12 have the following duties:

13 (a) to adopt, internal standard operating procedures, general
14 orders or directives, administrative and operational standards, and
15 subject to the provisions of the Administrative Adjudication Law, rules
16 and regulations for the conduct and efficient operation of the
17 Department;

18 (b) to prepare the Department's annual budget for approval by
19 the Governor and submission to the Guam Legislature;

20 (c) to submit an annual report to the Governor and the Guam
21 Legislature;

22 (d) to receive, consider and investigate allegations brought by
23 the public concerning any conduct of the Department through its
24 officers or employees, and to take appropriate action thereon;

25 (e) to maintain a chronology of information concerning the

1 effectiveness of the Department's operation;

2 (f) to require the Department to maintain pace with current
3 professional developments and community standards; and

4 (g) to adopt appropriate rules, guidelines and policies to insure
5 the Department's responsiveness to the safety, security and peace-
6 keeping needs of the community.

7 **Section 77108. Authority to Hire Attorney.** (a) the Department may
8 employ an attorney to assist and represent it in all civil matters. The Attorney
9 General shall represent the Department in litigation in which the Department
10 is interested, provided that the Attorney General may designate the
11 Department's attorney as a Special Assistant Attorney General for this
12 purpose.

13 (b) The Department may set the terms and conditions of employment
14 for the attorney, the compensation of which shall be established in accordance
15 with 4 GCA §6208 as a full-time employee, or as an independent consultant,
16 or may utilize the services of a law firm. The attorney shall be admitted to the
17 practice of law in the Territory of Guam.

18 **Section 77109. Appointment of the Chief of Police.** The Chief of Police
19 shall be appointed by the Governor with the advice and consent of the Guam
20 Legislature and shall meet the following qualifications:

21 (a) be at least thirty-five (35) years of age; and

22 (b) have no less than fifteen (15) years of progressive experience
23 in a governmental law enforcement position, including at least five (5)
24 years at the supervisory command level and five (5) years in a senior
25 position with law enforcement management responsibilities; and either

1 (c) graduation with a bachelor's degree in Police Science,
2 Criminal Justice Administration or closely related field or discipline at a
3 nationally accredited institution; or

4 (d) graduation from a recognized enforcement management
5 training institution, including, but not limited to, the FBI National
6 Academy or the Northwestern Traffic Institute Police Staff Command
7 Course, or nationally recognized law enforcement management
8 institution; and

9 (e) have no felony, domestic or family violence convictions; and

10 (f) submit to and pass a drug screening test, including but not
11 limited to, urinalysis testing; and

12 (g) be of good health and good moral character; and

13 (h) submit to psychological testing; and

14 (i) submit to and pass a polygraph examination.

15 (j) No person shall be appointed as Chief of Police before a
16 thorough investigation of the appointee's background and moral
17 character is completed.

18 **Section 77110. Appointment of Deputy Chief of Police.** The Chief of
19 Police shall appoint a Deputy Chief of Police who shall occupy a position in
20 the unclassified service. The Deputy Chief of Police shall perform the duties
21 as designated by the Chief of Police. The Deputy Chief shall meet the
22 following qualifications:

23 (a) be at least thirty-five (35) years of age; and

24 (b) have no less than ten (10) years of progressive management
25 experience in local or Federal governmental law enforcement, including

1 at least three (3) years in an executive command level position; and
2 either

3 (c) graduated with a bachelor's degree in Police Science,
4 Criminal Justice Administration, or closely related field or discipline, at
5 a nationally accredited institution; or

6 (d) graduated from a recognized law enforcement management
7 training institution, including, but not limited, to the FBI National
8 Academy or the Northwestern Traffic Institute Police Staff Command
9 Course, or nationally recognized law enforcement management
10 institution; and

11 (e) have no felony, domestic or family violence conviction; and

12 (f) submit to and pass a drug screening test, including, but not
13 limited to, a urinalysis test; and

14 (g) be of good health and good moral character; and

15 (h) submit to psychological testing; and

16 (i) submit to and pass a polygraph examination.

17 (j) No person shall be appointed as Deputy Chief of Police
18 before a thorough investigation of the appointee's background and
19 moral character is completed.

20 **Section 77110.1. Police Commander.** The Chief of Police shall select a
21 'Police Commander,' who shall be a uniformed classified officer to hold the
22 rank of Colonel. The Police Commander shall meet the following minimum
23 qualifications, in addition to those prescribed by the Civil Service
24 Commission:

25 (a) be at least thirty (30) years of age; and

1 (b) graduated with a bachelor's degree in Police Science,
2 Criminal Justice Administration, or closely related field or discipline, at
3 a nationally accredited institution; and

4 (c) have no felony, domestic or family violence conviction; and

5 (d) submit to and pass a drug screening test, including, but not
6 limited to, a urinalysis test.

7 **Section 77111. Oath of Chief of Police and Deputy Chief of Police.**

8 The Chief of Police and Deputy Chief of Police, before assuming their duties,
9 each shall take and subscribe to an oath of office.

10 **Section 77112. Powers and Duties of the Police Commander.** In the
11 absence or incapacity of the Chief of Police, the Police Commander shall
12 possess all the powers of the Chief of Police, act as the head of the
13 Department, and shall further perform such additional duties as the Chief of
14 Police may prescribe. In the absence of either the Chief of Police, or the Police
15 Commander, the Deputy Chief of Police shall be the acting Chief of Police.

16 **Section 77113. Department; Appointment; Examination and Selection**
17 **of Applicants.** The Chief of Police shall appoint a police force consisting of
18 commissioned officers, noncommissioned officers and police officers who
19 are, in the judgment of the Chief of Police, necessary to the performance of the
20 duties of the Department. The Chief of Police shall, in accordance with the
21 laws of the Territory, arrange for the examination and selection of applicants,
22 and to establish ranks and grades.

23 **Section 77114. Minimum Qualifications.** (a) Notwithstanding
24 other provisions of law to the contrary, persons appointed as police officers
25 shall:

- 1 (1) be a resident of the Territory of Guam and a U.S. citizen;
- 2 (2) be of good health and good moral character;
- 3 (3) be over the age of nineteen (19) years;
- 4 (4) be a high school graduate or equivalent, but the Chief of
- 5 Police may set higher academic qualifications for all applicants as the
- 6 Chief of Police considers necessary;
- 7 (5) submit to and pass a drug screening test, including but not
- 8 limited to a urinalysis test;
- 9 (6) submit to psychological testing; and
- 10 (7) submit to and pass a polygraph examination.

11 (b) No person shall be appointed a police officer who has not
12 established satisfactory evidence of qualifications by passing physical and
13 written examinations based upon standards relevant to the duties to be
14 performed, which standards shall be established by the Chief of Police. If in
15 the Chief of Police's judgment, and in the best interest of the Department, the
16 Chief of Police may waive the physical standards established for the position.

17 (c) No person shall be appointed a police officer who has been
18 convicted in any civilian or military court of a felony, a crime involving moral
19 turpitude, a crime of domestic or family violence, or who has been
20 administratively pardoned of any crime.

21 (d) No person shall be appointed a police officer before a thorough
22 investigation of the applicant's background and moral character is completed.

23 (e) A police officer dismissed for cause shall be permanently
24 ineligible for reappointment to any position in the Department. An officer
25 who resigns for the sole purpose of negating or averting a pending or

1 anticipated disciplinary action to dismiss the officer may be ineligible for
2 reappointment.

3 **Section 77115. Oath of Police Officer.** Each police officer shall take
4 and subscribe to the following oath of office:

5 'I solemnly swear (or affirm) that I will faithfully support
6 the Constitution of the United States, the laws of the
7 United States applicable to Guam, and the laws of Guam,
8 and that I will conscientiously and impartially discharge
9 my duties as an officer of the Guam Police Department.'

