

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

EXECUTIVE ORDER NO. 74-1

RULES AND REGULATIONS PROMULGATED
PURSUANT TO PUBLIC LAW 11-149, THE
UNIFORM CONTROLLED SUBSTANCES ACT.


WHEREAS, the illegal use of controlled substances is increasing on Guam; and

WHEREAS, the strict surveillance of the distribution and dispensing of drugs constitutes the first line of defense against their illegal use; and


WHEREAS, the Department of Public Health and Social Services was assigned the task of implementing certain provisions of Chapter I, Title XV, Part I of the Penal Code of Guam relative to the manufacture, distribution and dispensing of controlled substances;

NOW, THEREFORE, I, Carlos G. Camacho, by virtue of the authority vested in me by Section 626.2 of the Penal Code of Guam do hereby promulgate the attached Rules and Regulations of the Uniform Controlled Substances Act to be effective immediately.

Dated this 11th day of January, 1974.


CARLOS G. CAMACHO
Governor of Guam

ATTEST:


KURT S. MOYLAN
Lieutenant Governor

Rules and Regulations issued pursuant to the Controlled Substances Act, as amended.

REGISTRATION

1.1. Information.

Information regarding procedures under these rules and regulations will be furnished upon request by writing to Narcotic and Dangerous Drug Branch, Department of Public Health and Social Services, Government of Guam, Post Office Box #2816, Agana, Guam 96910.

1.21. Fees-amounts.

A. For each registration or reregistration to manufacture Controlled Substances, the registrant shall pay a fee of \$50.00.

B. For each registration or reregistration to distribute Controlled Substances, the registrant shall pay a fee of \$25.00.

C. For each registration or reregistration to dispense, conduct research or instructional activities with, or to conduct chemical analysis with any controlled substance listed in any schedule the registrant shall pay a fee of \$10.00.

1.22. Time and method of payment.

Registration and reregistration fees shall be paid at the time when application for registration or reregistration is submitted for filing. Payment should be made in the form of a personal, certified or cashier's check or money order made payable to the Treasurer of Guam. In the event that the application is not accepted for filing, the payment shall not be refunded to the applicant.

1.23. Persons exempt from fee.

A. The Director of Public Health and Social Services shall exempt from payment of a fee for registration or reregistration the following persons:

(1) Any official or agency of the United States Army, Navy, Marine Corps, Air Force; Coast Guard, Veterans Administration or Public Health Service who or which is authorized to procure or purchase controlled substances for official use; and

(2) Any official, employee, or other civil officer or agency of the United States, of Guam or of the Trust Territory of the Pacific Islands or agency thereof who or which is authorized to purchase controlled substances, to obtain such substances from official stocks, to dispense or administer such substances, to conduct research and instructional activities or chemical analysis with such

substances or any combination thereof in the course of his or its official duties or employment.

B. In order to claim exemption from payment of a registration or re-registration fee, the registrant shall submit a statement wherein the registrant's superior officer certifies to the status and address of the registrant and to the authority of the registrant to acquire, possess or handle controlled substances.

C. Exemption from payment of a registration or reregistration fee does not relieve the registrant of any other requirements or duties prescribed by law.

1.24. Persons required to register. (Requirements for Registration)

Every person who manufactures, distributes, or dispenses any controlled substance or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance shall obtain annually a registration unless exempted by law or pursuant to these regulations. Only persons actually engaged in such activities are required to obtain a registration; related or affiliated persons who are not engaged in such activities are not required to be registered. (For example, a stockholder or parent corporation of a corporation, manufacturing controlled substances is not required to obtain a registration.)

1.25. Registration in compliance with the Guam Controlled Substances Act shall consist of filing with the Director of Public Health and Social Services two copies of a current and valid Federal Registration Certificate. Such copies shall be stamped by the Department and the Department seal placed thereon, together with the date of registration. One copy will be returned to the registrant, who must then display the Guam registration alongside the Federal Registration Certificate in the same manner as required by federal law and regulations with regard to the federal certificate. A registrant must register with the Department the same number and type of certificates for the use of controlled substances as the registrant has obtained from the Bureau of Narcotics and Dangerous Drugs. The same limitations and conditions as applied to the federal registration, also apply to the registration with the Department of Public Health and Social Services.

1.26. Separate registrations for separate location.

A. A separate registration is required for each principal place of business or professional practice at one general physical location where controlled substances are manufactured, distributed or dispensed by a person.

