

THIRD NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
THIRD REGULAR SESSION, 1983

AN ACT

To provide for a Criminal Code of the Commonwealth, to repeal certain sections of the Trust Territory Code, and for other purposes.

Offered by Senator Benjamin T. Manglona

Prefiled Date: December 27, 1983

SENATE ACTION

Referred to: Committee on Judiciary, Government and Law

Standing Committee Report No. 3-193

First Reading: February 2, 1983

Second and Final Reading: March 9, 1983

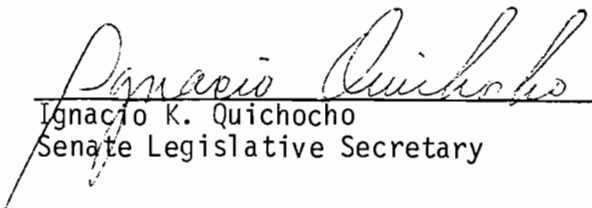
Acceptance of House Amendments: July 7, 1983

HOUSE ACTION

Referred to: Committee on Judiciary and Governmental Operations

Standing Committee Report No. 3-141

First and Final Reading: June 28, 1983



Ignacio K. Quichocho
Senate Legislative Secretary

AN ACT

To provide for a Criminal Code of the Commonwealth, to repeal certain sections of the Trust Territory Code, and for other purposes.

BE IT ENACTED BY THE NORTHERN MARIANAS COMMONWEALTH LEGISLATURE:

1 Section 1. Criminal Code Enactment. There is hereby enacted the
2 Criminal Code which shall read as follows:

3 "Commonwealth Criminal Code"

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7 Division 1. General Provisions

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20 111. Effective Date

21 "Section 101. Short Title. This Act shall be known and may be

22 cited as the "Commonwealth Criminal Code".

23 "Section 102. Applicability to Offenses Committed Before and

24 After the Effective Date.

25

1 (a) Except as provided in Subsection (a) of this Section,
2 this Code does not apply to offenses committed before its effective
3 date. For purposes of this Section, an offense is committed before
4 the effective date if any of the elements of the offense occurred
5 before that date.

6 (b) Prosecutions for offenses committed before the effective
7 date of this Code are governed by the prior law and procedures,
8 which are continued in effect for that purpose, as if this Code
9 were not in force.

10 "Section 103. Territorial Applicability.

11 (a) Except as otherwise provided in this Section, a person
12 may be convicted under the laws of the Commonwealth of the Northern
13 Mariana Islands of an offense committed by his own conduct or the
14 conduct of another for which he is legally accountable, if:

15 (1) either the conduct or the result of conduct which is
16 an element of the offense occurs within this jurisdiction; or

17 (2) conduct occurring outside this jurisdiction is
18 sufficient under the law of this jurisdiction to constitute
19 an attempt to commit an offense within this jurisdiction; or

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

25

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

6 (5) the offense consists of the omission, while within
7 or outside this jurisdiction, to perform a legal duty imposed
8 by the laws of the Commonwealth of the Northern Mariana
9 Islands with respect to domicile, residence, or a relationship
10 to a person, thing, or transaction in this jurisdiction; or

11 (6) the offense is based on a statute of the
12 Commonwealth of the Northern Mariana Islands which expressly
13 prohibits conduct outside this jurisdiction, when the conduct
14 bears a reasonable relation to a legitimate interest of the
15 Commonwealth and the defendant knows or should know that his
16 conduct is likely to affect that interest.

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

24 (c) Subsection (a)(1) does not apply when causing a particular
25 result is an element of an offense and the result is caused by

1 conduct occurring outside the Commonwealth which would not
2 constitute an offense if the result had occurred there, unless
3 the actor purposely or knowingly caused the result within the
4 jurisdiction.

5 (d) When the offense is homicide, either the death of the
6 victim or the bodily impact causing death constitutes a "result",
7 within the meaning of Subsection (a)(1) and if the body of a
8 homicide victim is found within the jurisdiction it is presumed
9 that the result occurred within the jurisdiction.

10 (e) This Commonwealth includes the land and water and the
11 air space above such land and water with respect to which the
12 Commonwealth has legislative jurisdiction.

13 "Section 104. Definitions Generally Applicable. The definitions
14 in this Section shall apply throughout this Code, unless otherwise
15 specified or a different meaning is plainly required.

16 (a) "Carry" means having on one's person or in a motor
17 vehicle or other conveyance.

18 (b) "Commonwealth" means the political entity established by
19 the Covenant to Establish a Commonwealth of the Northern Mariana
20 Islands In Political Union With the United States of America, the
21 Constitution of the Commonwealth of the Northern Mariana Islands,
22 and any agency or political subdivision thereof created by the
23 Constitution or Commonwealth law, and any area, thing, or place
24 subject to its jurisdiction.

25

1 (c) The term "Commonwealth law" means the Constitution of
2 the Commonwealth of the Northern Marianas and any law enacted
3 pursuant to legislative authority created by the Constitution, as
4 well as rules and regulations having the force and effect of law
5 pursuant to statute.

