

GUAM CODE ANNOTATED

TITLE 9

CRIMES AND CORRECTIONS

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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.

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CHAPTER 1
PRELIMINARY PROVISIONS: DEFINITIONS

- Article 1. Preliminary Provisions; Construction.
- Article 2. Definitions.

ARTICLE 1
PRELIMINARY PROVISIONS; CONSTRUCTION

- § 1.10. Short Title, Criminal and Correctional Code.
- § 1.12. Severability.
- § 1.14. Purpose for Defining Offenses.
- § 1.16. Territorial Applicability.
- § 1.18. Classes of Crimes.
- § 1.19. Felonies Defined and Classified.
- § 1.20. Relationship of Code to Other Laws; Contempts, Penalties and Remedies.
- § 1.22. Prosecution for Conduct Which Constitutes More Than One Offense.
- § 1.24. Double Jeopardy. Same Offense.
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- § 1.28. Concurrent Jurisdiction -When a Bar to Prosecution.
- § 1.30. Former Prosecutions. When Not a Bar to Present Prosecution.
- § 1.34. Rules of Construction.
- § 1.36. Headings.
- § 1.38. Amendments Included.
- § 1.42. Tenses.
- § 1.44. Gender.
- § 1.46. Number.
- § 1.48. Shall and May.
- § 1.50. Military Authority.

§ 1.10. Short Title.

This Code shall be known as the Criminal and Correctional Code.

COMMENT: To provide comprehensive treatment in the criminal law, it was desirable to include in this Code the provisions governing the creation and organization of the Department of Corrections and Territorial Parole Board (Govt. Code §§ 55000-55013 and §§ 39000-

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39403, respectively). Hence the need for the Title to include reference to both crimes and corrections. Also, the subject of disposition of prisoners has been expanded in this Code.

§ 1.12. Severability.

If any provisions of this Code or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect any other provision or application of this Code which can be given effect without the invalid provision or application, and to this end the provisions of this Code are severable.

SOURCE: GC § 19.

COMMENT: While there is no severability clause in the Guam Penal Code, it has been regarded as severable. Thus, the practice, if not the law, has been continued.

§ 1.14. Purpose for Defining Offenses.

(a) The general purposes of the provisions governing the definition of offense are:

(1) to forbid, prevent, and condemn conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests;

(2) to insure the public safety by preventing the commission of offenses through the deterrent influence of the sentence authorized, the rehabilitation of those convicted, and their confinement when required in the interest of public protection;

(3) to subject to public control persons whose conduct indicates that they are disposed to commit offenses;

(4) to give fair warning of the nature of the conduct proscribed and of the sentences authorized upon conviction;

(5) to differentiate on reasonable grounds between serious and minor offenses; and

(6) to define adequately the act and mental state which constitute each offense, and limit the condemnation of conduct as criminal when it is without fault.

(b) The general purposes of the provisions governing the sentencing offenders are:

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(1) to prevent and condemn the commission of offenses;

(2) to promote the correction and rehabilitation of offenders;

(3) to assure the public safety by preventing the commission of offenses through the deterrent influence of sentences imposed and the confinement of offenders when required in the interest of public protections;

(4) to safeguard offenders against excessive, disproportionate, or arbitrary punishment;

(5) to give fair warning of the nature of the sentences that may be imposed on conviction of an offense;

(6) to differentiate among offenders with a view to a just individualization in their treatment; and

(7) to advance the use of generally accepted scientific methods and knowledge in sentencing offenders.

(c) The provisions of this Code shall be construed according to the fair import of their terms, but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this Section and the special purposes of the particular provision involved. The discretionary powers conferred by this Code shall be exercised in accordance with the criteria stated in the Code and, insofar as such criteria are not decisive, to further the general purposes stated in this Section.

CROSS-REFERENCES: § 1.34 of this Title.

COMMENT: Section 1.14 is based upon Model Penal Code § 1.02 with modifications suggested by the New Jersey Criminal Law Revision Commission. See 1 N.J. § 2C:1-2 (Final Report, 1971). The Section is intended to state the most pervasive general objectives of the Code. The statement is included both for its own sake, as an explanation of the underlying legislative premises, and also as an aid and guide for the courts and correctional institutions called upon to apply and administer it.

§ 1.16. Territorial Applicability.