B. The following locations shall be deemed not to be places where controlled dangerous substances are manufactured, distributed or dispensed.

1. An office used by agents of a registrant where sales of controlled substances are solicited, made, or supervised but which neither contains such substances (other than substances for display purposes or lawful distribution as samples only) nor serves as a distribution point for filling sales orders; and

2. An office used by a practitioner (who is registered at another location) where controlled substances are prescribed but neither administered nor otherwise dispensed as a regular part of the professional practice of the practitioner at such office and where no supplies of controlled substances are maintained; and

3. A warehouse where controlled substances are stored by or on behalf of the registered person, unless such substances are distributed directly from such warehouse to registered locations other than the registered location from which the substances were delivered or to person not required to register by virtue of Section 626.4(c) of the Uniform Controlled Substances Act.

1.27. Exemption of agents and employees; affiliated practitioners.

A. The requirement of registration is waived for any agent or employee of a person who is registered to engage in any group of independent activities, if such agent or employee is acting in the usual course of his business or employment.

B. An individual practitioner (other than an intern, resident or foreign physician) who is an agent or employee of another practitioner registered to dispense controlled substances may, when acting in the usual course of his employment, administer and dispense (other than by issuance of a prescription) controlled substances if and to the extent that such individual practitioner is authorized or permitted to do so by the laws of Guam authorizing him to practice, under the registration of the employer or principle practitioner in lieu of being registered himself. (For example, a pharmacist employed by a pharmacy need not be registered individually to fill a prescription for controlled substances if either the pharmacy or the individual's employer is registered.)

C. An individual practitioner who is an intern, resident, or foreign physician may dispense and prescribe controlled substances under the registration of the hospital or other institution which is registered and by whom he is employed provided that:

1. Such dispensing or prescribing is done in the usual course of his professional practice;
2. Such individual practitioner is authorized or permitted to do so by the laws of Guam;

3. The hospital or other institution by whom he is employed has determined that the individual practitioner is so permitted to dispense, administer, or prescribe drugs in Guam;
4. Such individual practitioner is acting only within the scope of his employment in the hospital or institution;
5. The hospital or other institution authorizes the intern, resident, or foreign physician to dispense or prescribe under the hospital registration and designates a specific internal code number for each intern, resident, or foreign physician so authorized. The code number shall consist of any combination of combination of numbers or letters as desired by the institution and shall be a suffix to the institution's BNDD registration number, preceded by a hyphen.

(APO 123456-10 or APO 123456-A12); and

6. A current list of internal codes and the corresponding individual practitioner is kept by the hospital or other institution and is made available at all times to other registrants and law enforcement agencies upon request for the purpose of verifying the authority of prescribing individual practitioner.

- D. For purposes of these regulations physicians, veterinarians, and dentists under contract to the Government of Guam and working at the Guam Memorial Hospital or other authorized Government of Guam premises shall be considered as residents.

1.28. Exemption of certain military and other personnel.

A. The requirement of registration is waived for any official of the U.S. Army, Navy, Marine Corp, Air Force, Coast Guard, Public Health Service or Government of Guam personnel occupying similar positions who is authorized to prescribe, dispense, or administer, but not to procure or purchase controlled substances in the course of his official duties. Such officials shall follow procedures set forth in part _____ of this chapter regarding prescriptions, by the branch of service or agency and the service identification number of the issuing official in lieu of registration number required on prescription form. The service identification number for a public health service employee is his social security identification number. This same identification number shall be used for all Government of Guam personnel.

B. If any official exempted by this section also engages as a private individual in any activity or group of activities for which registration is required,

such official shall obtain a registration for such private activities.

1.29. Exemption of law enforcement officials.

A. The requirement of registration is waived for the following persons in circumstances described in this section:

1. Any officer or employee of the United States Bureau of Narcotics and Dangerous Drugs, any officer or employee of the United States Bureau of Customs, any officer or employee of the United States Food and Drug Administration, and any other Federal officer who is lawfully engaged in the enforcement of any Federal law relating to controlled substances, drugs or customs, and is duly authorized to possess controlled substances in the course of his official duties, including personnel in the investigative services of the military forces stationed on Guam; and

2. Any officer or employee of the Government of Guam or the Trust Territory of the Pacific Islands or any political subdivision or agency thereof, who is engaged in the enforcement of any territorial or local law relating to controlled substances and is duly authorized to possess controlled substances in the course of his official duties.