6 (d) "Dangerous device" means any explosive, incendiary or
7 poison gas bomb, grenade, mine or similar device, switch or gravity
8 blade knife, blackjack, sandbag, metal, wooden or shark's tooth
9 knuckles, dagger, any instrument designed or redesigned for use as
10 a weapon, or any other instrument which can be used for the purpose
11 of inflicting bodily harm and which under the circumstances of its
12 possession serves no lawful purpose.

13 (e) "Dangerous weapon" means any automatic weapon, dangerous
14 device, firearm, gun, handgun, long gun, semi-automatic weapon,
15 knife, machette, or other thing by which a fatal wound or injury
16 may be inflicted.

17 (f) "Defendant" includes a person who is an accessory or
18 accomplice of the defendant in a criminal case.

19 (g) "Deprive" means:

20 (1) to withhold property of another permanently or
21 for so extended a period as to appropriate a major portion
22 of its economic value, or with intent to restore only upon
23 payment of reward or other compensation; or

24 (2) to dispose of the property so as to make it
25 unlikely that the owner will recover it.

1 (h) "Felony" means any offense or conduct proscribed by
2 Commonwealth law which is punishable by more than one year
3 confinement in a jail or prison.

4 (i) "Financial institution" means a bank, insurance company,
5 credit union, building and loan association, investment trust or
6 other organization held out to the public as a place of deposit of
7 funds or medium of savings or collective investment.

8 (j) "Firearm" means any device, by whatever name known, which
9 is designed or may be converted to expel or hurl a projectile or
10 projectiles by the action of an explosion, a release, or an
11 expansion of gas, including but not limited to guns, automatic and
12 semi-automatic weapon, except a device designed or redesigned for
13 use solely as a signaling, linethrowing, spearfishing, or
14 industrial device, or a device which hurls a projectile by means
15 of the release or expansion of carbon dioxide or air. Bang-sticks
16 are firearms; Provided, bang-sticks used for scientific purposes
17 are not firearms if their temporary use is approved by the
18 Governor.

19 (k) "Gun" means a handgun or long gun.

20 (l) "Handgun" means a pistol or revolver with an overall
21 length of less than twenty-six inches.

22 (m) "Intoxication" means a diminishment or a disturbance of
23 mental or physical capabilities resulting from the introduction of
24 a chemical, alcoholic, organic or other substance into the body.

25

1 (n) "Jurisdiction" means the Commonwealth of the Northern
2 Mariana Islands, which includes such area of the land and water and
3 the air space above such areas with respect to which the Commonwealth
4 Government has established its legislative and territorial
5 jurisdiction, and shall include boats, aircraft and other vessels
6 while in such areas.

7 (o) "Knowingly" and "knows" means with knowledge,
8 consciously, intelligently, wilfully; a person acts knowingly
9 with respect to a material element of an offense when:

10 (1) if the element involves the nature of his conduct
11 or the attendant circumstances, he is aware that his conduct
12 is of that nature or that such circumstances exist; or

13 (2) if the element involves a result of his conduct, he
14 is aware that it is practically certain that his conduct will
15 cause such a result; or

16 (3) if the element involves the truth or falsity of a
17 statement or representation, he is aware of its truth or
18 falsity.

19 (p) "Long gun" means a rifle with one or more barrels
20 more than eighteen inches in length.

21 (q) "Minor" means a natural person who is under the age of
22 18 years, and includes the term "a child under the age of 18".

23 (r) "Misdemeanor" means any offense or conduct proscribed by
24 Commonwealth law which is punishable by not more than one year
25 confinement in a jail or prison.

1 (s) "Movable property" means property, the location of which
2 can be changed, including things growing on, affixed to, or found
3 in land, and documents, although the rights represented thereby
4 have no physical location. "Immovable property" is all other
5 property.

6 (t) "Obtain" means:

7 (1) in relation to property, to bring about a transfer
8 or purported transfer of a legal interest in the property.

9 (2) in relation to labor or service, to secure
10 performance thereof.

11 (u) "Occupied structure" means any structure, vehicle, vessel
12 or place adapted for overnight accommodation of persons, or for
13 carrying on business therein, whether or not a person is actually
14 present. If a building or structure is divided into separately
15 occupied units, any unit not occupied by the defendant is an
16 occupied structure of another.

17 (v) "Offense" means an act or omission which is punishable
18 by penal sanctions under the provisions of this Code.

19 (w) "Official detention" means detention by a public servant
20 of the Commonwealth or by any other person legally authorized or
21 empowered under Commonwealth law to arrest or detain persons on
22 behalf of the Commonwealth Government, and does not include
23 probation or parole, or constraints incidental to release on bail.

24 (x) "Official duty" means those obligations of performance,
25 care, action, assistance, forbearance, or observance which rest

1 upon a person in an official capacity.