(a) Except as otherwise provided in this Section, a person may be convicted under the law of this Territory of an offense

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committed by his own conduct or the conduct of another for which he is legally accountable if;

(1) he conduct which is an element of the offense or the result which is such an element occurs within this Territory;

(2) conduct occurring outside the Territory is sufficient under the law of this Territory to constitute an attempt to commit an offense within the Territory;

(3) conduct occurring outside the Territory is sufficient under the law of this Territory to constitute a conspiracy to commit or offense within the Territory and an overt act in furtherance of such conspiracy occurs within the Territory;

(4) conduct occurring within the Territory establishes complicity in the commission of, or an attempt, solicitation, or conspiracy to commit, an offense in another jurisdiction which is also an offense under the law of this Territory.

(5) the offense consists of the omission to perform a legal duty imposed by the law of this Territory with respect to domicile, residence, or a relationship to a person, thing, or transaction in the Territory; or

(6) the offense is based on a statute of this Territory which expressly prohibits conduct outside the Territory, when the conduct bears a reasonable relation to a legitimate interest of this Territory and the person knows or should know that his conduct is likely to affect that interest.

(b) Paragraph (1) of Subsection (1) does not apply when either causing a specified result or an intent to cause or danger of causing such a result is an element of an offense and the result occurs or is designed or likely to occur only in another jurisdiction where the conduct charged would not constitute an offense, unless a legislative purpose plainly appears to declare the conduct criminal regardless of the place of the result.

(c) Paragraph (1) of Subsection (a) does not apply when causing a particular result is an element of an offense and the result is caused by conduct occurring outside the Territory which would not constitute an offense if the result had occurred there,

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unless the person intentionally or knowingly caused the result within the Territory.

(d) When the offense is homicide, either death of the victim or the bodily impact causing death constitutes a “result,” within the meaning of Paragraph (1) of Subsection (a) and if the body of a homicide victim is found within the Territory, it is presumed that such result occurred within the Territory.

(e) The Territory includes the land and water and the air space above such land and water with respect to which the Territory has legislative jurisdiction.

(f) Notwithstanding that territorial jurisdiction may be found under this Section, the court may dismiss, hold in abeyance for up to six months, or with the permission of the defendant, place on an inactive list a criminal prosecution under the law of this Territory where it appears that such action is in the interests of justice because the defendant is being or is likely to be prosecuted for an offense based on the same conduct in another jurisdiction and this Territory’s interest will be adequately served by a prosecution in the other jurisdiction.

SOURCE: Guam PC §§ 27, 184; M.P.C. § 1.03; Cal. § 410 (1971); Mass. Ch. 263, § 5; *N.J. § 2C:1-3. Compare Guam PC § 497.

COMMENT: Section 1.16 supersedes former Guam PC § 27 and is based upon M.P.C. § 1.03 with a modification (Subsection (f)) suggested by the New Jersey Criminal Law Revision Commission. It is not expected that Guam would have as many problems with interstate crime as are found in the forty-eight contiguous states. However, with the ease of air travel between the islands, between Guam and the mainland and between Guam and Asia, it is believed that comprehensive legislation providing for criminal jurisdiction is desirable and may help to deter certain types of organized activity.

Guam PC § 497 has not been expressly included within this Section. This Section punishes the bringing of property into Guam which has been stolen as if that property was stolen, or received as stolen, within Guam. The Guam Law Revision Commission felt that Guam has adequate extradition proceedings to cope with such a problem, if and when it arises.

§ 1.18. Classes of Crimes.

(a) An offense defined by this Code or by any other statute of this Territory, for which a sentence of imprisonment is

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authorized, constitutes a crime. Crimes are classified as felonies, misdemeanors or petty misdemeanors.

(b) A crime is a felony if it is so designated in this Code or if persons convicted thereof may be sentenced to imprisonment for a term which, apart from an extended term, is in excess of one year.

(c) A crime is a misdemeanor if it is so designated in this Code or in a statute other than this Code enacted subsequent thereto.

(d) Any offense declared by law to constitute a crime, without specification of the grade thereof or of the sentence authorized upon conviction, is a misdemeanor.

(e) A crime is a petty misdemeanor if it is so designated in this Code or in a statute other than this Code enacted subsequent thereto or if it is defined by a statute other than this Code which now provides that person convicted thereof may be sentenced to imprisonment for a maximum term of less than one year.

(f) An offense defined by this Code or by any other statute of this Territory constitutes a violation if it is so designated in this Code or in the law defining the offense or if no other sentence than a fine, or fine and forfeiture or other civil penalty is authorized upon conviction. A violation does not constitute a crime and conviction of a violation shall not give rise to any disability or legal disadvantage based on conviction of a criminal offense.