B. Any official exempted by this section may, when acting in the course of his official duties, possess any controlled substance and distribute any such substance to any other official who is also exempted by this section and acting in the course of his official duties.

C. Any official exempted by this section may procure any controlled substance in the course of an inspection, in accordance with Section 626.18, or in the course of any criminal investigation involving the person from whom the substance was procured.

D. Law enforcement agency laboratories, other than those exempted as being an agency of the armed forces, must obtain annually a registration in order to procure, obtain and transfer controlled substances for use and standards in chemical analysis. Such laboratories shall be exempted from payment of a fee for registration. Laboratory personnel, when acting in the scope of their official duties, are deemed to be officials exempted by this section and within the activity described in Section 626.4(c) of the Uniform Controlled Substances Act. For purposes of this paragraph, laboratory activity shall not include field or other preliminary chemical tests by officials exempted by this section.

1.30. Exemption of Civil Defense Officials.

A. The requirement of registration is waived for any official of a civil defense or disaster relief organization who, in the course of his official duties, is authorized to:

1. Maintain, and distribute for such maintenance, controlled substances held for emergency use; or

2. Procure controlled substances for the purpose of maintaining supplies for emergency use, provided that all of such procurement is from the United States General Services Administration or the Government of Guam and in accordance with the rules of the United States Office of Emergency Preparedness.

B. The requirement of registration is waived for any official of the Civil Defense or Disaster Relief Organization during a state of emergency or disaster within his jurisdiction proclaimed by the President or by a concurrent resolution of the Congress or by the Civil Defense network on the Territory of Guam, which official, in the course of his official duties, during such emergency or disaster, is authorized to:

1. Dispense controlled substances; or

2. Procure or distribute controlled substances, provided that all such procurement is on special "Civil Defense Order Form," as described in this section.

C. Civil Defense Emergency Order Forms shall be furnished by the U. S. Office of Emergency Preparedness and will contain the name of the Civil Defense or Disaster Relief Organization. Such forms may be used and are valid only during a state of emergency or disaster in which the organization using such forms has civil defense or disaster relief jurisdiction, and which shall state the position of the user and the nature and legal designation of the emergency or disaster. Such forms may be filled by any person registered under the Act. The organization using civil defense emergency order forms, be deemed to be registered under the Act for purposes of record keeping pursuant to part 4.

APPLICATIONS FOR REGISTRATION

2.1. Time for application for registration; expiration date.

Any person who is required to be registered and who is not so registered may apply for registration at any time. No person required to be registered shall engage in any activity for which registration is required until the application for registration is granted and a Certificate of Registration is issued by the Director to such person.

B. Any person who is registered may apply to be reregistered not less than 30 days nor more than 60 days before the expiration date stated on his BNDD registration certificate. A registered person who fails to file for reregistration within the above time period must apply for a new registration and his existing registration will expire on the date specified.

2.2. Application forms, contents, signatures.

A. If any person is required to be registered and is not so registered, and is applying for registration, that person must apply to the Director of Public Health and Social Services on forms provided by him. The application shall state the number of the BNDD certificate then held, the classes of control drugs applied for, the purpose for which such certificate is requested (practitioner, institution, or other category provided by the Act and these regulations) the name and address of the applicant, place or places of business and any other material deemed necessary by the Director, including any original conviction record involving any controlled substance at any time and under any law regulating the same.

B. To this application, the applicant must attach two copies of his current BNDD certificate or certificates of registration of controlled substances. Upon approval of the application, the Director shall return one copy of the BNDD certificate upon which has been stamped the stamp and seal of the Department of Public Health and Social Services and an expiration date. This copy, so stamped and sealed, shall constitute the Guam certificate of registration of controlled substances. The registrant is required to post, side by side, his BNDD certificate and his Guam registration certificate for each of the classes for which he is registered.

C. The applicant must furnish his current business address to the Director, and any changes thereafter.

2.3. Filing of application.

A. All applications for registration shall be submitted for filing to the Director of Public Health and Social Services, Government of Guam located in Mangilao, Guam. The appropriate registration fee and any required attachment must accompany the application.

B. Any person required to obtain more than one registration may submit all applications in one package. Each Guam application shall contain within the one application all registrations being applied for.

2.4. Additional information.

The Director may require an applicant to submit such documents or written statements of fact relevant to the application as he deems necessary to determine whether the application should be granted. The failure of the applicant to provide such documents or statements within a reasonable time after being requested to do so shall be deemed to be a waiver by the applicant of an opportunity to present such documents or facts for consideration by the Director in granting or denying the application.