2 (y) "Official proceeding" means a proceeding conducted or
3 heard, or which may be conducted or heard, before any legislative,
4 judicial, administrative or other lawfully established body or
5 agency of the Commonwealth and includes proceedings conducted or
6 heard before government bodies and officials authorized to
7 administer oaths, compel the appearance of witnesses and production
8 of records, and notaries public or other persons taking testimony
9 or any deposition in connection with any such proceeding, and
10 includes all judicial and administrative proceedings of the
11 Government of the Trust Territory of the Pacific Islands which
12 arise in the Commonwealth.

13 (z) "Person" means any natural human being and, where
14 relevant, a corporation, unincorporated association or other
15 entity.

16 (aa) "Property" means anything of value, including money,
17 negotiable instruments real estate, tangible and intangible
18 personal property, contract rights, choses-in-action and other
19 interests in or claims to wealth, admission or transportation
20 tickets, captured or domestic animals, food and drink, and
21 electric or other power.

22 (bb) "Property of another" means any property in which any
23 person other than the defendant has a possessory or proprietary
24 interest therein, and includes property in which any person other
25 than the defendant has an interest which the defendant is not

1 privileged to infringe, regardless of the fact that the defendant
2 also has an interest in the property and regardless of the fact
3 that the other person might be precluded from civil recovery
4 because the property was used in an unlawful transaction or was
5 subject to forfeiture as contraband. Property in possession of
6 the defendant shall not be deemed property of another who has
7 only a security interest therein, even if legal title is in the
8 creditor pursuant to a conditional sales contract or other security
9 agreement.

10 (cc) "Public place" means a place where the general public
11 has a right, permission, or license to resort, gather together,
12 or pass to and fro, and which is usually accessible and normally
13 visited by many persons.

14 (dd) "Public accommodation" means any establishment which
15 provides lodging to transient guests for charge, or any
16 establishment which is engaged in selling food, beverage or
17 gasoline to the public, or any place of recreation, amusement,
18 exhibition, sightseeing, or entertainment which is open to members
19 of the public, or any facility for the public transportation of
20 persons or goods.

21 (ee) "Public servant" means any elected or appointed official,
22 employee, or authorized agent of any branch department, agency,
23 public authorized association or instrumentality of the Commonwealth
24 Government; including legislators and judges, and any person acting
25 as an advisor, consultant or otherwise, in performing a governmental

1 "public servant" does not include witnesses. The term "public
2 servant" includes a public servant of the Government of the Trust
3 Territory of the Pacific Islands when acting in a legislative,
4 judicial or administrative function, capacity or proceeding which
5 has been brought in, or arises out of, the Commonwealth.

6 (ff) "Reckless" or "recklessly" means conduct manifesting a
7 wilful or wanton disregard for the nature and consequences of the
8 act, or for the physical safety of another.

9 (gg) "Semi-automatic weapon" means a weapon of any description
10 irrespective of size, by whatever name designated or known, loaded
11 or unloaded, from which may be repeatedly or automatically
12 discharged a number of bullets contained in a magazine, ribbon or
13 other receptacle by a like number of movements of the trigger or
14 firing mechanism without cocking or resetting the trigger of
15 firing mechanism.

16 (hh) "Serious bodily injury" means bodily injury which
17 creates a high probability of death or which causes serious
18 permanent disfigurement, or which causes a permanent or protracted
19 loss or impairment of the function of any bodily member or organ,
20 or other bodily injury of like severity.

21 (ii) "Serious psychological injury" means psychological or
22 emotional damage that requires protracted psychological treatment
23 or is characterized by extreme behavioral changes or severe
24 physical symptoms.

25

1 (jj) "Services" includes labor, professional service,
2 transportation, telephone or other public service, accommodation
3 in or food from hotels, restaurants or elsewhere, admission to
4 exhibitions, and use of vehicles or other movable property.

5 (kk) "Sexual contact" means any touching of the sexual or
6 other intimate parts of another person or any touching of another
7 person by a person's sexual or other intimate parts done with the
8 intent of gratifying or arousing the sexual desire of either party.

9 (ll) "Sexual intercourse" means coitus and also means,
10 cunnilingus, fellatio, or anal intercourse, or the causing of
11 penetration to any extent with any object or human part, of the
12 genital or anal openings of another, whether or not there is any
13 emission.

14 (mm) "Spouse" includes the husband or wife of a customary
15 marriage.

16 (nn) "Transfer" means sale, gift, purchase or any other means
17 by which ownership or temporary rights of use and control are
18 conveyed or shifted from one person to another.

19 (oo) "Unlawfully" means without lawful authority or purpose,
20 or contrary to law, regulation or order of the detaining authority.

21 (pp) "Usurps" means to seize, take possession of or otherwise
22 control with wrongful intent, or without lawful authority.

23 (qq) "Writing" includes printing or any other method of
24 recording information, money, coins, tokens, checks, negotiable
25 instruments, stamps, seals, credit cards, badges, trade-marks,

1 and other symbols of value, right, privilege, or identification.

2 "Section 105. Time Limitations for Beginning Prosecutions.

3 (a) A prosecution for murder may be commenced at any time.

