# CHAPTER 55
# INTERFERENCE WITH GOVERNMENT OPERATIONS AND LAW ENFORCEMENT

**2014 NOTE:** Public Law 13-185 (Sept. 2, 1976) established the Criminal and Correctional Code, which was a separate publication. In the Introduction to the Criminal and Correctional Code (1977), the Compiler of Laws stated that it was a "whole new Code and should be interpreted as such. It follows closely the American Law Institute's Model Penal Code of 1962." The 1977 publication included Notes and Comments from the Law Revision Commission, which were revised by the Compiler. The Criminal and Correctional Code (1977) as adopted by P.L. 13-185 and amended by the Guam Legislature, was "recodified" as Title 9 of the Guam Code Annotated pursuant to P.L. 15-104:8 (Mar. 5, 1980). The annotations from the 1977 publication were included in Title 9 when it was added to the GCA, and have been retained in past print publications of the GCA. For historical purposes, these annotations are included herein.

The Source notes have been updated to reflect subsequent changes to each provision. Unless otherwise indicated, the Notes and Comments have been retained as they were printed in past publications of the GCA.

§ 55.10. Tampering with Public Records; Defined and Punished.
§ 55.15. Hindering Apprehension or Prosecution; Defined and Punished.
§ 55.20. False Alarms; Defined and Punished.
§ 55.25. Making False Reports; Defined and Punished.
§ 55.30. Impersonating a Public Officer; Defined and Punished.
§ 55.35. Resisting Arrest of Self or Others; Defined and Punished.
§ 55.40. Disarming of a Peace Officer; Defined and Punished.
§ 55.45. Obstructing Governmental Functions; Defined and Punished.
§ 55.50. Damaging, Stealing or Receiving Stolen Government Generators, Telephones, or Emergency or Utility Equipment.
§ 55.51. Receiving Stolen Government Generators, Telephones or Emergency Utility Equipment.
§ 55.60. Public Water, Unlawful Use During Period of Emergency.
§ 55.65. Failure to File a Complete Partial-Birth Abortion and Abortion Report.
§ 55.70. Tampering with Customs and Quarantine Agency Seals.

**COMMENT:** (1993): Chapter 55 contains different crimes all of which relate to the obstruction of government operations. The original sections were contained in the former Penal Code at various parts and have been consolidated here into one Chapter. Other sections have been added.

## § 55.10. Tampering with Public Records; Defined and Punished.

(a) A person commits an offense if he:

(1) knowingly makes a false entry in, or false alteration of, any record, document or thing belonging to, or received or kept by, the government for information or record, or required by law to be kept by others for information of the government;

(2) makes, presents or uses any record, document or thing knowing it to be false, and with intent that it be taken as a genuine part of information or records referred to in Paragraph (1); or

(3) intentionally and unlawfully destroys, conceals, removes or otherwise impairs the verity or availability of any such record, document or thing.

(b) An offense under this Section is a misdemeanor unless the defendant's intent is to defraud or injure anyone, in which case the offense is a felony of the third degree.

**SOURCE:** G.P.C. §§ 113, 114, 115; *M.P.C. § 241.8; Cal. § 1170 (1971); Mass. ch. 268, § 7; N.J. § 2C:28-7.

**CROSS-REFERENCES:** § 46.10 -- forgery; § 49.90 - Official Misconduct.



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**COMMENT:** Section 55.10 supersedes the Guam Penal Code, but is substantively the same as the law contained in the Penal Code except that a felony is prescribed only where there is an intent to injure or defraud someone. This classification is more consistent with the treatment of forgery and official misconduct contained in this Code.