2.5. Amendments to and withdrawals of applications.

An application may be amended or withdrawn without permission of the Director at any time before the applicant receives an order to show cause pursuant to part 2 of these rules. An application may be amended or withdrawn with the permission of the Director at any time for a good cause as shown by the applicant or where the same is in the public interest. An application may be amended or withdrawn as a matter of course if this is found necessary by or because of a change in the applicant's BNDD status or registration.

ACTION ON APPLICATIONS FOR REGISTRATION,
REVOCATION OR SUSPENSION OF REGISTRATION

3.1. Administrative review generally.

The Director may inspect or cause to be inspected the establishment of an applicant or registrant, pursuant to Section 626.20 of the Act. The Director shall review the application for registration and other information regarding an applicant in order to determine whether the applicable standards of Section 626.5 of the Uniform Controlled Substances Act have been met by the applicant.

3.2. Certificate of registration.

A. The Director shall issue a Certificate of Registration to an applicant if the issuance of registration or reregistration is required under the applicable provisions of 626.5 of the Uniform Controlled Substances Act. In the event that the issuance of registration or reregistration is not required, the Director shall deny the application. Before denying any application, the Director of Public Health and Social Services, shall issue an order to show cause pursuant to these regulations and, if requested by the applicant, shall hold a hearing on the application pursuant to these regulations and the Administrative Procedure Act.

B. The Certificate of Registration shall be a valid copy of the registrant's valid BNDD certificate or certificates upon which the stamp and seal of the Department of Public Health and Social Services has been affixed and an expiration date stated

thereupon. The registrant shall prominently display the certification of registration at the required location.

3.3. Suspension or revocation of registration.

A. The Director may suspend any registration pursuant to Section 626.6 of the Uniform Controlled Substances Act for any period of time he determines.

B. The Director may revoke any registration pursuant to Section 626.6 of the Act.

C. Before revoking or suspending any registration, the Director shall issue an order to show cause pursuant to Section 626.7 of the Act and, if requested by the registrant, shall hold a hearing pursuant to this Act and the Administrative Adjudication Law. Notwithstanding the requirements of this Section, however, the Director may suspend any registration pending a final order pursuant to these regulations.

D. Upon service of the order of the Director suspending or revoking registration, the registrant shall immediately deliver his certificate of registration to the Director. Also, upon service of the order of the Director revoking registration, the registrant shall as instructed by him:

1. Deliver all controlled substances in his possession to the Director, or to authorized agents of the Director; or
2. Place all controlled substances in his possession under seal as described in Section 626.6 of the Act.

E. In the event that revocation or suspension is limited to a particular controlled substance or substances, the registrant shall be given a new certificate of registration for all substances not affected by such revocation or suspension. No fees shall be required to be paid for the new certificate. The registrant shall deliver the old certificate of registration to the Director. Also, the registrant shall, as instructed by the Director:

1. Deliver to the Director or to authorized agents all of the particular controlled substance or substances affected by the revocation or suspension which are in his possession; or
2. Place all of such substances under seal as described in Section 626.6 of the Act.

3.4. Suspension of registration pending final order.

A. The Director may suspend any registration simultaneously with or at any time subsequent to the service upon the registrant of an order to show cause why such registration should not be revoked or suspended, in any case where he finds

that there is an eminent danger to the public health or safety. If the Director so suspends, he shall serve with the order to show cause pursuant to Section 626.7 an order of immediate suspension which shall contain the statement of his findings regarding the danger to the public health or safety.

B. Upon service of the order of immediate suspension, the registrant shall promptly return his certificate of registration to the Director. Also, upon service of the order of the Director immediately suspending registration, the registrant shall, as instructed by the Director:

1. Deliver all affected controlled substances in his possession to the Director or his authorized agents or place all such substances under seal as prescribed by Section 626.6 of the Act.

C. Any suspension shall continue in effect until the conclusion of all proceedings in the revocation or suspension, including any judicial review thereof, unless sooner withdrawn by the Director or dissolved by a Court of competent jurisdiction. Any registrant whose registration is suspended under this section may request a hearing on the revocation or suspension of his registration at a time earlier than specified in the order to show cause, which request shall be granted by the Director, who shall fix the date for such hearing as early as reasonably possible.