4 (b) Except as otherwise provided in this Section,
5 prosecutions for offenses other than traffic offenses are
6 subject to the following time limitations:

7 (1) A prosecution for an offense which is punishable
8 by imprisonment for five years or more must be commenced
9 within four years after it is committed.

10 (2) A prosecution for an offense which is punishable
11 by imprisonment for six months or less, or by a fine only
12 must be commenced within one year after it is committed.

13 (3) A prosecution for any other offense must be
14 commenced within two years after it is committed.

15 (c) If the time limitation set forth in Subsection (b) of
16 this Section has expired, a prosecution may nevertheless be
17 commenced for:

18 (1) Any offense, an element of which is either fraud or
19 a breach of fiduciary obligation, within one year after
20 discovery of the offense by an aggrieved party or by a person
21 who has a legal duty to represent an aggrieved party and who
22 is himself not a party to the offense, but in no case shall
23 this provision extend the period of limitation otherwise
24 applicable by more than three years; or
25

1 (2) Any offense based on misconduct in office by a
2 public officer or employee at any time when the defendant is
3 in the same public office or employment or within two years
4 thereafter, but in no case shall this provision extend the
5 period of limitation otherwise applicable by more than three
6 years.

7 (3) Any offense for which a pending prosecution results
8 in a dismissal without prejudice within one year from the
9 date of such dismissal.

10 (d) The time limitation does not run:

11 (1) during any time when the accused is absent from
12 this jurisdiction or has no reasonably determinable place
13 of abode or work within this jurisdiction; or

14 (2) during any time when a prosecution against the
15 accused is pending in this jurisdiction.

16 (e) A prosecution is commenced either when an information
17 or complaint is filed, or when an arrest warrant or other process
18 is executed without unreasonable delay.

19 "Section 106. Location of Trial.

20 (a) All trials of offenses shall be held on the island where
21 the offense was committed if a court competent to hear the case is
22 located or regularly sits on such island. Otherwise all trials
23 shall be in Saipan.

24 (b) If elements of the offense were committed on different
25 islands, the trial may be held on any island where a material

1 element was committed and a court competent to hear the case is
2 located or regularly sits. Otherwise the trial shall be in
3 Saipan.

4 (c) A defendant or the Commonwealth may petition the court
5 for a change of location of trial for good cause.

6 "Section 107. Defenses.

7 (a) A defense is a fact or set of facts which negates
8 liability under this Code.

9 (b) No defense may be considered by the trier of fact unless
10 evidence of the specified fact or facts has been presented. If
11 such evidence is presented, then:

12 (1) If the defense is not an affirmative defense, the
13 defendant is entitled to an acquittal if the trier of fact
14 finds that the evidence, when considered in the light of any
15 contrary prosecution evidence, raises a reasonable doubt as
16 to the defendant's guilt; or

17 (2) If the defense is an affirmative defense, the
18 defendant is entitled to an acquittal if the trier of fact
19 finds that the evidence, when considered in the light of any
20 contrary prosecution evidence, proves by a preponderance of
21 the evidence the specified fact or facts which negate penal
22 liability.

23 (c) A defense is an affirmative defense if it is so
24 designated by this Code or another statute.
25

1 (d) Nothing contained herein shall be construed to deny a
2 defendant the right to raise any defense available at common law.

3 (e) Nothing contained herein shall be construed as to
4 relieve the Commonwealth of its burden of proving beyond a
5 reasonable doubt all elements included in the definition of
6 the offense of which the defendant is charged.

7 "Section 108. Witness Immunity.

8 (a) As used in this Section:

9 (1) "other information" includes any book, paper
10 document, record, recording, or other material;

11 (2) "court of the Commonwealth" means the Commonwealth
12 Trial Court and any appellate court thereof.

13 (b) Whenever a witness refuses, on the basis of his privilege
14 against self-incrimination, to testify or provide other information
15 in a proceeding before or ancillary to a court of the Commonwealth
16 and the judge presiding over the proceeding communicates to the
17 witness an order issued under this section, the witness may not
18 refuse to comply with the order on the basis of his privilege
19 against self-incrimination; but no testimony or other information
20 compelled under the order (or any information directly or
21 indirectly derived from the testimony or other information) may
22 be used against the witness in any criminal case, except a
23 prosecution for perjury, giving a false statement, or otherwise
24 failing to comply with the order.

25

1 (c) (1) In the case of any individual who has been or may be
2 called to testify or provide other information at any
3 proceeding before or ancillary to a court of the Commonwealth,
4 the court shall issue, in accordance with subsection (b) of
5 this section, upon the request of the Attorney General or an
6 Assistant Attorney General acting for him, an order requiring
7 the individual to give testimony or provide other information
8 which he refuses to give or provide on the basis of his
9 privilege against self-incrimination.

10 (2) The Attorney General or Assistant Attorney General
11 may request an order under Subsection (b) of this section
12 when in his judgment.