(g) An offense defined by any statute of this Territory other than this Code shall be classified as provided in this Section and the sentence that may be imposed upon conviction thereof shall hereafter be governed by this Code.

SOURCE: Guam PC., §§ 15-17, 177; M.P.C. § 1.04; Cal. §§ 200-203 (T.D. 2, 1968); Cal. §§ 300-304 (1971); Mass. ch. 263, § 4; N.J. § 2c:1-4.

CROSS-REFERENCES: See Index for listing of Crimes and their classification. Section 1.19.

COMMENT: Section 1.18 supersedes former §§ 15-17 of the Guam PC. It is based upon the Model Penal Code, § 1.04. However, its basic policy is reflected in recent recommendations by commissions in California, Massachusetts and New Jersey.

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This Section, by itself, makes little significant change, but lays that groundwork for important changes elsewhere in this Code. An additional classification of “Violation” is defined, a classification which does not exist under the present Penal Code. The major purpose of this Section and § 1.19 is to classify the various types of unlawful conduct by degree, giving a wider range of possibilities than exists under the Penal Code. “Offenses” are divided into “crimes” and “violations,” the latter being differentiated by the lack of imprisonment as a punishment and the lack of any civil disability attaching to its conviction. Inclusion of a “petty misdemeanor” reflects a differentiation between the many types of crimes which were scattered throughout the Codes of Guam for which many individual sentences were assigned, but all of which were misdemeanors.

This Section also makes clear the manner in which offenses stated in other laws are to be classified.

§ 1.19. Felonies Defined and Classified.

(a) Felonies defined by this Code are classified, for the purpose of sentence, into three degrees, as follows:

- (1) felonies of the first degree;
- (2) felonies of the second degree;
- (3) felonies of the third degree.

Any crime declared to be a felony, without specification of degree, is of the third degree.

(b) Notwithstanding any other provision of law, a felony defined by any statute of this Territory other than this Code shall constitute for the purpose of sentence a felony of the third degree.

SOURCE: *M.P.C. § 6.01; Cal. § 203 (T.D. 2, 1968); cf. Cal. § 303 (1971); Mass. ch. 263, § 4; N.J. § 2C:43-1.

CROSS-REFERENCES: See Index for listing of felonies by Degree.

COMMENT: This Section is designed to end the proliferation of sentences, both maximum and minimum, for crimes which have been defined to be felonies. The Guam Penal Code contains no equivalent Section. The Penal Code also contains no logical scheme for the establishment of felony sentences. Rather, establishment of sentences appears to have been accomplished on a crime-by-crime basis, as the particular crimes were prohibited by law. No reference has been made to other parts of the Code, or to similar crimes.

For instance, in the Penal Code, the completed crime of mayhem carries a lesser maximum sentence (10 years) than the crime of assault

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with intent to commit mayhem (14 years). (§§ 204 & 220, resp.). Many other examples could be cited.

This Section places all felonies into one of three classes and states how other felonies, merely stated as such, are to be treated.

§ 1.20. Relationship of Code to Other Laws; Contempts, Penalties and Remedies.

(a) No conduct constitutes an offense unless it is a crime or violation under this Code or other statute of this Territory.

(b) The provisions of this Code shall apply to offenses defined by other statutes, unless otherwise expressly provided or unless the context otherwise requires.

(c) Nothing in this Code shall affect the power of a court to punish contempt or to employ any sanction authorized by law for the enforcement of an order or a civil judgment or decree.

(d) Nothing in this Code shall bar or suspend any liability for damages, penalty, forfeiture, or other remedy otherwise authorized by law to be recovered or enforced in any civil action or proceeding, for any conduct punishable by this Code.

SOURCE: Guam PC §§ 6, 9, 11; *M.P.C. § 1.05; *Cal. §§ 116, 117, 300 (1971); *Mass. ch. 263, §§ 4(a), 6; N.J. § 2C:1-5.

CROSS-REFERENCES: § 1.50 of this Title.

COMMENT: Former law is generally continued. Subdivision (a) eliminates common law offenses, if Guam ever recognized such. Common law offense have not been used in the past ten years on Guam. Subdivision (b) makes clear that the general provisions of this Code apply to offenses stated in other laws. Subdivisions (c) and (d) make clear that civil remedies against offenders and contempts are not affected.

§ 1.22. Prosecution for Conduct Which Constitutes More Than One Offense.