3.5. Extension of registration pending final order.

In the event that an applicant for reregistration (who is doing business under a registration previously granted and not revoked or suspended) has applied for reregistration at least 30 days before the date on which the existing registration is due to expire, and the Director has issued no order on the application on the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be extended and continued in effect until the date on which the Director so issues his order. However, such extension of registration shall not exceed extension granted by the Bureau of Narcotics and Dangerous Drugs nor shall it extend past the expiration date of the registrant's federal controlled substances registration. The Director may extend any other existing registration under the circumstances contemplated in this section even though the registrant failed to apply for reregistration at least thirty (30) days before expiration of the existing registration, with or without request of the registrant, if the Director finds that such extension is not inconsistent with the public health and safety. However, if no application for reregistration has been received by the expiration date of the current registration, then the Director shall regard any application received thereafter as a new registration.

3.6. Order to show cause.

A. If, upon examination of the application for registration from an applicant and other information regarding that applicant, the Director is unable to make the determinations by the applicable provisions of Section 626.6 of the Act to register the applicant, or decides to deny the application, the Director shall serve upon the applicant an order to show cause why the registration should not be denied.

B. If, upon information regarding any registrant, the Director determines that the registration of such registrant is subject to suspension or revocation pursuant to Section 626.6 of the Act, the Director shall serve upon the registrant an order to show cause why the registration should not be revoked or suspended.

C. The order to show cause shall call upon the registrant to appear before the Director of Public Health and Social Services at a time and place stated in the order, which shall not be less than 30 days after the date of receipt of the order. This order to show cause shall also contain the statement of the legal basis for such hearing and for the denial, revocation, or suspension of registration and a summary of the matters of fact and law asserted.

D. Upon receipt of an order to show cause, the applicant or registrant must, if he desires a hearing, file a request for hearing pursuant to the Administrative Adjudication Act. If a hearing is requested, the Director shall hold a hearing at the time and place stated in the order, pursuant to these regulations regarding hearings.

E. When authorized by these regulations, and the Uniform Controlled Substances Act, any agent of the Director may serve the order to show cause.

F. If the registrant or applicant does not request a hearing within the time limit as stated in the Administrative Adjudication Law, then the Director may proceed as provided by that law.

3.7. Hearings generally.

A. In any case where the Director shall hold a hearing on any registration or application therefore, the procedures for such hearings shall be governed by the Administrative Adjudication Act, Government of Guam.

B. Any hearing under this part shall be independent of, and not in lieu of, criminal prosecutions or other proceedings under the Act or under any other law of this territory.

3.8. Hearing Procedure.

After the filing of and service upon the registrant of an order to show cause, the registrant has 15 days after service of the service of the order in which to reply. The registrant may:

1. request a hearing.
2. object to the order upon the ground that it does not state the act or omissions upon which the Director may proceed to take action as stated in the order.
3. object to the form of the accusation on the grounds that it is so indefinite or uncertain that he cannot identify the allegations or preparative defense.
4. the registrant may admit the accusation in whole or in part.
5. the registrant may prepare and submit new matter by way of his defense.

3.81. The registrant or applicant shall file his response to the order not more than twenty (20) days after the service of the order upon him, or at any later time so long as that later time is not less than ten (10) days prior to the hearing date as specified on the order to show cause.

3.82. A failure to file a notice of defense or any notice indicating that the applicant or registrant desires a hearing and will appear upon the date stated in the order to show cause shall constitute a waiver of the applicant or registrant's right to a hearing, but the Director at his discretion may grant a hearing.

3.83. A simple request for a hearing shall be deemed a specific denial of all parts of the accusation contained within the order to show cause which are not expressly admitted. Said notice of defense shall be in writing signed by or in behalf of the applicant or registrant and shall state his mailing address.

3.84. The Director shall include with the order to show cause served upon the applicant or registrant a notice of defense entitled as such which may be in any form as desired by the Director. Also, the Director shall include a notice stating that the applicant or registrant waives a hearing unless a reply is received requesting the same or stating defense or defenses to the order within the time limit as stated in Section 3.51 of these rules.

This notice shall be in substantially the form:

"Unless notice, signed by or in behalf of the applicant or registrant, is delivered or mailed to the Director within twenty (20) days after receipt of the order to show cause or, at least, not less than ten (10) days prior to the hearing date as stated in the order to show cause, the Director of Public

Health and Social Services may proceed upon the order without a hearing. The notice of the hearing may be delivered or mailed by using the enclosed form, or any other notice of similar intent, to the Director of Public Health and Social Services, Government of Guam, Agana, Guam, or by personal delivery to the office of the Director, Department of Public Health and Social Services, Mangilao."