13 (A) the testimony or other information from the
14 individual may be necessary to the public interest; and

15 (B) the individual has refused or is likely to
16 refuse to testify or provide other information on the
17 basis of his privilege against self-incrimination.

18 "Section 109. Rules of Construction. The following rules of
19 construction shall govern the administration and enforcement of this
20 Code:

21 (a) As used in this Code, unless it is otherwise provided or
22 the context requires a different construction, application or
23 meaning:

24 (1) words importing the singular include and apply
25 to several persons, parties, or things;

1 (3) words importing the masculine gender include the
2 feminine; and

3 (b) Words and phrases as used in this Code shall be read
4 with their context and shall be construed according to the common
5 and approved usage of the English language. Technical words and
6 phrases, and such others as may have acquired a peculiar and
7 appropriate meaning in the law, shall be construed and understood
8 according to their peculiar and appropriate meaning.

9 (c) The classification of the Divisions, Chapters, Parts,
10 and Sections of this Code, and the headings thereto, are made for
11 the purpose of convenient reference and orderly arrangement, and
12 no implication, inference, or presumption of a legislative
13 construction shall be drawn therefrom.

14 (d) The provisions of this Code shall be construed according
15 to the reasonable construction of their terms, with a view to
16 effect the plain meaning of its object.

17 (e) Severability. If any provision of this Code or
18 amendments or additions hereto, or the application thereof to any
19 person, thing, or circumstances is held invalid, the invalidity
20 does not affect the provisions or application of this Code or the
21 amendments or additions that can be given effect without the
22 invalid provisions or application, and to this end the provisions
23 of this Code and the amendments or additions thereto are severable.

24 "Section 110. Repealer. The following laws or parts of laws are
25 repealed as they apply in the Commonwealth: Title 11 of the Trust

1 Territory Code, Chapters 3, 7, 9, 11, 15, 17, 23, 29, 31, 33, 35, 37,
2 39, 41, 45, 51, 53, 55, section 1404 of Chapter 57, 59, 61; Chapters 1
3 through 13 of Title 5 of the Trust Territory Code; Title 63 of the
4 Trust Territory Code, Chapter 7.

5 "Section 111. Effective Date. This Act shall take effect 90 days
6 after its approval by the Governor, or 90 days after the time lapses
7 for the Governor's review pursuant to Article II, Section 7(b) of the
8 Constitution of the Commonwealth of the Northern Mariana Islands.

9 Division 2. Inchoate Crimes

10 Sections

- 11 201. Attempts.
12 202. Solicitation.
13 203. Conspiracy.
14 204. Penalties for Attempt, Solicitation,
15 and Conspiracy.

16 "Section 201. Attempts.

17 (a) A person commits the offense of attempt if, with intent
18 to commit an offense, he does an overt act which constitutes a
19 substantial step in a course of conduct planned to culminate in
20 the commission of that offense.

21 (b) It is an affirmative defense to a charge of attempt
22 that the offense was not committed because the defendant desisted
23 voluntarily and in good faith abandoned his intention to commit
24 the offense without causing any of the effects proscribed by this
25 Code.

1 "Section 202. Solicitation.

2 (a) A person commits the offense of solicitation, if, with
3 intent to promote or facilitate the commission of an offense, he
4 commands, encourages, or requests another person to engage in the
5 acts or cause the result specified by the definition of the
6 offense, or engages in conduct which would establish complicity
6 in the specified conduct or result.

7 (b) It is immaterial under Subsection (a) of this Section
8 that the defendant fails to communicate with the person he solicits
9 if his conduct was designed to cause such communication.

10 (c) It is an affirmative defense to prosecution for
11 solicitation that the defendant, under circumstances showing a
12 complete and voluntary renunciation of his criminal intent, made
13 a reasonable effort to prevent the conduct or result solicited.

14 "Section 203. Conspiracy.

15 (a) A person commits the offense of conspiracy if, with
16 intent to promote or facilitate the commission of an offense:

17 (1) he agrees with one or more persons that they, or
18 one or more of them, will engage in or solicit the conduct
19 or will cause or solicit the result specified by the
20 definition of the offense; and

21 (2) he or another person with whom he conspired
22 commits an overt act in pursuance of the conspiracy.

23 (b) If a person conspires to commit a number of offenses, he
24 is guilty of only one conspiracy if the multiple offenses are the
25 object of the same agreement or continuous conspiratorial

1 relationship.

2 (c) It is an affirmative defense that the defendant, under
3 circumstances showing a complete and voluntary renunciation of his
4 criminal intent, made a reasonable effort to prevent the conduct
5 or result which is the object of the conspiracy.

6 "Section 204. Penalties for Attempt, Solicitation, and Conspiracy.

7 (a) A person convicted of attempt or solicitation shall be
8 punished:

9 (1) if the maximum sentence provided for the offense
10 which was the object of the attempt, solicitation, or
11 conspiracy is life imprisonment, by imprisonment for not
12 more than twenty years;

13 (2) otherwise, by imprisonment for not more than
14 one-half of the maximum penalty provided for the underlying
15 offense which was the object of the attempt, solicitation,
16 or conspiracy.