When the same conduct of a defendant may establish the commission of more than one offense, the defendant may be prosecuted for each such offense. He may not, however, be convicted of more than one offense if:

(a) one offense is included in the other as defined in § 105.58 of the Criminal Procedure Code;

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(b) one offense consists only of a conspiracy or other form of preparation to commit the other,

(c) inconsistent findings of fact are required to establish the commission of the offenses;

(d) the offenses differ only in that one is defined to prohibit a designated kind of conduct generally and the other to prohibit a specific instance of such conduct; or

(e) the offense is defined as a continuing course of conduct and the defendant's course of conduct was uninterrupted, unless the law provides that specific periods of such conduct constitute separate offenses.

SOURCE: M.P.C. § 1.07 (1); N.J. § 2C:1-7(A).

CROSS-REFERENCES: 8 GCA §§ 60.30, 60.35, 85.19, 105.58.

COMMENT: While § 1.22 is new, and based upon the Model Penal Code § 1.07 (1), the basic concepts contained within this Section are not new as they are now practiced, in variable form, through case law. Nevertheless, § 1.22 does include specific new limitation on convictions, and not prosecutions. Thus, this Section cannot be used as a basis to strike counts of indictments or information before trial and conviction.

The greater part of the limitation upon multiple conviction is contained within the Code of Criminal Procedure to which cross reference is made. However, it was thought necessary to include this much within § 1.22

§ 1.24. Double Jeopardy. Same Offense.

A prosecution of a defendant for a violation of the same provision of the statutes based upon the same facts as a former prosecution is barred by such former prosecution under the following circumstances:

(a) The former prosecution resulted in an acquittal by a finding of not guilty by the trier of fact or in a determination that there was insufficient evidence to warrant a conviction. A finding of guilty of a lesser included offense is an acquittal of the greater inclusive offense, although the conviction is subsequently set aside.

(b) The former prosecution was terminated, after the complaint had been filed or the indictment found, by a final order or judgment for the defendant, which has not been set

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aside, reversed, or vacated and which necessarily required a determination inconsistent with a fact or a legal proposition that must be established for conviction of the offense.

(c) The former prosecution resulted in a conviction. There is a conviction if the prosecution resulted in a judgment of conviction which has not been reversed or vacated, a verdict of guilty which has not set aside and which is capable of supporting a judgment, or a plea of guilty accepted by the court. In the latter two cases failure to enter judgment must be for a reason other than a motion of the defendant.

(d) The former prosecution was improperly terminated. Except as provided in this Subsection, there is an improper termination of a prosecution if the termination is for reasons not amounting to an acquittal, and it takes place after the jury was impaneled and sworn or, in a trial before a court without a jury, after the first witness was sworn but before findings were rendered by the trier of fact. Termination under any of the following circumstances is not improper:

(1) the defendant consents to the termination or waives, by motion to dismiss or otherwise, his right to object to the termination;

(2) the trial court finds that the termination is necessary because of the failure of the jury to agree upon a verdict after a reasonable time for deliberation has been allowed; or

(3) the trial court finds that the termination is required by a sufficient legal reason and a manifest or absolute or overriding necessity.

SOURCE: Guam PC, § 687; M.P.C. § 1.08; Mass. ch. 263 § 11; *N.J. § 2C:1-8.

CROSS-REFERENCES: § 1.26 this Title.

§ 1.26. Double Jeopardy. Different Offense.

A prosecution of a defendant for a violation of a different provision of the statutes or based on different facts than a former

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prosecution is barred by such former prosecution under the following circumstances:

(a) The former prosecution resulted in an acquittal or in a conviction as defined in § 1.24 and the subsequent prosecution is for:

(1) any offense of which the defendant could have been convicted on the first prosecution;

(2) any offense of which the defendant should have been tried on the first prosecution under Subsection (b) of § 65.30 of the Criminal Procedure Code unless the court ordered a separate trial of the charge of such offense; or

(3) the same conduct, unless (A) the offense of which the defendant was formerly convicted or acquitted and the offense for which he is subsequently prosecuted each requires proof of a fact not required by the other and the law defining each of such offenses is intended to prevent a substantially different harm or evil, or (B) the second offense was not consummated when the former trial began.

(b) The former prosecution was terminated, after the complaint was filed or the indictment found, by an acquittal or by a final order or judgment for the defendant which has not been set aside, reversed or vacated and which acquittal, final order or judgment necessarily required a determination inconsistent with a fact which must be established for conviction of the second offense.

(c) The former prosecution was improperly terminated, as improper termination is defined in § 1.24, and the subsequent prosecution is for an offense of which the defendant could have been convicted had the former prosecution not been improperly terminated.