## § 55.15. Hindering Apprehension or Prosecution; Defined and Punished.

(a) A person is guilty of hindering apprehension or prosecution if, with intent to hinder, prevent or delay the discovery, apprehension, prosecution, conviction or punishment of another person for the commission of an offense, he:

(1) harbors or conceals the other person;

(2) provides or aids in providing a weapon, transportation, disguise or other means of avoiding discovery or apprehension;

(3) conceals, alters or destroys and physical evidence that might aid in the discovery, apprehension or conviction of such person;

(4) warns such person of impending discovery or apprehension, except that this Paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law;

(5) obstructs by force, intimidation or deception anyone from performing an act which might aid in the discovery, apprehension, prosecution or conviction of such person; or

(6) aids such person to safeguard the proceeds of or to profit from such offense.

(b) Hindering apprehension or prosecution is a felony of the third degree if the defendant knows that the charge made or liable to be made against the other person is a felony of the first or second degree. Otherwise the offense is a misdemeanor.

**SOURCE:** G.P.C. §§ 32, 33; M.P.C. § 242.3; Cal. § 425 (1971); *Mass. ch. 268, § 11; N.J. § 2C:29-3.

**CROSS-REFERENCES:** § 52.40 - Witness intimidation. § 52.55 - Falsifying evidence. § 52.60 - Destroying evidence.

**COMMENT:** Section 55.15 extends the principal of former Penal Code §§ 32 and 33 but provides liability regardless of the underlying offense and by going beyond the personal aid to the principal. The former Penal Code provided criminal liability where the underlying offense was a felony. This Section overlaps, to some degree, §§ 52.40, 52.55 and 52.60. This is accomplished, however, without seriously distorting the classification scheme. The greater penalty here than in § 52.60 is justifiable inasmuch as it is predicated on the commission of the various serious crimes. In other instances the penalties are the same or the lesser penalty provided here does no more than provide a lesser included offense.

Note that the purpose here is to proscribe acts taken with intent to hinder, prevent or delay apprehension or prosecution. Accordingly, it is not necessary to require guilt on the part of the person aided or a mental element by the defendant as to it. On the other hand, the requisite intent must be shown. Giving aid without such motivation, e.g., sheltering a relative without knowledge that he is a fugitive, is not reached by this Section. The Section does not attempt to exempt relatives where it is known that the person being sheltered is a fugitive.

## § 55.20. False Alarms; Defined and Punished.

A person is guilty of a misdemeanor when, with knowledge of its falsity, he causes a false alarm of fire or other emergency to be transmitted to any organization that responds to emergencies involving danger to life or property.

**SOURCE:** c.f. G.P.C. § 403(a); M.P.C. § 250.3; *Cal. §§ 1400, 1402 (1971); Mass. ch. 269, § 4; N.J. § 2C:33-3.

**COMMENT:** Section 55.20 appears to have no counterpart in the former Penal Code. However, this Section is common is most other Codes and is clearly justifiable on the ground that false alarms hinder government operations and can cause danger to others.



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## § 55.25. Making False Reports; Defined and Punished.

A person commits a misdemeanor who:

(a) knowingly gives false information to any law enforcement officer with intent to induce such officer to believe that another person has committed an offense;

(b) reports to law enforcement authorities an offense or other incident within their concern knowing that it did not occur, or

(c) makes a report which purports to furnish law enforcement authorities with information relating to an offense or incident when he knows that he has no such information.

**SOURCE:** cf. Guam § 170; M.P.C. § 241.5, Cal. § 1178 (1971); *Mass. ch. 268, § 4; N.J. § 2C:28-4.

**COMMENT:** Section 55.25 generalizes former § 170. It might be noted that unlike § 52.30, the Section here includes all false information, both written and oral.

## § 55.30. Impersonating a Public Officer; Defined and Punished.

A person commits a misdemeanor if he falsely pretends to hold a position in the public service with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon that pretense to his prejudice.

**SOURCE:** G.P.C. § 146(a); *M.P.C. § 241.9; Cal. § 1180(1971); Mass. ch. 268 § 8; N.J. § 2C:28-8.

**COMMENT:** Section 55.30 replaces former § 146(a) of the Penal Code and extends criminal liability to the impersonation of any public servant, not just policemen or law enforcement officials.