10 **Section 77116. General Orders or Directives.** The Chief of Police, or
11 the Chief of Police's designee, shall prescribe by general order or directive the
12 necessary instructions to Department employees as to their official duties,
13 functions and responsibilities.

14 **Section 77117. Restrictions on Police Officers; Personal and**
15 **Property Rights of Others; Political Contests.** (a) All police officers are
16 subject to the following restrictions:

17 (1) no police officer shall in any way interfere with the rights or
18 property of any person, except where such interference is permitted by
19 law;

20 (2) no police officer shall accept any other employment which
21 will conflict with the police officer's duties as a member of the Guam
22 Police Department;

23 (3) no police officer shall make any loan or gift of money to any
24 other police officer exceeding an annual aggregate monetary value of
25 Two Hundred Fifty Dollars (\$250.00), and

1 (4) notwithstanding any law to the contrary, no police officer
2 shall in any way be active or participate in any political contest of any
3 general or special election, except to cast the police officer's own ballot.
4 Except as may be required to enforce the law or to cast the officer's own
5 vote, no police officer shall remain in or about a voting precinct.

6 **Section 77118. Performance Reports and Records.** Under rules and
7 regulations promulgated by the Chief of Police, all police officers shall be
8 required to keep a record of the time spent in the performance of their various
9 duties and to report the same as the Chief of Police shall order.

10 **Section 77119. Assignment of Police Officers.** The Chief of Police, or
11 his designee, may assign police officers consistent with the needs of the
12 Department to the villages so as to be the most efficient in carrying out the
13 purposes of the Department to preserve the peace, to enforce the law and to
14 prevent and detect crime.

15 **Section 77120. Headquarters and Police Stations.** With the approval of
16 the Governor, the Chief of Police may establish headquarters and police
17 stations at such places as permitted by law and as may be advisable for the
18 protection of the people. With the approval of the Governor, the Chief of
19 Police may use government lands and buildings for the accommodation of
20 police officers and their vehicles and equipment.

21 **Section 77121. Uniform, Insignia and Badge of Guam Police.**

22 (a) The government of Guam shall provide police officers with
23 standard uniforms. Subject to detailed regulations and specifications
24 prescribed by the Chief of Police, the uniform shall be of standard pattern and
25 distinctive design.

1 (b) The badge shall be a shield measuring approximately three and
2 one-half (3 1/2) inches in length, in the center of which shall be imposed in
3 relief, a facsimile of the seal of the Territory of Guam. The badge issued to
4 commissioned officers shall be of a composition metal in similitude of gold,
5 and that issued to other officers shall be of a composition metal in similitude
6 of silver.

7 **Section 77122. Use of Uniform.** The Chief of Police shall direct
8 appropriate uniform use.

9 (a) The Chief of Police shall identify uniformed activity and direct the
10 use of uniforms by Departmental personnel.

11 (b) The Chief of Police may direct that certain police officers serve in
12 civilian clothing.

13 **Section 77123. Wearing Uniform by other Persons Prohibited.** (a) No
14 person other than a police officer shall wear, use or order to be worn or used,
15 copy or imitate in any respect or manner the standard uniform and badge.

16 (b) Any person violating this Section is guilty of a misdemeanor and
17 shall be punished by a fine of not more than Five Hundred Dollars (\$500.00)
18 or by imprisonment for not more than six (6) months, or both.

19 **Section 77124. Supplies and Equipment of the Department.** The
20 government shall provide the police officers with emergency and first aid
21 outfits, weapons, motor vehicles, and all other supplies and equipment
22 necessary to carry out the mission of the Department. All such property shall
23 remain the property of the government. When any Department property,
24 supplies or equipment becomes surplus, obsolete or unused, it shall be
25 disposed of as provided by law.

1 **Section 77125. Damage or Loss of Property by Neglect; Deduction**
2 **from Pay.** (a) The Chief of Police may take disciplinary action against any
3 member of the Department who:

4 (1) while making unauthorized use of Department
5 property, causes loss or damage to the property; or

6 (2) while making authorized use of Department property,
7 is grossly negligent in using or caring for the property and
8 causes loss or damage to the property.

9 (b) If it is shown to the satisfaction of the Chief of Police that the
10 property was lost or damaged in any manner described in Subsection (a) of
11 this Section, there shall be incrementally deducted from the pay of the
12 responsible member the amount of money necessary to repair or replace the
13 article, or articles, damaged, lost or destroyed based upon the value at the
14 time of loss or damage.

15 **Section 77126. Accountability of Funds.** (a) The Chief of Police shall
16 adopt regulations to insure that public funds appropriated to the Department
17 are subject to strict accountability under generally accepted accounting
18 practices.

19 (b) No police officer shall make any payment of public funds to any
20 person without maintaining an accurate record of the date and amount paid
21 and the identity of the person to whom disbursement was made and the
22 purpose therefor.

23 (c) Before any vice funds can be expended, the Chief of Police must
24 authenticate any request for funds. If the Chief of Police finds that the funds
25 have been disbursed in an unauthorized manner, he may discipline the

1 officers involved, but the identity of the person to whom the disbursement
2 was made may be confidential.

3 (d) Any person violating Subsection (b) of this Section is guilty of a
4 misdemeanor and shall be punished by a fine or not more than One Thousand
5 Dollars (\$1,000.00) or by imprisonment for not more than one (1) year, or
6 both.

7 **Section 77127. Organization of Department.** The Chief of Police
8 shall, so far as is practicable and expedient to do so, organize the work of the
9 Department so that:

10 (a) the various duties required of the Department may be
11 assigned to appropriate divisions to be performed by persons
12 experienced and qualified for such respective kinds of work;

13 (b) the duties of police officers are coordinated so that when an
14 officer is not engaged in particular duty specified or directed to be done,
15 or not then requiring attention, such officer shall perform the other
16 duties required by the Department; and

17 (c) the cooperation of other officers and employees may be
18 secured for the purposes of avoiding duplication of time and effort.

19 **Section 77128. Fingerprints, Identifying Data, Disposition Report**
20 **Required.** (a) Immediately upon the arrest of a person for a crime, the
21 Department shall place the required fingerprints and identifying data on
22 forms prescribed or furnished by the Department, photograph the arrested
23 person, and promptly transmit the form and photograph to the appropriate
24 division.

1 (b) The Department may record, in addition to fingerprints, the palm
2 prints, sole prints and toe prints, or other personal identifiers, when, in the
3 discretion of the Department, it is necessary to effect identification of the
4 persons, or to the investigation of the crime charged.

5 **Section 77129. Confidentiality of Records.** The fingerprints,
6 photographs, records and police reports compiled under this Chapter are
7 confidential and exempt from public inspection except:

8 (a) as ordered by a court; or

9 (b) as provided in the 'Freedom of Information Act' or
10 'Sunshine Act'; or

11 (c) as required or provided for under Federal law.

12 **Section 77130. Reporting of Crime Statistics.** The Chief of Police shall
13 report to the Governor and the Guam Legislature statistics concerning crimes
14 in the Territory of Guam:

15 (a) as directed by the Governor for purposes of the National
16 Incident Based Reporting System;

17 (b) as otherwise directed by the Governor concerning general
18 categories of criminal activities, but not individual criminal records; or

19 (c) as requested by the Legislative Chairperson with oversight
20 jurisdiction.

21 **Section 77131. Establishment of Procedures for Access to Criminal**
22 **Record Information.** (a) Subject to the provisions of 8 GCA Chapter 11, the
23 Chief of Police shall promulgate rules in accordance with the Administrative
24 Adjudication Law, establishing procedures:

1 (1) limiting access of information to criminal justice
2 agencies when the information is required to perform a duty or
3 function expressly required by statute, and

4 (2) providing for purging or expunging of inaccurate and
5 incomplete arrest, charge and disposition information.