SOURCE: Guam PC § 287; M.P.C. § 1.09; Mass. ch. 268, § 12; *N.J. § 2C:1-9.

CROSS-REFERENCES: § 1.24 this Title.

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COURT DECISIONS: D.C.GUAM:APP.DIV. Because the offenses of speeding, expired safety decal, and failure to display a taxi I.D. card, all violations of the Vehicle Code, all occurred as a result of a single stop by a police officer, it is in violation of the double jeopardy provisions of 9 GCA § 1.26 to charge the defendant separately and bring him to trial separately on the separate offenses. Once the ticket was issued and the defendant required to appear in a Traffic Court, the prosecution that cannot again bring him to court, even if it is a Superior Court, based upon the same set of circumstances. *People v. Arenas, Cr. #82-026A.*

COMMENT: §§ 1.24 and 1.26 supersede former § 687 of the Penal Code. § 1.24 is based upon Model Penal Code § 1.08 as modified by New Jersey commission. Section 1.24 states the circumstances in which a former prosecution is a bar to a subsequent prosecution for the same case, in the narrowest sense of a violation of the same statute based upon the same facts. A bar arises in four general situations: (a) where the first prosecution results in an acquittal; (b) where collateral estoppel operates; (c) where the first prosecution results in a conviction; or (d) where the first prosecution is improperly terminated after the jury has been empaneled and sworn and the first witness is sworn.

§ 1.26 is based on Model Penal Code § 1.09. It deals with those situations in which a former trial or proceeding prior to trial is barred due to a subsequent prosecution for a different offense, whether a violation of a different statute or a different violation of the same statute. There are five general situations in which a prosecution for a “different offense” may be barred by a previous trial or proceeding prior to trial. The situation in which this bar operates are clearly set out in the two Sections.

§ 1.28. Concurrent Jurisdiction. When a Bar to Prosecution.

When conduct constitutes an offense within the concurrent jurisdiction of this Territory and of the United States or any state, a prosecution in any such other jurisdiction is a bar to a subsequent prosecution in this Territory under the following circumstances:

(a) the first prosecution resulted in an acquittal or in a conviction as defined in § 1.24 and the subsequent prosecution is based on the same conduct, unless

(1) the offense of which the defendant was formerly convicted or acquitted and the offense for which he is subsequently prosecuted each requires proof of a fact not required by the other and the law defining each of such offenses is intended to prevent a substantially different harm or evil or

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(2) the offense for which the defendant is subsequently prosecuted is intended to prevent a substantially more serious harm or evil than the offense of which he was formerly convicted or acquitted or

(3) the second offense was not consummated when the former trial began; or

(b) the former prosecution was terminated after the information was filed or the indictment found, by an acquittal or by a final order or judgment for the defendant which has not been set aside, reversed or vacated and which acquittal, final order or judgment necessarily required a determination inconsistent with a fact which must be established for conviction of the offense of which the defendant is subsequently prosecuted.

SOURCE: Guam PC § 656; M.P.C. § 1.10; Mass. ch. 283, § 13; *N.J. 2C:1-10.

CROSS-REFERENCES: § 1.24 this Title.

COMMENT: § 1.28 supersedes former § 656. This Section is based upon Model Penal Code § 1.10 as modified by New Jersey and sets forth the circumstances in which a previous prosecution in one jurisdiction bars a subsequent prosecution in Guam. This Section does not bar a subsequent prosecution after a former prosecution in a foreign country, as does former § 656 of the Penal Code. Subdivision (a) provides a bar when there has been a former acquittal on the merits as well as a former conviction in a federal or state court. Subdivision (b) makes collateral estoppel applicable between jurisdictions provided in the adjudication in the “foreign” jurisdiction took the form of a final order or judgment on the merits.

§ 1.30. Former Prosecutions. When Not a Bar to Present Prosecution.

A prosecution is not a bar within the meaning of §§ 1.24, 1.26 and 1.28 under either of the following circumstances:

(a) The former prosecution was before a court which lacked jurisdiction over the defendant or the offense tried in that court; or

(b) The former prosecution resulted in a judgment of conviction which was held invalid in a subsequent proceeding on a petition for post-conviction relief or similar

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process, except that any bar as to reprosecution for a greater inclusive offense created by Subsection (a) of § 1.24 shall apply.

(c) The former prosecution resulted in a plea of guilty or nolo contendere which was held invalid in an appeal under 8 GCA § 130.15(e) and the defendant may be retried as if the former plea had not been entered.