## § 55.35. Resisting Arrest of Self or Others; Defined and Punished.

A person is guilty of a misdemeanor when, with intent to prevent or delay the arrest of himself of another person by one whom he knows or reasonably should know to be a peace officer acting in an official capacity, he prevents or delays that arrest by the use or threat of force or by physical obstruction. For purposes of this Section, a peace officer shall include apprehending officers designated under Article 2 of 10 GCA Chapter 51, as well as peace officers as defined under 9 GCA § 1.70.

**SOURCE:** G.P.C. §§ 69, 148; cf. § 166; M.P.C. § 242.2; Cal. § 1182 (1971); Mass. ch. 268, § 10; N.J. § 2C:29-2; Amended by P.L. 17-087:8 (Jan. 18, 1985).

**CROSS-REFERENCES:** § 55.45 - Obstructing Government Operation; 8 GCA § 25.50.

**COMMENT:** § 55.35 deals specifically with resisting arrest in order to make clear that the arrest need not be lawful. The defendant must know that the law enforcement officer is acting in an official capacity, but if this requirement is satisfied, it is a crime to resist even an unlawful arrest. There are many remedies for such an unlawful arrest - Habeas Corpus, exclusion of illegally obtained evidence, possible tort relief - and it seems preferable to discourage as much violent conduct surrounding police activity as possible.

Note that this Section also proscribes resistance or obstruction, including going limp, but does not deal with flight from arrest.

At common law, the Model Penal Code and the law of some States require that the arrest be lawful before resistance is made criminal. Such was not the case in the former Penal Code, nor is it the case in the States of Connecticut and Kentucky.

## § 55.40. Disarming of a Peace Officer; Defined and Punished.

(a) A person commits the crime of disarming a peace officer, as defined by 17 GCA § 51101 if such person intentionally:

(1) removes, or attempts to remove, a firearm, deadly weapon, or less-lethal weapon, including any blunt impact, chemical, or conducted energy device, used in the performance of his or her official



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duties from the person of a peace officer while said officer is acting within the scope of his or her official duties; or

(2) deprives, or attempts to deprive, a peace officer of said officer's use of a firearm, deadly weapon, or any other equipment described in Subsection (a)(1) of this Section while the officer is acting within the scope of his or her official duties.

(b) The provisions of this Section shall not apply when:

(1) the defendant does not know or could not reasonably have known that the person he or she disarmed was a peace officer; or

(2) the peace officer was engaged in an incident involving felonious conduct by the peace officer at the time the defendant disarmed said officer.

(c) An offense under this Section is a felony of the third degree, unless the defendant's intent is to injure anyone, in which case the offense is a felony of the second degree.

**SOURCE:** Added by P.L. 34-149:2 (Dec. 13, 2018).

## § 55.45. Obstructing Governmental Functions; Defined and Punished.

A person commits a misdemeanor if he intentionally obstructs, impairs or perverts the administration of law or other governmental function by force, violence, physical interference or obstacle, breach of official duty, or any other unlawful act, except that this Section does not apply to flight by a person charged with crime, refusal to submit to arrest, failure to perform a legal duty other than an official duty, or any other means of avoiding compliance with law without affirmative interference with governmental functions.

**SOURCE:** G.P.C. §§ 65, 69, 102, 148, 385; *See also* § 428; *M.P.C. § 242.1; Cal. §§ 1162, 1186, 1408 (1971); Mass. ch. 268, § 9; N.J. § 2C:29-1.

**CROSS-REFERENCES:** § 55.35 - Refusal to submit to arrest; Chapter 58 -Escape; Chapter 25 - Code of Cr. Proc.

**COMMENT:** § 55.45 replaces a number of diverse sections of the former Penal Code and is intended to prohibit a broad range of behavior designed to impede or defeat the lawful operation of Government. This Section supplements provisions of this Code which deal with particular means of interference such as bribery, intimidation and perjury. Although broad, the Section does not proscribe political agitation or other exercise of civil liberty; it is confined to physical interference or acts which are unlawful independently of the purpose to obstruct the Government.