3.85. Service of the order to show cause may be made by any person so delegated by the Director by personally serving the applicant or registrant or by sending the order to show cause by registered mail to the last known address of the applicant or registrant as contained within his application or registration files, or by leaving a copy of the order and accompanying papers at his usual place of residence or business with some person of suitable age and discretion residing or working therein.

3.86. All other papers required to be served upon the applicant or registrant may be served in the manner of the order.

3.87. At any time before the matter is submitted for a decision, the Director may file or permit the filing of an amended or supplemental orders. All parties shall be notified if this occurs. If the amended or supplemental orders present new charges the Director shall afford the applicant or registrant a reasonable opportunity to prepare his defense thereto. Unless the Director orders in the individual case, the applicant or registrant shall not be entitled to further pleading. New charges shall be deemed controverted and any objections to the amended or supplemental order may be made orally and shall be noted on the record.

3.88. The time and place of the hearing shall be as stated on the order to show cause.

3.89. The order to show cause shall be in substantially the following form, but may include any other information and the charges:

GOVERNMENT OF GUAM

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES

IN RE THE APPLICATION OF)	
)	
(Applicant) under the Uniform)	ORDER TO SHOW CAUSE
Controlled Substances Act)	
_____)	

You, (name of applicant or registrant) are hereby commanded to appear before the Director of Public Health and Social Services or his delegate on _____ day of _____, 197 () and show cause as to why your (application or registration) under the Uniform Controlled Substances Act should not be (denied, suspended or revoked) for the following reasons:

1. (here follows a list of the specifications and reason for such denial, suspension or revocation).

You may submit to the Director at the following address:

Director of Public Health and Social Services
Government of Guam
P.O. Box 2816
Agana, Guam 96910

or

Office of the Director
Department of Public Health and Social Services
Mangilao, Guam

a notice that you intend to appear before the Director or his delegate at the hearing scheduled on the above date. You may also submit to the Director any objections or defenses which you might have within 20 days of the time this notice was served upon you or at least, ten (10) days prior to the date of the hearing. If you fail to submit any notice or objections or defenses, then it will be assumed that you have waived your right to a hearing and the Director or his delegate may proceed to a decision in your case at or after the date and time for the hearing set forth above.

Dated this (month) and (year).

Director of Public Health and Social Services

By (delegate)

3.90. Subpoena.

Before the hearing has commenced, the Director shall issue subpoena and subpoena duces tecum at the request of any party in accordance with the provisions of Section 1985 of the Code of Civil Procedure. After the hearing has commenced, the Director or hearing officer sitting alone may issue such subpoena and subpoena duces tecum as he deems necessary.

3.91. Depositions.

Upon the verified petition of any party the Director may order that the testimony of any material witness residing within or without the territory of Guam be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set forth the nature of the pending proceedings;

the name and address of the witness whose testimony is desired, a showing of the necessity of his testimony, a showing that the witness would be unable or cannot be compelled to be present; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside of the territory of Guam and where the agency has ordered the taking of his testimony by deposition, the agency shall obtain an order of court to that effect by filing a petition therefore in the District Court of Guam.

3.92. In any proceedings under the order to show cause or any other hearing provided for by the Uniform Controlled Substances Act, the Director of Public Health and Social Services, or any of his duly authorized representative have the power to administer oaths and affirmations and to certify to official acts.

3.93. A hearing officer shall preside over every hearing in a contested case. Said person shall be an attorney and may be an attorney in the full time service of the government. The Director may request the Attorney General of Guam to assign a member of his staff as hearing officer for the case, provided that that attorney has had no prior connection with the matters involved in the hearing. The case may be heard by the agency with a hearing officer or by a hearing officer along, in the discretion of the Director. The hearing officer shall preside in any event, rule upon the admission and exclusion of evidence and advise the agency of matters of law. Where the agency is holding the hearing, it shall exercise all of the powers relating to the conduct of a hearing but may delegate any or all of them to the hearing officer. Where the hearing officer alone hears the case, he shall exercise all powers relating to the conduct of the hearing.

3.94. A hearing officer or member of the Department of Public Health and Social Services shall voluntarily disqualify himself and withdraw from any case in which he cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any hearing officer or member of the department by filing an affidavit prior to the taking of evidence at a hearing from stating with particularity the grounds upon which it is claimed that a fair and impartial hearing may not be accorded. Where the request concerns an agency member, the Director shall determine the issue. Should the disqualification prevent the existence of a quorum qualified to act in a particular case, the Department of Public Health and Social Services member shall not withdraw voluntarily nor be subject to disqualification.