6 (b) As needed to implement rules promulgated pursuant to
7 Subsection (a) of this Section, the Chief of Police may adopt or issue
8 supplemental orders and directives.

9 **Section 77132. Restrictions on Reporting.** (a) Neither the Department
10 nor a police officer shall make or engage in any investigation of political
11 activity.

12 (b) Any person violating this Section shall be guilty of a misdemeanor
13 and shall be punished by a fine of not more than One Thousand Dollars
14 (\$1,000.00) or by imprisonment for not more than one (1) year, or both.

15 **Section 77133. Reporting Police Officer Violations.** (a) Any person
16 may file a complaint with any police officer alleging the commission of a
17 crime on the part of a police officer or employee of the Department. A police
18 officer shall, upon receipt of any credible information alleging the commission
19 of a crime by any police officer or Department employee, forward within
20 forty-eight (48) hours the information so received to the Chief of Police. The
21 Chief of Police shall forward the alleged violations to the 'Internal Affairs'
22 unit of the Department, and shall further forward a copy of the alleged
23 violations to the Attorney General.

24 (b) The Chief of Police shall within thirty (30) working days of receipt
25 of the information described in Subsection (a) of this Section, prepare a

1 statement open to the public indicating the preliminary disposition of the
2 allegation. The Chief of Police shall prepare a summary of all allegations filed
3 and their final disposition in the Department's annual report.

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

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

12 **Section 77134. Fees.** (a) The Chief of Police may prescribe in
13 accordance with the Administrative Adjudication Law fees to be charged and
14 collected by the Department that are directly related to the need of the agency
15 to recover administrative costs in servicing the public. These fees shall be
16 deposited in a special account known as the 'Police Services Fund,'
17 established separate and apart from the General Fund to be administered by
18 the Director of Administration for the benefit of the Guam Police Department.
19 The Guam Legislature shall make appropriations from the 'Police Services
20 Fund' for the purpose of funding the general operational needs of the Guam
21 Police Department on a fiscal year basis. These funds, once appropriated to
22 the Department, are not subject to the transfer authority of the Governor.

23 (b) As used in this Subsection, 'administrative costs in servicing the
24 public' means costs incurred in providing administrative services, such as
25 issuing licenses or permits, providing police clearances for private parties and

1 taking finger prints, but does not include performing essential crime
2 prevention and law enforcement duties described in Section 77103 of this
3 Chapter.”

4 **Section 2.** Section 4102(a)(5) of Title 4 of the Guam Code Annotated is
5 repealed and re-enacted to read:

6 “§4102(a)(5). The first assistant, by whatever title denominated, to
7 the heads of agencies and instrumentalities stated in paragraph (4) of
8 this Subsection;”

9 **Section 3.** All provisions of Title 5 GCA §3103 inconsistent with this Act
10 are repealed.

11 **Section 4.** All provisions of Title 10 GCA §56102 inconsistent with this
12 Act are repealed.

13 **Section 5. Effective Date.** This Act shall take effect upon enactment.

14 **Section 6. Severability.** If any provision of the Act or the application
15 thereof to any person or circumstances is held invalid, the invalidity does not
16 affect other provisions or applications of this Act, which can be given effect
17 without the invalid provision or application, and to this end the provisions of
18 this Act are severable.



Committee on Judiciary, Public Safety
and Consumer Protection
Twenty-Fourth Guam Legislature



Senate Elizabeth Barrett-Anderson
Chairperson

Senate John C. Blas
Vice-Chairman

Senate Anthony L. Blaz
Member

Senate Joanne S. Brown
Member

Senate Mark Desrosiers
Member

Senate Edward Cruz, M.D.
Member

Senate Vicente Pangelinan
Member

Senate Frank Aguon, Jr.
Member

Chairperson

Attachments

April 14, 1997

SPEAKER ANTONIO R. UNPINGCO
Twenty-Fourth Guam Legislature
155 Hesler St.
Agana, Guam 96910

Dear Mr. Speaker:

The Committee on Judiciary, Public Safety and Consumer Protection, to which was referred **Bill No. 151**, wishes to report back to the Legislature with its recommendation **TO DO PASS Bill No. 151 as substituted by the Author and further amended by the Committee.**

The voting record is as follows:

<u>6</u>	TO PASS
<u>—</u>	NOT TO PASS
<u>—</u>	ABSTAIN
<u>—</u>	TO PLACE IN INACTIVE FILE

Copies of the Committee Report and other pertinent documents are attached.

Your attention to this matter is greatly appreciated.

Sincerely,

ELIZABETH BARRETT-ANDERSON
Chairperson,



Committee on Judiciary, Public Safety
and Consumer Protection
Twenty-Fourth Guam Legislature

Senator
Elizabeth Barrett-Anderson
Chairperson

Senator
John C. ...
Vice-Chairman

Senator
Anthony Blaz
Member

Senator
Joanne ... Brown
Member

Senator
Mark ...
Member

Senator
Edward ... Cruz, M.D.
Member

Senator
Vicente ... Pangelinan
Member

Senator
Frank ... Aguon, Jr.
Member

April 14, 1997

MEMORANDUM

TO: Members
FROM: Chairperson
SUBJECT: Committee Report - **Bill No. 151**

Transmitted herewith for your information and action is the Committee on Judiciary, Public Safety and Consumer Protection's Report on the subject Bill No. 151.

The narrative report is accompanied by the following:

1. Committee voting sheet;
2. Committee Narrative Report;
3. Bill No. 151 "as substituted by the Author and further amended by the Committee";
4. Written Testimony and Witness Sign-in Sheet for Public Hearing, April 9, 1997 (attachments E-I);
5. Written Testimony and Witness Sign-in Sheet for Public Meeting, March 4, 1997 (attachments A-D);
6. Public hearing notices;
7. Bill No. 151 as introduced
8. Fiscal Note.

Should you have any questions on the narrative report or the accompanying documents, I would be most happy to provide any further clarification to your inquiries.

Please take the appropriate action on the attached voting sheet and return the documents to my office for transmittal to the other members.

Your attention and cooperation on this matter is greatly appreciated. Si Yu'os Ma'åse'.

Sincerely,


ELIZABETH BARRETT-ANDERSON
Chairperson

COMMITTEE ON JUDICIARY, PUBLIC SAFETY AND
 C O N S U M E R P R O T E C T I O N
 T W E N T Y - F O U R T H G U A M L E G I S L A T U R E

173 ASPINALL AVENUE, ADA PLAZA CENTER SUITE 108A, AGANA, GUAM 96910

SENATOR ELIZABETH BARRETT-ANDERSON
 Chairperson

SENATOR JOHN C. SALAS
 Vice-Chairperson

SPEAKER ANTONIO R. UNPINGCO
 Ex-Officio Member

VOTING SHEET

BILL No. 151 (As substituted by the Author and as further amended by the Committee on Judiciary, Public Safety & Consumer Protection)

“AN ACT TO ADD A NEW CHAPTER 77 TO
 TITLE 10 GCA, RELATIVE TO ESTABLISHING
 THE GUAM POLICE DEPARTMENT.”