SOURCE: M.P.C. § 1.11(1), (3); Mass. ch. 263, § 14(a); *N.J. § 2C:1-11(a), (c). Subsection (c) added by P.L. 15-94:4, eff. 01/17/80.

CROSS-REFERENCES: § 1.24, 1.26 and 1.28 of this Title. Comment to repeal 8 GCA § 65.17; and 8 GCA § 130.20(a)(6).

COMMENT: § 1.30 is based upon Model Penal Code § 1.11 as modified by the New Jersey Commission. This Section sets forth the two situations when a prosecution is not a bar to a subsequent prosecution within the meaning of §§ 1.24 through 1.28 of this Code. First, no bar exists if the court before which the prior proceeding was held lacks jurisdiction over the defendant or the offense. Secondly, no bar exists where the former prosecution resulted in a judgment of conviction which was later held invalid. However, the same limitation upon a reprosecution found in § 1.24(A) stating conviction of a lesser included offense is an acquittal of the greater offense, although the conviction is subsequently set aside, applies here.

Subsection (c) was added as a part of a comprehensive change to the means by which certain motions, particularly motions to suppress evidence under 8 GCA § 65.15, could be appealed by the Government. This comprehensive set of amendments, enacted by P.L. 15-94, included Subsection (c) as a compromise so that, instead of allowing defendants to appeal the suppression motion when it went against them, this Subsection would allow such defendants to plead guilty to an offense and, if the plea was based upon a denial of a motion to suppress certain critical evidence, then the defendant could appeal that decision (8 GCA § 130.15(e)) and the Government could refile the case if the appeal was found in favor of the defendant. This Section permits refiling under such circumstances.

§ 1.34. Rules of Construction.

Unless the provision or context otherwise requires, these preliminary provisions and rules of construction shall govern the construction of this Code.

SOURCE: Cal. § 105 (1971).

CROSS-REFERENCES: See § 1.14 of this Title.

§ 1.36. Headings.

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Chapter, article and section headings do not in any manner affect the scope, meaning or intent of the provisions of this Code.

SOURCE: Cal. § 106 (1971).

§ 1.38. Amendments Included.

Whenever any reference is made to any portion of this Code or of any other statute, such reference shall apply to all amendments and additions heretofore or hereafter made.

§ 1.42. Tenses.

The present tense includes the past and future tenses; and the future, the present.

§ 1.44. Gender.

The masculine gender includes the feminine and neuter.

§ 1.46. Number.

The singular number includes the plural; and the plural, the singular.

§ 1.48. Shall and May.

Shall is mandatory and may is permissive.

SOURCE: Guam PC § 7; Cal. §§ 108, 109, 110, 111 and 112 (1971).

COMMENT: §§ 1.38 through 1.48 provide for general rules of construction of this Code and make clear (§ 1.38) that amendments and additions to statute mentioned in this Code are to be included as if they were passed at the time this Code was passed, thus clearing up any doubt whether an amendment is included, in, say, an indictment which refers to this Code and the reference in this Code to a given statute.

§ 1.50. Military Authority.

This Code does not affect any authority otherwise conferred by law upon any court-martial or other military authority or officer to prosecute and punish persons violating such codes or laws.

SOURCE: Guam PC § 11.

COMMENT: § 1.50 restates a portion of former § 11 the Penal Code. This Section has special significance for Guam due to the concurrent

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jurisdiction given Guam over offenses committed, acts done and persons found on military bases on the island. (48 U.S.C. § 1704).

ARTICLE 2
DEFINITIONS

- § 1.60. General Definitions Applicable to Entire Title.
- § 1.70. Peace Officer.
- § 1.80. Territory.

§ 1.60. General Definitions Applicable to Entire Title.

Unless otherwise expressly stated:

- (a) Chapter means a chapter of this Title.
- (b) Article means an article of the chapter in which that term occurs.
- (c) Section means a section of this Code.
- (d) Subsection means a subsection of the section in which that term occurs.
- (e) Paragraph means a paragraph of the subsection in which that term occurs.
- (f) Person means any natural person, partnership, firm, association, corporation or other legal entity.

SOURCE: Subsection (f) added by P.L. 16-84:7.

§ 1.70. Peace Officer.

As used in this Code, peace officer has the meaning provided by 8 GCA § 5.55 of the Criminal Procedure Code.

AG OPINION #78-19: Alcoholic Beverage Control inspectors have not been classified as peace officers within the meaning of this Section.

§ 1.80. Territory.

As used in this Code, Territory means the territory of Guam.