17 (b) A person convicted of conspiracy shall be punished by not
18 more than the same penalty provided for the underlying offense.

19 Division 3. General Principles of Responsibility

20 (RESERVED)

21 Division 4. Crimes Against Persons and Property

22 Part I. Offenses Against the Person

23 Sections

24 401. Murder.

25 402. Manslaughter.

1	403. Negligent Homicide.
2	404. Rape.
3	405. Rape of Spouse.
4	406. Penalty for Rape.
5	407. Sodomy Defined.
6	408. Criminal Sodomy Defined and Penalized.
7	409. Oral Copulation Defined.
8	410. Criminal Oral Copulation
9	Defined and Penalized.
10	411. Sexual Assault of an Animal.
11	412. Rape by Object.
12	413. Sexual Abuse of a Child.
13	414. Assault.
14	415. Assault and Battery.
15	416. Aggravated Assault.
16	417. Assault With a Dangerous Weapon.
17	418. Robbery.
18	419. Kidnapping.
19	420. Criminal Coercion.
20	421. Usurping Control of Aircraft.
21	422. Mutiny on a Vessel.
22	423. Indecent Exposure.
23	424. Resisting Arrest.
24	<u>Part II. Offenses Against Property</u>
25	Sections

- 1 431. Theft.
- 2 432. Theft by Unlawful Taking or Disposition.
- 3 433. Theft by Deception.
- 4 434. Theft by Extortion.
- 5 435. Theft of Property Lost, Mislaidd
- 6 or Delivered by Mistake.
- 7 436. Receiving Stolen Property.
- 8 437. Theft of Services.
- 9 438. Theft by Failure to Make Required
- 10 Disposition of Funds Received.

11 Part III. Forgery and Other Fraud Offenses

- 12 Sections
- 13 441. Forgery.
 - 14 442. Possession of Forged Writing or
 - 15 Forgery Device.
 - 16 443. Fraudulent Destruction, Removal, or
 - 17 Concealment of Recordable Instruments.
 - 18 444. Misuse of Credit Cards.
 - 19 445. Deceptive Business Practices.
 - 20 446. Receiving Deposits in a Financial
 - 21 Institution.

22 Part IV. Other Property Offenses

- 23 Sections
- 24 451. Burglary.
 - 25 452. Arson and Related Offenses.

1 453. Criminal Mischief.

2 454. Trespass.

3 Part V. Offenses Against Public Peace, Safety and Morals

4 Sections

5 461. Disturbing the Peace.

6 462. Riot.

7 463. Bigamy.

8 464. Nuisance.

9 465. Duty to Report Wounds or Deaths.

10 Part I. Offenses Against the Person

11 "Section 401. Murder. Murder is the unlawful killing of a human
12 being by another human being with malice aforethought.

13 (a) First Degree Murder. First Degree Murder is a murder
14 which is:

15 (1) willful, premeditated, and deliberated;

16 (2) perpetrated by poison, lying in wait, torture, or
17 bombing; or

18 (3) one that occurs during the perpetration or attempted
19 perpetration of arson, rape, burglary, robbery, or any act
20 punishable under Public Law 1-17.

21 (b) Second Degree Murder. Second Degree Murder is a murder
22 which is not one of the types specified as First Degree Murder.

23 (c) Penalty for Murder.

24 (1) First Degree Murder. Every person guilty of murder
25 in the first degree shall be punished by imprisonment for a

1 minimum term of ten years and may be punished for a maximum
2 term of life imprisonment.

3 (2) Second Degree Murder. Every person guilty of murder
4 in the second degree shall be punished by imprisonment for a
5 minimum term of five years and may be punished for a maximum
6 term of life imprisonment, except as provided for in
7 Section 401(c)(3).

8 (3) Special Circumstances. Every person guilty of
9 murder shall be punished by imprisonment for a minimum term
10 of ten years and may be punished for a maximum term of life
11 imprisonment in any case in which one or more of the following
12 special circumstances have been charged and found to be true:

13 (A) the offense was committed for hire or pecuniary
14 gain;

15 (B) the offense was committed against any police
16 officer or correctional employee who was engaged in his
17 official duties and who the defendant knew or had reason
18 to know was a police officer or correctional employee;

19 (C) the offense was committed against any elected
20 official of the Commonwealth Government or any subdivision
21 thereof, any judge or former judge, any prosecutor or former
22 prosecutor, any defense counsel or former defense counsel,
23 or any member of the Department of Public Safety, under
24 circumstances indicating that the offense was committed
25 because of his official position, duties, or actions;

1 (D) the offense was committed against a person
2 known by the defendant to be a juror or witness in a
3 criminal proceeding under circumstances indicating
4 that the offense was committed because the person was
5 a juror or a witness; or

6 (E) the offense was part of a course of conduct
7 involving the intentional killing or attempt to kill
8 two or more persons by the defendant.

9 "Section 402. Manslaughter. Manslaughter is the unlawful killing
10 of one human being by another human being without malice aforethought.