<u>COMMITTEE MEMBERS</u>	<u>TO PASS</u>	<u>NOT TO PASS</u>	<u>ABSTAIN</u>	<u>TO PLACE IN INACTIVE FILE</u>	<u>INITIAL</u>
1). Sen. Elizabeth Barrett-Anderson Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>EB</i>
2). Sen. John C. Salas Vice-Chairperson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>Salas</i>
3). Sen. Frank B. Aguon, Jr. Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>
4). Sen. Anthony C. Blaz Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>
5). Sen. Joanne M.S. Brown Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>
6). Sen. Edwardo J. Cruz M.D. Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>
7). Sen. Mark Forbes Member	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>
8). Sen. Vicente C. Pangelinan Member	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<i>[Signature]</i>

TWENTY FOURTH GUAM LEGISLATURE
Committee on Judiciary, Public Safety and Consumer Protection
ELIZABETH BARRETT-ANDERSON, CHAIRPERSON

Committee Report
on

**Bill No. 151: AN ACT TO ADD A NEW CHAPTER 77 TO TITLE 10
OF THE GUAM CODE ANNOTATED, RELATIVE TO
ESTABLISHING THE GUAM POLICE DEPARTMENT.**

**I. SUMMARY OF PUBLIC HEARING MARCH 4,
1997.**

1. The Committee on Judiciary, Public Safety and Consumer Protection held a public hearing on Tuesday, March 4, 1997 at 1:30 p.m. on Bill No. 151 at the Committee on Judiciary, Public Safety and Consumer Protection public hearing room. Public Notice was announced in the March 1 & 4, 1997 issues of the Pacific Daily News.

Committee Members Present at the Public Hearing:

Senator Elizabeth Barrett-Anderson, Chairperson
Senator John C. Salas, Vice-Chairperson
Senator Edward J. Cruz M.D.
Senator Vicente C. Pangelinan
Senator Frank Aguon

Providing Public Testimony on the Bill at the Public Hearing:

Jack Shimizu, **oral/written** (attachment "A & D")
Phil Tydingco, **oral/written** (attachment "B")
Ed Kabina, **oral/written** (attachment "B")
Earl Aguigui, **written** (attachment "C")

Background:

Bill No. 151 as introduced is a significantly amended version of Bill 467 originally introduced in the Fourteenth Guam Legislature. Bill 467 was recommended by the Select Committee on Police Corruption, Fourteenth Guam Legislature. *Senator Barrett-*

Anderson met with the Chief of Police, Jack Shimizu and they agreed to mutually review a draft Police Act prior to its introduction. As a result of this agreement, several refinements were made to the draft Police Act and a review of the final draft was performed by the Chief of Police and his staff after which Bill 151 was introduced.

Purpose:

The Purpose of this Bill is to enact a comprehensive measure to formally establish a Guam Police Department and to provide a clear statutory framework for its organization and operation.

II. Summary of Testimony at Public Hearing March 4, 1997.

**MR. JACK SHIMIZU
CHIEF OF POLICE**

Mr. Shimizu testified in **support** of Bill No. 151 with recommended changes. He stated that the Guam Police Department (GPD) has waited a long time for an enabling act that outlines the duties and responsibilities of the Department. Chief Shimizu submitted *twenty-five (25) amendments for the Committee to consider*. Chief Shimizu stated that currently the Department is currently governed by General Orders and Special Orders that are subject to change by the Chief, with the proposed enabling act the Department will have law for guidance. He cited jurisdictional conflict problems with other agencies, giving the example of route 10A and the Guam Airport Police, and stated that legislation could clarify these types of problems.

Mr. Shimizu relayed that the minimum qualifications for the unclassified Deputy Chief position should be ten (10) years experience in progressive management, no felony convictions, no convictions for family or domestic violence and a minimum age requirement of 35 years. (See attachment "D")

Mr. Shimizu stated he would like to set a high standard for police recruitment with a zero-tolerance drug policy.

**PHIL TYDINGCO
LEGAL COUNSEL, GUAM POLICE DEPARTMENT**

Mr. Tydingco testified in **support** of Bill No. 151 with the suggested 25 amendments submitted. (See attachment "B") He informed the Committee that the amendments that

were submitted were developed from the input of many GPD officers. Mr. Tydingco stated that currently there is statutory as well as Organic Act authority that governs the Department, however, it is scattered throughout the Guam Code Annotated. Mr. Tydingco stated that the bill formalizes the establishment of the Department and expressly states the duties and responsibilities of the Department.

**ED KABINA
CAPTAIN, GUAM POLICE DEPARTMENT**

Mr. Kabina testified in **support** of Bill No. 151 with the suggested 25 amendments submitted. (See attachment "B") He stated that the amendments were a product of the staff officers of GPD, a group effort. Mr. Kabina testified that General Orders are placed through a process of staff officers for input before a General Order is approved. He recommended that the proposed unclassified Deputy Chief of Police, organizationally be slotted in the number two position, to address administrative matters and that the Colonel be under the Deputy's command, to address uniform staff matters.

Captain Kabina testified that the adverse action procedures have been a loophole problem at GPD, employee's under investigation for a proposed adverse action would resign from the Department only to be reemployed once the 60 day time limit has expired. GPD's proposed amendment No. 17 is designed to close the loophole stated Captain Kabina.

**ELIZABETH BARRETT-ANDERSON
CHAIRPERSON, COMMITTEE ON JUDICIARY,
PUBLIC SAFETY AND CONSUMER AFFAIRS**

Senator Barrett-Anderson stated that when people think of GPD they generally have an idea that GPD's jurisdiction is to keep us safe, arrest criminals and to investigate crimes and yet nothing in Guam law gives GPD that jurisdiction, therefore we should stop assuming what GPD's jurisdiction is and place it into the statutes. She stated that statutory language would assist in clarifying jurisdictional conflicts between other branches of government.

The Senator suggested that with regard to adverse action procedures the 60 day time period should be tolled if the employee chooses to resign during an investigation. Tolling the time period for administrative adverse action would eliminate the use of the resignation process to escape adverse action procedures, the Chairperson stated.

**JOHN C. SALAS
VICE-CHAIRPERSON, COMMITTEE ON JUDICIARY,
PUBLIC SAFETY AND CONSUMER AFFAIRS**

Senator Salas stated the proposed GPD language regarding recruiting may be too narrow and that GPD may want to consider all those eligible to work legally in the United States.

Salas voiced his concern regarding GPD's proposed amendment No. 22 stating that the body needed to be cautious in the area of wage deduction.

EDUARDO J. CRUZ
SENATOR, COMMITTEE MEMBER

Senator Cruz stated that he agreed with the Chief that a Deputy Chief is needed, similar to other line agencies. He stated that the minimum qualifications for Deputy Chief should be placed in the Bill.

VICENTE C. PANGELINAN
SENATOR, COMMITTEE MEMBER

Senator Pangelinan stated that with regard to the unclassified Deputy Chief position, a school of thought is that one may want to divorce the administration of law from politics because of the nature of the job, the amount of discretionary authority and the control over the lives of individuals as compared to a deputy director of other agencies. He stated the Deputy position of GPD should be without any hint or appearance of political manipulation with regard to the enforcement of the law. The Senator cautioned GPD's wording of amendment No. 15 allowing residents of the "Federated States of Micronesia" versus "Free Associated States".

Senator Pangelinan stated that the civil rights of employees must be protected with regard to adverse action proceedings, emphasizing there must be a presumption of innocence.

FRANK B. AGUON
SENATOR, COMMITTEE MEMBER

Senator Aguon stated that he **supported** Bill No. 151 and any bill that would help enhance the capability of the Guam Police Department and our peace officers in carrying out their duties and responsibilities of ensuring the safety of the community.

Senator's Action

Senator Elizabeth Barrett-Anderson adopted the following amendments proposed by GPD:

Amendment number 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15(2)(3)(5)(6), 17, 18, 21(a)(b) and 23.

Senator Elizabeth Barrett-Anderson's substitute Bill adopted with modification the following amendments proposed by GPD:

Amendment number 15(4)(7), 16, 17, 22, 24, 25

After considering the public meeting testimony on the Bill, the bill was substituted by the Author. The substitute version includes those GPD proposed amendments listed in this section, and amendments recommended by the Committee's Legal Counsel.