This Section, and this Chapter, clarify the situation as it existed in the former Penal Code whereby it was possible to charge a person under one of a number of sections for the same general offense of resisting arrest. Such a confusion will not exist in this Code.

The exception in this Section for various forms of non-submission to authority is designed to prevent an overly broad application of the term unlawful act. Failure to file tax return may be unlawful, but is punished by specific sections in the appropriate codes. Further, if the arrested person is innocent or cannot be proved guilty of the offense for which he was arrested, it would be unjust and conducive to grave abuse to permit prosecution for an unsuccessful effort to evade the police.

Guam Penal Code § 150, refusing to aid peace officers or firemen, has not been included in this Code as the Commission believed that, while aiding police officers and firemen is to be encouraged, the mere refusal by an innocent citizen to aid such officer should not be made a criminal offense.

## § 55.50. Damaging, Stealing or Receiving Stolen Government Generators, Telephones, or Emergency or Utility Equipment.

A person commits a felony in the second degree if he intentionally damages or steals any generator, power pole, power line, telephone, telephone line, telephone facility, water meter, or other emergency or utility equipment owned or installed by the government of Guam, its agencies or instrumentalities.

**SOURCE:** Added by P.L. 21-133:2 (Sept. 3, 1992).



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### § 55.51. Receiving Stolen Government Generators, Telephones or Emergency Utility Equipment.

A person commits a felony in the second degree if he receives any stolen generator, power pole, power line, telephone, telephone line, telephone facility, water meter, or other emergency or utility equipment owned or installed by the government of Guam, its agencies or instrumentalities, knowing such item is stolen.

**SOURCE:** Added by P.L. 21-133:2 (Sept. 3, 1992).

### § 55.60. Public Water, Unlawful Use During Period of Emergency.

(a) Upon the declaration by the Governor of a state of emergency as the result of a disaster that threatens the public water supply, it shall be a petty misdemeanor for any person to use water supplied by the Public Utility Agency of Guam for any unauthorized use.

(b) During a state of emergency public water is authorized to be used for purposes of public health, safety and welfare. Any use of the public water during a state of emergency for a use not pertaining to public health, safety and welfare shall not be authorized. Such unauthorized uses shall include, but not be limited to, washing motor vehicles, windows, streets, sidewalks and buildings or irrigating or watering ornamental plants, shrubs, flower, lawns or golf courses.

(c) In addition to any other penalty imposed by the court upon conviction under this section, a conviction arising from unauthorized use of water for a business or commercial purpose shall be punished by a fine of not less than One Thousand Dollars ($1,000) nor more than Twenty-Five Thousand Dollars ($25,000).

(d) No state of emergency proclaimed by the Governor shall be for a period of more than fifteen (15) days. The Governor may proclaim successive states of emergency if he deems such proclamation to be in the public interest.

**SOURCE:** Added by P.L. 21-134:4 (Sept. 3, 1992).

**2017 NOTE:** Subsection/subitem designations were added pursuant to the authority of 1 GCA § 1606.

### § 55.65. Failure to File a Complete Partial-Birth Abortion and Abortion Report.

A person commits a misdemeanor who knowingly fails to file a complete individual abortion report for each abortion with the Territorial Registrar of Vital Statistics within seven (7) days from the date of the abortion.

**SOURCE:** Added by P.L. 33-218:8 (Dec. 15, 2016).

### § 55.70. Tampering with Customs and Quarantine Agency Seals.

(a) A person is guilty of tampering with Customs and Quarantine Agency seals if he or she intentionally breaks, removes, or alters any seal placed by the Customs and Quarantine Agency upon any container or cargo prior to its official release from Customs' custody.

(b) Tampering with a Customs and Quarantine Agency seal is a felony of the third degree.

**SOURCE:** Added as § 55.75 by P.L. 38-136:XII:67 (Aug. 30, 2026), renumbered § 55.70 by the Compiler pursuant to the authority of 1 GCA § 1606.

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