11 (a) Voluntary Manslaughter. Voluntary Manslaughter is an
12 unlawful killing done in a sudden quarrel or heat of passion
13 caused by a reasonable provocation.

14 (b) Involuntary Manslaughter. Involuntary Manslaughter is
15 an unlawful and unintentional killing done either:

16 (1) in the commission of an unlawful act not amounting
17 to a felony;

18 (2) in the commission of a lawful act which might
19 produce death in an unlawful manner; or

20 (3) in the commission of a lawful act in a criminally
21 negligent manner, provided that this subsection shall not
22 apply to acts committed in the driving of a vehicle.

23 (c) Penalty for Manslaughter.

24 (1) Voluntary Manslaughter. Every person guilty of
25 voluntary manslaughter shall be punished by imprisonment of

1 not more than ten years.

2 (2) Involuntary manslaughter. Every person guilty of
3 involuntary manslaughter shall be punished by imprisonment
4 of not more than five years.

5 "Section 403. Vehicular Homicide.

6 (RESERVED)

7 "Section 404. Rape Defined. Rape is an act of sexual
8 intercourse with a person not the spouse of the perpetrator, under
9 any of the following circumstances:

10 (a) where it is accomplished against a person's will by
11 means of force or fear of immediate and unlawful injury on the
12 person or upon another;

13 (b) where a person is incapable, through unsoundness of
14 mind, whether temporary or permanent, of giving legal consent;

15 (c) where a person is prevented from resisting by any
16 intoxicating narcotic, or anaesthetic substance, administered
17 by or with the privity of the accused; or

18 (d) where a person is at the time unconscious of the
19 nature of the act, and this is known to the accused.

20 "Section 405. Rape of Spouse Defined. A defendant may be
21 convicted of rape of his spouse if the requirements of section 404
22 are met and one of the following circumstances is met:

23 (a) the defendant was an accomplice or accessory to the
24 sexual assault by a third person;

25

1 (b) at the time of the sexual assault the married couple
2 were living apart and one of them had filed an action for
3 annulment or divorce; or

4 (c) serious bodily or psychological injury to such spouse
5 results.

6 "Section 406. Penalty for Rape.

7 (a) A person convicted of rape or rape of spouse shall
8 be punished by imprisonment for not more than ten (10) years.

9 (b) Special Circumstances. If any of the following special
10 circumstances has been charged and specially found to be true,
11 the defendant shall be punished by imprisonment for a minimum
12 term of two (2) years, and may be punished for a maximum term
13 of twenty (20) years:

14 (1) when serious bodily injury results;

15 (2) when serious psychological injury results;

16 (3) when a dangerous weapon is used by the defendant
17 or an accomplice with the intent to cause the victim to submit
18 to the sexual assault; or

19 (4) when the defendant has voluntarily acted in concert
20 with another person in committing the rape.

21 "Section 407. Sodomy defined. Sodomy is sexual conduct consisting
22 of contact between the penis of one person and the anus of another
23 person.

24 "Section 408. Criminal Sodomy Defined and Penalized.

25

1 (a) Any person who participates in an act of sodomy with
2 another person against the other person's will by means of force,
3 violence, duress, menace, or fear of immediate and unlawful
4 bodily injury on the victim or another person shall be punished
5 by imprisonment for not more than ten (10) years.

6 (b) Any person who participates in an act of sodomy with
7 another person who is under eighteen (18) years of age shall
8 be punished by imprisonment for not more than five (5) years.

9 "Section 409. Oral Copulation Defined. Oral copulation is the
10 act of copulating the mouth of one person with the sexual organ of
11 another person.

12 "Section 410. Criminal Oral Copulation Defined and Penalized.

13 (a) Any person who participates in an act of oral
14 copulation with another person against the other person's will
15 by means of force, violence, duress, menace, or fear of immediate
16 and unlawful bodily injury on the victim or another person shall
17 be punished by imprisonment for not more than ten (10) years.

18 (b) Any person who participates in an act of oral copulation
19 with another person who is under eighteen (18) years of age shall
20 be punished by imprisonment for not more than five (5) years.

21 "Section 411. Sexual Assault of an Animal. Any person who has
22 sexual contact with any animal for the purpose of arousing or gratifying
23 the sexual desire of the person shall be punished by imprisonment for
24 not more than one (1) year.

25

1 "Section 412. Rape by Object. Any person who causes the
2 penetration, however slight, of the genital or anal openings of another
3 person, by any foreign object, substance, instrument, or device when
4 the act is accomplished against the victim's will by means of force,
5 violence, duress, menace, or fear of immediate and unlawful bodily
6 injury on the victim or another person for the purpose of sexual
7 arousal, gratification, or abuse, shall be punished by imprisonment
8 for not more than ten (10) years.

9 "Section 413. Sexual Abuse of a Child.

10 (RESERVED)

11 "Section 414. Assault.