III. SUMMARY OF PUBLIC HEARING ON APRIL 9, 1997, ON BILL 151 AS SUBSTITUTED BY THE AUTHOR.

The Committee on Judiciary, Public Safety and Consumer Protection held a public hearing on Wednesday, April 9, 1997 at 10:00 a.m. on Bill No. 151 as substituted by the Author at the Legislature public hearing room. Public Notice was announced in the April 2 & 8, 1997 issues of the Pacific Daily News

Committee Members Present at the Public Hearing:

Senator Elizabeth Barrett-Anderson, Chairperson
Senator John C. Salas, Vice-Chairperson
Senator Edward J. Cruz M.D.
Senator Vicente C. Pangelinan
Senator Frank Aguon

Senators Present:

Senator Thomas C. Ada
Senator Lou A. Leon Guerrero

Providing Public Testimony on the Bill at the Public Hearing:

Jack Shimizu, **oral**
Ed Kabina, **oral**
Adolf Sgambelluri, **oral/ written** (attachment "E")
Raj Sood, **oral**
Ben Ada, **oral**
Eddie Duenas, **oral**
Nobert Perez, **oral**
Eloy Hara, **oral** (attachment "F")
Jacob Cruz, **oral**
Phil Tydingco, **oral**
Dr. Judith Guthertz **written** (attachment "G")
Jose Mariano **written** (attachment "H")

Albert Topasna **written** (attachment "I")

Present at the Public Hearing and signing in support of Bill 151 but not giving any written or oral testimony: (see attached sign in sheet)

James Marques
Paul Suba, **oral**
Joe Mafnas, **oral**

IV. Summary of Testimony at Public Hearing April 9, 1997.

MR. JACK SHIMIZU CHIEF OF POLICE

Mr. Shimizu testified in **support** of Bill No. 151 as substituted by the Author. Chief Shimizu recommended some changes be made to the substituted version. He stated that the age requirement for the Deputy Chief should be increased to a minimum of 35 years of age and anyone who has been convicted of a felony, domestic or family violence should be prohibited from qualifying for the position of Chief or Deputy.

Chief Shimizu testified that he would prefer some discretion in relation to § 77114(e), relative to the Chief's reappointment authority regarding resignations. Mr. Shimizu suggested replacing the word "shall" with "may".

Mr. Shimizu suggested deleting §77117 completely.

ED KABINA CAPTAIN, GUAM POLICE DEPARTMENT

Mr. Kabina testified in **favor** of Bill No. 151 as substituted by the Author. Mr. Kabina supported the Chief's suggested changes and particularly supported a minimum age requirement of 20.

ADOLF P. SGAMBELLURI PRIVATE CITIZEN/ FORMER CHIEF OF POLICE

Mr. Sgambelluri testified in **favor** of Bill No. 151 as substituted by the Author. Mr. Sgambelluri stated that the bill was an extremely important and long overdue bill. Mr. Sgambelluri submitted in writing some suggested amendments to the bill. (see attachment "E")

**VICENTE ADA
FORMER SENATOR**

Mr. Ada testified in **favor** of Bill No. 151 as substituted by the Author. Mr. Ada stated that he was on the Select Committee of a previous legislature that drafted the first version of Bill 151, then Bill 467. Mr. Ada favored the prohibition of officers loaning money to one another.

**EDDIE DUENAS
FORMER SENATOR**

Mr. Duenas testified in **favor** of Bill No. 151 as substituted by the Author, urging its enactment. Mr. Duenas was the main sponsor of Bill 128 of the Fifteenth Guam Legislature, that Bill's intent was similar to Bill No. 151's intent. Mr. Duenas testified that the Police Department currently has minimal statutory authority but the enactment of Bill No. 151 should resolve that problem.

Mr. Duenas testified that the Police Department as a front-line agency should be free from outside political influence. Mr. Duenas suggested that this could be accomplished by establishing a police commission.

**RAJ SOOD
PRIVATE CITIZEN**

Mr. Sood testified in **favor** of Bill No. 151 as substituted by the Author. Mr. Sood stated that law enforcement employees have traditionally been held to a high standard and that Bill 151 goes a long way toward achieving that standard. Mr. Sood testified that he did not support officers lending money to each other nor did he support a non-uniformed person in the number two (Deputy) position. He did support a recruitment age of 18.

**ELOY HARA
CIVIL SERVICE COMMISSION**

Mr. Hara testified in **support** of Bill 151 as substituted by the Author. Mr. Hara testified that he supports an 18 year old minimum age requirement with proper training and supervision. Additionally Mr. Hara submitted written suggestions (Attachment G) for the Committees consideration.

**NORBERT PEREZ
PRIVATE CITIZEN**

Mr. Perez testified in **favor** of Bill No. 151 as substituted by the Author, with some reservations. Mr. Perez testified that the enactment of Bill 151 would legitimize the Police Department; however, he felt that the Bill may go too far and micro manage the Department. He cited an example of the bill's micro-management stating the amount of

money (\$250.00) officers could lend to one another. Mr. Perez testified that he opposed the creation of a civilian Deputy Chief.

**JACOB CRUZ
PRIVATE CITIZEN**

Mr. Cruz testified in favor of Bill No. 151 as substituted by the Author. Mr. Cruz testified that there were some areas that he would like to see revisions. He suggested that the Bill prohibit stores from selling police uniforms to persons other than police officers. Mr. Cruz stated that he would like to see more staff police officers on the streets patrolling the area.

**PHIL TYDINGCO
LEGAL COUNSEL, GUAM POLICE DEPARTMENT/ ACTING CHIEF
PROSECTOR**

Mr. Tydingco testified in favor of Bill No. 151 as substituted by the Author. He suggest that the the committee look into §77129 and consider the confidential requirements weighed against the federal laws which may require disclosure. For example Mr. Tydingco cited "Megan's Law" or similar sex offender registration laws. Mr. Tydingco suggested that a new subsection "(c)" be added to allow for exceptions to confidentiality.

**ELIZABETH BARRETT-ANDERSON
CHAIRPERSON, COMMITTEE ON JUDICIARY,
PUBLIC SAFETY AND CONSUMER AFFAIRS**

Senator Barrett-Anderson stated that she preferred to have only residents and U.S. citizens as police officers instead of opening it to the whole population of Guam, but the issue could be debated on the floor.

**JOHN C. SALAS
VICE-CHAIRPERSON, COMMITTEE ON JUDICIARY,
PUBLIC SAFETY AND CONSUMER AFFAIRS**

Senator Salas stated that if we restrict police officers qualifications to U.S. citizens that may prohibit a resident of the Freely Associated States from working as a police officer. Senator Salas stated that he is commenting on this topic to be consistent with federal law (I-90 process); however, from a para-military point of view he can understand the issue of loyalty. Senator Salas agreed with the Chairperson that the point could be discussed on the floor.

Senator Salas commented that a 18 year old equipped with proper training and ability to pass the employment screening process can be a police officer.

VICENTE C. PANGELINAN
SENATOR, COMMITTEE MEMBER

Senator Pangelinan reemphasized his position that the police department should have the least amount of political interference as possible and thus he questions the need for a Deputy Police Chief.

V. Committee Action

After considering the testimony given at the Public Hearing on March 4, 1997, and April 9, 1997. The Committee found support for Bill 151 as substituted by the Author; however, the Committee recommended that additional amendments be made to the substituted Bill. The Committee amended Bill 151 as substituted by the Author utilizing the input from the current Chief of Police, three former Chief's of Police, former Senators that authored similar Bills and other interested parties in two separate public hearings.

Findings and recommendations

The Committee on Judiciary, Public Safety and Consumer Protection finds that the fiscal impacts of Bill 151 as introduced, substituted and further amended by the Committee are diminimus and are addressed within the appropriations to GPD and the Governor's authorities contained in the Budget Acts for FY 97.

The Committee on Judiciary, Public Safety and Consumer Protection finds overwhelming support for the passage of Bill No. 151 as Substituted by the Author and further Amended by the Committee. The Committee on Judiciary, Public Safety and Consumer Protection presents its report with the recommendation **TO DO PASS** Bill No. 151 as substituted by the Author and further amended by the Committee.