3.95. The Department may grant continuances at any stage of the proceeding, the need of which to be determined by the hearing officer.

3.96. Oral evidence shall be taken only upon oath or affirmation. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, to impeach any witness regardless of which party first called him to testify and to rebut the evidence against him. If the respondent does not testify in his own behalf, he may be called and examined as if under cross-examination.

3.97. This hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used to supplement or explain direct evidence but shall not be sufficient by and of itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege should be effective to the same extent as recognized in civil actions and irrelevant and unduly repetitive evidence may be excluded.

3.98. Any matter not covered by these rules, the Administrative Adjudication Act or by the Uniform Controlled Substances Act, shall be decided by the agency or hearing officer before whom the matter was presented.

GOVERNMENT OF GUAM
OFFICE OF THE GOVERNOR
AGANA, GUAM

JOINT EXECUTIVE AND JUDICIAL ORDER NO. JEJ 74-1
CRIMINAL JUSTICE INFORMATION SYSTEM(s) POLICY GROUP

WHEREAS, the necessity of an orderly society is most important to the protection of the people, their property, and their continuing engagement in their daily endeavors without fear or unlawful interference; and

WHEREAS, the Government of Guam desires to provide as ordered a society as possible within the limits of a government, in a free society, the Constitution of the United States, the Organic Act of the Unincorporated Territory of Guam, and the laws and regulations of the Territory of Guam; and

WHEREAS, the Government of Guam desires to provide the ordered society and the related criminal justice services in as economic and optimum a manner as is feasible; and

WHEREAS, the providing of optimized criminal justice service for the people includes numerous agencies of both the Executive and Judicial Branch of the Government of Guam; and

WHEREAS, the obtaining of optimized criminal justice service for the people requires the close cooperation and coordination of both the Executive and Judicial Branches of Government and agencies within the two branches of Government;

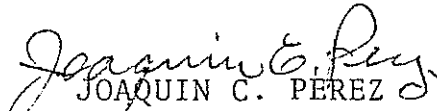
NOW, THEREFORE, by virtue and necessity of the foregoing the formation of a Criminal Justice Information System(s) Police/Advisory Group with the organization, function, effect of policy, form and dissemination of policy, and budget detailed in the attached Criminal Justice Information System(s) Policy/Advisory Group organization and function statement,

are hereby approved and promulgated by this Joint Executive and Judicial Order.

DATED at Agana, Guam, this 6th day of Sept., 1974.



CARLOS G. CAMACHO
Governor of Guam



JOAQUIN C. PEREZ
Presiding Judge, Superior Court of Guam

SUBJECT: Criminal Justice Information System(s) Policy
and Advisory Group

1. ORGANIZATION:

a. The Criminal Justice Information System(s) and Advisory Group, short name 'Policy Group', shall consist of the following persons:

1. Chairman, Public Safety Committee,
Legislature of Guam
2. Chairman, Judicial Committee,
Legislature of Guam
3. Chairman, Crime Commission
4. Chief Justice, Supreme Court
5. Presiding Judge, Superior Court
6. Attorney General, Government of Guam
7. Director, Department of Public Safety
8. Director, Department of Corrections
9. Director, Department of Public Works
10. Director, Territorial Crime Commission

b. In addition, the 'Policy Group' will have a recording secretary, and technical advisor(s) who are non-voting members of the 'Policy Group'. Should a Statistical Analysis Center be developed for the Territory of Guam, the Head of the Center shall be the Executive Secretary of the 'Policy Group' with a non-voting status.

c. The 'Policy Group' may invite such other persons as they may determine to participate as non-voting members.

d. The 'Policy Group' will select at their first meeting a Chairman for the 'Policy Group' and will establish any rules of procedure they might desire. The Chairman will serve for one year, unless selected by the 'Policy Group' to serve an additional one year or more, or until resignation or until upon a motion of any voting member and a majority agreement that a new Chairman be selected is proposed.

2. FUNCTIONS:

a. The 'Policy Group' functions are:

1. To establish operational and administrative

policy related to the development, implementation, and operation of the Criminal Justice Information System(s) which do not require legislation or approval of the Executive or Judicial Branches of Government, and to have responsibility to approve the Criminal Justice Information System(s) master plan.