TESTIMONY OF COLONEL A.P. SGAMBELLURI ON ADDING A NEW CHAPTER 77 TO TITLE 10 OF GUAM CODE ANNOTATED, RELATIVE TO ESTABLISHING THE GUAM POLICE DEPARTMENT PER BILL NO. 151 AS SUBSTITUTED BY THE AUTHOR.

APR 08 1997

My name is Adolf P. Sgambelluri and I am here to testify in my personal capacity as a private citizen.

I am a retired United States Marine Corps Officer. I have also served in the Government of Guam in various capacities as the former Deputy Provost of Guam Community College, Director of the Department of Corrections and the Chief of Police, Guam Police Department. I am currently the Vice-President of Guam Community College, Special Programs/Projects and the Executive Director of GCC's Professional-Technological Institute having oversight of law-enforcement training programs including that of the police.

At the very outset, I would like to state that I fully and enthusiastically support and endorse the spirit and intent of this long overdue and extremely important bill. I commend the Author and proponents of this Bill and look forward to its passage and enactment. Your efforts in this very worthy endeavor are greatly appreciated and I thank you for it.

However, there are some suggestions that I would like to make in the verbiage of the Bill. I believe my recommendations will enhance the intrinsic value of this Bill. These recommendations are anticipatory in nature so as to focus the scope of this legislation in its immediate and future role and are as follows:

Section 77102, Sub-section (b) (Page 2)

Line 19 - the word "director" should be replaced by the term "Chief Executive Officer".

Section 77102, Sub-section (c) (Page 3)

Lines 1 and 2 regarding "the deputy director" or the "Deputy Chief of Police". . . . currently no job description for this position exists and as such, an entity should be identified and authorized to formulate the said job description.

Section 77103, Sub-section (a) (Page 3)

Lines 3 through 14

Each police officer is authorized to (The functions and duties of a police officer are to)

- 1) Protect life and property;
- 2) Enforce the law;
- 3) Prevent crime;
- 4) Preserve the peace;
- 5) Arrest violators pursuant to Title 8, GCA, CPC;
- 6) Serve the public;
- 7) Conduct searches and seizures of property pursuant to Title 8, GCA, CPC; and
- 8) Perform the duties of a peace officer

Section 77103, Sub-section (b), (Page 3)

Lines 15 through 19

This section should be expanded to include reciprocity with other friendly nations and international entities such as the Interpol.

Section 77105 (Page 4)

Line 12

The term 'regulation' should be replaced by the term 'administrative law'.

Section 77107, Sub-section (a) (Page 4)

Line 20

This line should be expanded and the words "administrative and operational requirements in support of the police mission" inserted after the words "general orders or directives".

Section 77107, Sub-section (g) (Page 4)

Lines 13 and 14

Should be expanded to read "to adopt appropriate rules, guidelines and policy to insure the Department's responsiveness to the safety, security and peace-keeping needs of the community".

Section 77109 (Page 6)

The intricate nature of the Police Department requires that the Chief of Police selection meets the qualifications as prescribed and determined that the candidate is suitable for the position of the Chief of Police.

It is axiomatic that there is an advantage of having the executive branch pick the Chief of Police with "loyal" or "compatible" attitude because of some importance in a political organization, but this practice is totally out of place in professional endeavor for the community and the members of the law enforcement agency.

The only loyalty professional men owe is to the ideals of their service; loyalty to a person or persons is warranted only in so far as that person(s) reflects those ideals.

It is with this preamble that the following recommendations are made.

Section 77109, Sub-section (a) (Page 6)

Line 9

Should be expanded to include; and with an unblemished personal record.

Section 77109, Sub-section (b) (Page 6)

Line 12

The word supervisor should read as "supervisory".

Section 77109, Sub-section (c) (Page 6)

Line 16

Word "or" should be changed to "and".

Section 77109, Sub-section (d) (Page 6)

Line 19

Should be expanded to read as ". . . or the Northwestern Traffic Institute's Police Staff Command Course or similarly recognized . . ."

Section 77109, Sub-section (e) (Page 7)

Line 1

Word "drug" should be changed to "urinalysis".

Section 77110, Sub-section (a) (Page 7)

Line 7

Should be expanded to include ". . . with an unblemished personal record".

Section 77110, Sub-section (d) (Page 7)

Line 17

Should be amended to read as ". . . or the Northwestern Traffic Institute's Police Staff Command Course or similarly. . ."

Section 77110, Sub-section (e) (Page 7)

Line 19

The term "drug test" should be changed to a broader spectrum term "urinalysis test".

Section 77110.1 (Page 8)

Lines 1 through 4

I recommend that the term 'Police Commander' should be changed to 'Police Inspector'.

This position is primarily created to perform the line operations duties to accomplish the fundamental police/law enforcement purpose in fulfilling requirements for administrative, tactical and strategic planning to meet the police goals and objectives. I further recommend that the Police Inspector should have basic qualifications of at least a Baccalaureate in police sciences, be a graduate of the FBI National Academy or the Northwest Traffic Institute's Police Staff Command Course and should be subjected to urinalysis test.

I also recommend that all command level staff should undergo a thorough Background Investigation every three years.

Section 77112 (Page 8)

Lines 8 through 12

Although this section specifies a second level of chain of command viz, Deputy Chief of Police taking over responsibilities in the absence of the Chief of Police, I believe and recommend that the chain should further prescribe the succession levels of Operations Chief and Administrative Deputy Chief.

Section 77113 (Page 8)

Lines 13 through 19

The following changes are recommended:

In the caption "Department"; Appointment; Examination and Enlistment of Applicants", the word "Enlistment" should be changed to "selection".

Line 19 should read as ". . . and selection of applicants, and to establish ranks and grades" instead of its present form.

Section 77114, Sub-section (a) (Page 9)

Lines 1 through 13

Item (5) - term 'drug test' should read as 'urinalysis'.

Item (6) - term 'testing' should read as 'evaluation'.

I recommend that another item, item (8) should be inserted to read as "undergo a thorough Background Investigation conducted by a third party'.

I further recommend that although the results of the Background Investigation and Urinalysis of all police department personnel should go directly to the Chief of Police, those of the Chief of Police himself should be sent directly to the Attorney General of Guam.

Section 77114, Sub-section (c) (Page 10)

Lines 1 through 3

This section should be expanded to include a restriction on appointment of any individual who may have been administratively pardoned of a crime/conviction.

Section 77117, Sub-section (a) (Page 11)

Lines 3 through 20

Another item should be included on the specifics of any police personnel accepting gratuity from any person other than those within the Department as well as consistent with policy established by law.

Section 77119, (Page 12)

Lines 6 through 9

Line 7 should read as ". . . police shall assign police officers consistent with the needs of the Department to the villages so as to be the most . . ."

Section 77125, Sub-section (b) (Page 14)

Line 18

Should read as "this Section, the book value as determined by prevailing standards shall be incrementally deducted from the pay of the . . ."

Section 77129, (Page 17)

Line 3

The caption "Confidentiality of Records" should be amended to read as "Confidentiality of Records of Arrest".

Item (c) should be added to read as:

"Information obtained through the collection efforts for intelligence gathering is restricted and confidential. The access and use of information is on a need to know basis in support of any on-going police and criminal investigation".

Section 77130, Sub-section (a) (Page 17)

Lines 12 and 13

The designation "Uniform Crime Reporting System" should be replaced by "National Incident Based Reporting System".

Section 77133 (Pages 18, 19, 20)

Although there is considerable merit in this section, I feel that it should be revisited in its entirety in respect of the procedures and logistics of processing complaints.

Basically, complaints can be either civil or criminal in nature. A civil or administrative complaint can be addressed by the Internal Affairs through the Office of the Chief of Police. In a criminal matter, it should be the Office of the Chief of Police directing the investigation to appropriate agency or entity and on determination of probable cause only should it be forwarded to the Office of the Attorney General.

In either case, every complaint, whether civil, administrative, or criminal arising out of the Department or out of the community should first be recorded on the daily police blotter thereby designating it as part of a public document. The fact of inclusion in the blotter itself is a deterrent to frivolous complaints.

I believe this procedure should be considered and adopted for inclusion in the bill in appropriate language.

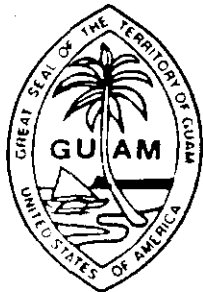
Finally, I would like to express my thanks for allowing me to testify: it is a privilege that I appreciate very much.

I will be happy to respond to any questions or comments that you may have.



A.P. SGAMBELLURI

(Testimony submitted to the Legislative Sub-committee on 04/09/97 at 10:00am)



GOVERNMENT OF GUAM

CIVIL SERVICE COMMISSION KUMISION I SETBISION SIBIT

490 Chalan Palasyo, Agana Heights
P.O. Box 3156 Agana, Guam 96910
Tel: 475-1300/01 Fax: 477-3301



ATTACHMENT "F"

09 APRIL 1997

CSC NO. 97-271

Senator Elizabeth Barrett-Anderson
Chairperson
Judiciary, Public Safety, & Consumer Protection
24th Guam Legislature
Agana, Guam 96910

RE: Proposed Bill No. 151(COR)

Dear Senator Barrett-Anderson & Members of the Committee:

The Civil Service Commission commends Senators Elizabeth Barrett-Anderson and Tony Blaz for proposing Bill No. 151(Substituted Version) to provide statutory guidelines for the administration of the Guam Police Department. The bill, overall, would provide consistency, and direction, and accountability for the operations of GPD by GPD management and uniformed personnel.

We would offer the following for consideration in the adoption of the final version.

1. Juvenile records are supposed to be confidential in order to protect a minor child and provide opportunity for rehabilitation and a second chance at life, except where minors are tried as adults. Would the Chief of Police be empowered to disregard this statutory protection and screen out prospective applicants for



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police officer positions through the use of juvenile records? We trust this will not be the case since it would defeat the whole "second chance" philosophy for juveniles as they move into adulthood. This scenario had occurred several years ago and was eventually struck down by the Superior Court.

2. The Commission is very uncomfortable with proposed Section 77106 that would empower a police officer to command assistance from any able-bodied person. This could mean that private individuals would be forced to risk their lives or serious bodily harm at the discretion of a police officer. It would be best if GPD established policies to deal with emergencies without coercing private individuals to assist in high risk situations. Would it then be a crime if the individual refuses to subject himself/herself to danger? Who would be accountable for the death or injury of the individual? Would this provision extend to minors? It appears to be a palatable provision when first read, but a closer look discloses serious concerns. We strongly recommend this section be revisited to allow for the use of established standard operating procedures and voluntary assistance in lieu of coerced assistance.

3. Section 77109 proposes qualifications criteria for the Chief of Police. Subsection (c) refers to a bachelors degree in Police Science, Criminal Justice Administration or closely related field or discipline at an accredited institution. What is meant



by "closely related" and who determines this? Should the University of Guam decide this? What is meant by an accredited institution? Again, who decides this and should it be the University? The same questions arise as to the qualifications of the Deputy Chief.

4. The creation of a Deputy Chief and "Police Commander" may create organizational problems with respect to the chain-of-command. Adding an additional non-uniformed command layer may foster a power struggle between the Deputy and Police Commander and would remove the Commander from the direct supervision of the Chief of Police. We recommend removal of the Deputy Chief position.

5. Sections 77113 empowers the Chief to establish police job classifications based on the judgments of the Chief of Police without involvement of the Civil Service Commission and the Department of Administration. In addition, the same would occur under Section 77114 regarding the Chief's power to create academic standards. This effectively takes the police classification out of the civil service merit system and subject the creation of job standards to arbitrary and inconsistent acts of the Chiefs of Police and successors. This may be counter to the 9th Circuit Court of Appeals decision in Haeuser v. Department of Law, 97 F.3d 1152(1996), as to the administration of the merit system by the Civil Service Commission as provided in the Organic Act.




6. Section 77108 pertaining to the hiring of an attorney should perhaps permit additional flexibility for the hiring of an in-house counsel as a part-time employee, in addition to full-time or consultant status or the use of a law firm.
7. Section 77117 would restrict police officers from engaging in other employment which will conflict with police officer duties. Would this prohibit police officers from working as private security officers for business establishments or other private institutions? We understand this work serves as a needed source of supplemental income for officers.
8. Section 77131 regarding rules and regulations would limit access of information to criminal justice agencies. As a critical agency in the criminal justice process, we believe the Attorney General should be joint promulgators of these rules and regulations to ensure the mission and needs of the AG and other law enforcement agencies are taken into account.
9. The Commission recommends that a provision be added to Bill No. 151 that would compensate a certain sum of money to the spouse, children, and immediate survivors of police officers who are killed in the line of duty. In addition, there should be some form of reimbursement for police officers who expend personal resources and successfully defend against wrongful allegations of civil rights violations.



CSC NO. 97-271
09 APRIL 1997

In conclusion, the Commission supports Bill No. 151, as substituted, subject to our comments.

Respectfully submitted,


ELOY P. HARA
Executive Director

cc: Governor
Lt. Governor
Attorney Mary Lou Wheeler
Comm. on Judiciary, Public Safety
& Consumer Protection





UNIVERSITY OF GUAM
UNIBETSEDAT GUAHAN
COLLEGE OF BUSINESS AND PUBLIC ADMINISTRATION
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ATTACHMENT "G"

April 8, 1997

The Honorable Elizabeth Barrett-Anderson
Chairperson
Committee on Judiciary, Public Safety
and Consumer Protection
24th Guam Legislature
Agana, Guam 96910

Dear Senator Barrett-Anderson:

Thank you kindly for your invitation to provide testimony on Bill 151 relative to the Guam Police Department.

As a former Director of Public Safety and Acting Chief of Police for the Territory of Guam, and in my current capacity as Professor of Public Administration and Criminal Justice at the University of Guam, I applaud your joint sponsorship of this Bill with Senator Anthony Blaz.

In my humble opinion, Bill 151 will be very beneficial not only to the Guam Police Department, but will also enhance better public understanding of the legal mandates which guide decision-making and operations at GPD.

In order help enhance Bill 151, I offer the following recommendations for consideration by the Committee on Judiciary, Public Safety and Consumer Protection:

1. Page 4, Lines 1-2: It is recommended that the term "POSSE" be clearly defined in Section 77101 (Definitions) of Bill 151 in order to make it clear what the function of a "Posse" is.
As an alternative, it is recommended that this entire provision, consisting of lines 1-2, be deleted from Bill 151 since it provides the Governor extraordinary power over the Department, beyond what is appropriate and necessary to curtail crime.
2. Page 4, Lines 8-11: Parameters must be specified in this section of the Bill to avoid potential over-involvement of GPD in the normal day-to-day regulatory duties of other departments and agencies. The phrase "any regulation which such branch or department is changed to enforce" is much too broad.