2. To recommend to the Governor legislation or executive orders desired by the 'Policy Group' for the proper development, implementation and operation of the Criminal Justice Information System(s).
3. To recommend to the Judicial Council rules and regulations in the operation of the Courts and probation office desired by the 'Policy Group' for the proper development, implementation and operation of the Criminal Justice Information System(s).
4. To provide to the Governor and/or Legislature opinions and advice concerning funds required by the concerned agencies as they relate to the development, implementation, and operation of the Criminal Justice Information System(s).
5. To review, comment, and approve the rules, regulations, and procedures adopted by concerned agencies implementing policies adopted by the 'Policy Group'.
6. To coordinate the preparation and approve any reports required under any federal grants prior to submission to the Territorial Crime Commission and/or the concerned federal agency when federal funds are used to develop, implement, and operate any part of the Criminal Justice Information System(s).
7. To provide necessary initiative to concerned agencies to assure full compliance with policies adopted and full participation and utilization of the system(s) developed, implemented, and operational.

8. To provide necessary policy to concerned agencies to assure appropriate training of personnel who supervise, operate, and use the system(s).

3. EFFECT OF POLICY ESTABLISHED:

Policy established by the 'Policy Group' must be fully complied with by all agencies concerned.

4. FORM AND DISSEMINATION OF POLICY:

All policies established by the 'Policy Group' will be in writing and will be disseminated to the Governor, Chairman of Judicial Council, Speaker of the Legislature, and all concerned agency heads. Dissemination of policies considered newsworthy shall be disseminated to all news media and other public forums at the discretion of the 'Policy Group'.

5. BUDGET:

a. The 'Policy Group' will operate without funds specially allotted to the 'Policy Group'.

b. The 'Policy Group' is authorized:

1. To hold meetings during regular business hours.
2. To utilize staff of the various agencies represented by the 'Policy Group' in the preparation of minutes, reports, studies, and other required documents.
3. To utilize official existing offices, equipment and supplies as necessary to accomplish the 'Policy Group' objectives.
4. To utilize funds budgeted by the various agencies represented on the 'Policy Group' to pay salaries and benefits of personnel utilized under paragraph 5,b,1 and 5,b,2 and the purchase of supplies and services required under paragraph 5,b,3.

CRIMINAL JUSTICE SYSTEM PROJECT

GOAL:

Development of a comprehensive Criminal Justice System within the unincorporated Territory of Guam, appropriate services of which, if desired, are to be available to the Districts of the Trust Territory and other United States possessions in the Pacific Basin.

OBJECTIVE #1:

Enactment of necessary enabling legislation, mandatory reporting legislation, and legislation providing security and confidentiality controls on systems and information contained in the systems.

OBJECTIVE #2:

Revision of the Penal Code with related amendments to other Codes of the unincorporated Territory of Guam.

OBJECTIVE #3:

Development of a Criminal Records and Identification Organization capable of servicing all elements of the Criminal Justice System of the unincorporated Territory of Guam and, if desired, the Districts of the Trust Territories and other United States possessions in the Pacific Basin.

OBJECTIVE #4:

Development of a Criminal Justice Information System(s) used by and serving all elements of the Criminal Justice System of the unincorporated Territory of Guam; and, if desired, a system capable of servicing the Districts of the Trust Territories and other United States possessions in the Pacific Basin.

Sub-Objective #1

To assist the Territory in establishing an integrated criminal justice information, statistics, and management system and to obtain uniformity in the reporting of information between the

Territory and other legal political entities of the United States (State, Territory, Commonwealth) and the national level.

Sub-Objective #2

To collect systematically and report criminal justice information and statistics so as to provide uniform and reliable data on a year-to-year, territory to legal political entity (State, Territory, Commonwealth), agency-to-agency, and national basis.

Sub-Objective #3

To eliminate unnecessary duplication of data collection.

OBJECTIVE #5:

Development of Non-Criminal Information and Statistical Systems for agencies making up the Criminal Justice System of the unincorporated Territory of Guam, which will assist in the administration and management of the selected agencies.

OBJECTIVE #6:

Establishment of a Policy/Advisory Group for the Criminal Justice Information System, which will be responsible for policy development and approval concerning the development of the systems, their use, and any other policy level matter.

OBJECTIVE #7:

Establishment within the unincorporated Territory of Guam a Criminal Justice Training Center available to all criminal justice-related agencies within Guam, as well as, the Districts of the Trust Territories or any other possession of the United States of America located in the Pacific Basin.