3. Page 5, Line 8: Add the following language after the word "operation": "and to report the same to the Governor, Legislature, Judiciary, Mayors, Territorial Board of Education and to the people of Guam in the form of an Annual Report to be widely disseminated via public libraries, Mayors offices and the media."
4. Page 5, Line 10: Add the following language after the word "standards": "and to coordinate and pursue for academic credit higher education initiatives for the sworn and civilian personnel of the Department with the Guam Community College and the University of Guam, particularly in the pursuit of Criminal Justice, Public Administration and other relevant degree programs to enhance the overall professional supervisory and managerial ranks of the Department."
5. Page 6, Line 8: Change "Ten" years to "Eight" years.
6. Page 6, Line 9: Change "Five" years to "Three" years.
7. Page 6, Line 11: Add the following language after "responsibilities": "and/or other management responsibilities in the public service of value to the Guam Police Department"; and either...
8. Page 6, Line 13: Add the following language after the word "Administration": "Public Administration with a Criminal Justice concentration on minor," or a closely.... (NOTE: There are significant numbers of law enforcement personnel managers who have and are presently pursuing degrees in Public Administration at the University of Guam Undergraduate or MPA level, with concentration in Criminal Justice).
9. Page 6, Line 15: After the word "recognized," insert the word "Law"
10. Page 6, Line 16: Add the following language after the word "Academy": "_or The FBI Executive Development Program for Chiefs of Police." (Eliminate "Northwestern Traffic Institute": To my knowledge, no officer from the Guam Police Department has attended NTI for many years now. The last command officer to do so prior to becoming Chief was former Mayor John Aguon).
11. Page 6, Line 19: Add the following language after the word "appoint": "_based on civil service laws pertaining to the classified service of the Government of Guam," a Deputy...
12. Page 6, Line 20: Add the following sentence after the word "Colonel": Candidates for this position shall be selected from an eligibility list established by the Department of Administration and based on civil service merit criteria inclusive of education, experience, competitive examination and interviews. "The..."

13. Page 7, Line 9: Insert the following words after "development,": "fiscal management and" procurement. (Note: An alternative is to delete the entire provision that creates an unclassified Deputy Chief position at the Guam Police Department. GPD presently has 8 qualified majors who are capable of supervising the administrative duties of the Department. An additional unclassified Deputy Chief position would tend to politicize the Department and may create leadership problems in the future among the uniformed ranks. A clear chain of command is absolutely imperative in a police organization. The current system of having a Chief (appointed, unclassified), the Deputy Chief ("Colonel; highest ranking uniformed officer in the classified service), and eight Majors (classified) allows for clarity in the chain of command. An unclassified civilian "Deputy" position will create issues in the future.)
14. Page 17, Line 20: Change the word "Commissioned" to "Command" Officers. (Note: "Commissioned" is Military terminology; GPD recognizes "Command" Officers as those with gold badges... Lt. and above).
15. Page 8, Line 4: Add the following language after the sentence which ends with the words "grades": "All uniformed personnel in the Guam Police Department shall be graduates of the Criminal Justice Academy in (Basic Course in Law Enforcement) administered by the Guam Community College or the University of Guam. All Police recruits of the Department must successfully complete their recruit training at GCC or UOG before taking their oath of office as a bonafide GPD Officer."
16. Page 8, Line 7: Add the following language after the word "examinations": "and drug testing" based upon...
17. Page 8, Lines 18-20: Eliminate the entire sentence starting with the word "IF" and up to the word "position". (Note: This sentences would give the Chief too much discretion, compromises the importance of physical fitness standards in the Department, and may also create a serious and costly liability for the Department if such a recruit is given a "waiver" and later makes further claims for "light duty" assignments or for "medical" or "early retirement" because of their physical condition.
18. Page 9, Line 2: Rewrite the remaining part of the sentence after the word "felony" to include: "and/or a crime involving moral turpitude and/or domestic violence."
19. Page 10, Line 9: Add the following sentence after the word "Department": "All Outside employment activities of Police Officers shall require the pre-approval of the Chief and shall not be authorized if found to be in conflict with the official duties of an officer or with the Guam Ethics Law."
20. Page 10, Lines 10-12: Please review this provision. It may be in conflict with existing provisions of the Guam Ethics Law passed by the 23rd Guam Legislature.

21. Page 10, Line 18: Add the following sentence after the word "precinct": "Police Officers shall have the right to become candidates for non-partisan office such as the Territorial Board of Education and, if elected, to serve in such offices."
22. Page 11, Line 4: Insert the following language after the word "villages": "and other strategic locations"... so as to...
23. Page 15, Line 18: Add the following language after the word "Governor": "Legislature, Judiciary, Mayors, the Territorial Board of Education, and to the people...statistics
24. Page 17, Line 16: Add the following phrase after the word "Statement": "that shall be open to the public..."

I regret I cannot be present at the public hearing on Bill 151 scheduled for 10 a.m. on April 9, 1997. I am in class at that time instructing Criminal Justice and Public Administration students at the University of Guam. I am hopeful that you and the members of the Committee find the suggestions in this letter to improve upon Bill 151 helpful and constructive.

Respectfully submitted,

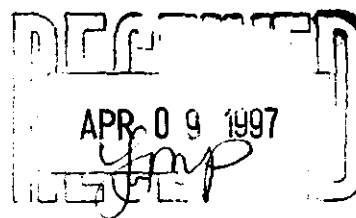


Dr. Judith Paulette Guthertz
Professor of Public Administration
and Criminal Justice

JPG/jt

April 08, 1997

Senator Elizabeth Barret-Anderson
Chairperson
Committee on Judiciary, Public Safety
and Consumer Protection
Suite 108A, Ada Plaza Center
Agana, Guam 98910



ATTACHMENT "H"

Dear Senator Barret-Anderson:

Thank you for the opportunity to review and comment on Proposed Bill No. 151, "An Act to Add a New Chapter 77 to Title 10 of Guam Code Annotated, Relative to Establishing The Guam Police Department."

As a former Director of Public Safety, I fully endorse and strongly support the Bill's successful passage by the Guam Legislature. It provides a much needed and improved framework by which the Police Department can progress into the 21st century.

I commend the members of the Committee for constructing a very comprehensive and well-thought-out legislative response to a pressing community need. Guam's Police Officers are often unsung heroes in a job that most members of the community would rather have someone else do. They serve their communities with a commitment that is both unparalleled and selfless. This Bill admirably support them in their continuing heroic efforts on all of our behalves.

My only suggestion regarding the Bill's provisions stems from my recent experience in federal law enforcement. That suggestion is:

To the greatest extent possible, avoid legislating into law those specific personnel requirements and procedures which can and ought to be administrated Departmentally.

Change is inevitable. It is alot easier to change and improve personnel requirements and procedures if the authority to do so is vested within the Department than if it were to be vested in the Legislature. Changing personnel policy and procedures would take an "act of Congress" if it rested in the Legislature's domain.

In my opinion, the people of Guam are best served when the Legislature is allowed to legislate, not create and manage the personnel requirements and procedures of a governmental agency. That's what the agencies' managers are hired to accomplish. Let's hold them accountable for it instead.

Again, congratulations on a most excellent legislative product. I am grateful for the valued attention your Committee has given to the unsung heroes of Guam, its Police officers and their families members.

Respectfully,



Jose R. Mariano

APR 09 1997
JMP
RECEIVED

TO: COMMITTEE ON JUDICIARY
TWENTY-FOURTH LEGISLATURE
AGANA, GUAM

ATTACHMENT "I"

SUBJECT: GENERAL COMMENTS ON
BILL 151, NEW CHAPTER 77, TO
TITLE 10, ESTABLISHING THE
GUAM POLICE DEPARTMENT.

SECTION BY SECTION COMMENTARY,
BY ALBERT S. TOPASNA, INDEPENDENT
CRIME SCENE FORENSIC SPECIALIST
AND INVESTIGATOR

COMMENTS AND OPINION

CHAPTER 77

SECTION 77101 NO COMMENT,
CHAPTER WELL DEFINED.

SECTION 77102 NO COMMENT.

SECTION 77103 THERE IS NO PROVISION
IN THIS SECTION THAT ENABLES THE
PEACE OFFICER TO ENFORCE VIOLAT-

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