12 (a) A person commits the offense of assault if he unlawfully
13 offers or attempts, with force or violence, to strike, beat, wound,
14 or to do bodily harm to another, or if he has sexual contact with
15 another without the other person's consent.

16 (b) A person convicted of assault shall be punished by
17 imprisonment for not more than six months.

18 "Section 415. Assault and Battery.

19 (a) A person commits the offense of assault and battery if
20 he unlawfully strikes, beats, wounds, or otherwise does bodily
21 harm to another, or if he has sexual contact with another without
22 the other person's consent.

23 (b) A person convicted of assault and battery shall be
24 punished by imprisonment for not more than one year.

25

1 "Section 416. Aggravated Assault.

2 (a) A person commits an offense of aggravated assault if he
3 causes serious bodily injury, purposely, knowingly or recklessly.

4 (b) A person convicted of aggravated assault shall be
5 punished by imprisonment for not more than ten years.

6 "Section 417. Assault with a Dangerous Weapon.

7 (a) A person commits the offense of assault with a dangerous
8 weapon if he threatens to cause, attempts to cause, or purposely
9 causes bodily injury to another with a dangerous weapon.

10 (b) A person convicted of assault with a dangerous weapon
11 shall be punished by imprisonment for not more than ten years.

12 "Section 418. Robbery.

13 (a) A person commits the offense of robbery if he takes
14 property from the person of another, or from the immediate control
15 of another, by use or threatened use of immediate force or violence.

16 (b) A person convicted under this Section shall be punished:

17 (1) by imprisonment for not more than ten years; or

18 (2) if the defendant or an accomplice uses a dangerous
19 weapon to obtain the property or inflicts serious bodily
20 injury, the term of imprisonment shall not be more than
21 twenty years.

22 "Section 419. Kidnapping.

23 (a) A person commits the offense of kidnapping: (1) if he
24 unlawfully removes another from his place of residence or business
25 or a substantial distance from the vicinity where he finds the

1 victim; or (2) if he unlawfully confines another for a substantial
2 period with any of the following purposes:

3 (A) to hold for ransom or reward, or as a hostage; or

4 (B) to facilitate commission of any felony or flight
5 thereafter; or

6 (C) to inflict bodily injury on or to terrorize the
7 victim or another; or

8 (D) to interfere with the performance of any
9 governmental or political function.

10 (b) A removal or confinement is unlawful under this Section
11 if it is accomplished by force, threat, or deception, or, in the
12 case of a person who is under the age of thirteen or incompetent,
13 without the consent of a parent, guardian, or other person with
14 legal custody of the person.

15 (c) A person convicted under this Section shall be punished:

16 (1) by imprisonment for not more than ten years if the
17 person committing the offense voluntarily releases the victim
18 alive and uninjured and in a safe place prior to trial; or

19 (2) in circumstances other than in subsection (c)(1) of
20 this section by not more than life in prison.

21 "Section 420. Criminal Coercion.

22 (a) A person commits the offense of criminal coercion if he
23 intentionally compels or induces another person to engage in
24 conduct from which he has a legal right to abstain, or to abstain
25 from conduct in which he has a legal right to engage, by means of

1 instilling in him a fear that, if the demand is not complied with,
2 the defendant or a third person will:

3 (1) commit any offense; or

4 (2) accuse anyone of an offense; or

5 (3) expose any secret or publicize any asserted fact,
6 whether true or false, tending to subject any person to
7 hatred, contempt or ridicule or to impair his credit or
8 business repute; or

9 (4) reveal any information sought to be concealed by
10 the person; or

11 (5) testify or provide information or withhold
12 testimony or information with respect to any person's legal
13 claim or defense; or

14 (6) take or withhold official action as a public servant
15 or cause a public servant to take or withhold such action.

16 (b) It is a defense to a prosecution under Paragraphs (2),
17 (3), (4), (5) and (6) of Subsection (a) of this Section, that the
18 defendant believed the threatened accusation or exposure to be
19 true or the proposed action of a public servant justified, and
20 that his sole intention was to compel or induce the victim to
21 take reasonable action to desist from, prevent, or remedy the
22 wrong which was the subject of the threatened accusation,
23 exposure, or action of a public servant.

24 (c) A person convicted under this Section shall be punished:

25 (1) if a dangerous weapon is used to instill fear, by

1 imprisonment for not more than five years;

2 (2) otherwise, by imprisonment for not more than two
3 years.

4 "Section 421. Usurping Control of Aircraft.

5 (a) A person commits an offense if, by force, threat of
6 force, or deception he usurps and controls directly or through
7 another aircraft.

8 (b) A person convicted under this Section may be punished by
9 a maximum term of life imprisonment.

10 "Section 422. Mutiny on a Vessel.

11 (a) A person commits an offense if, by force, threat of
12 force, or deception, he usurps command of a vessel.

13 (b) A person convicted under this Section shall be punished:

14 (1) if the offense or attempt to commit the offense
15 occurs on the high seas, by imprisonment for not more than
16 five years;

17 (2) otherwise, by imprisonment for not more than two
18 years.

19 "Section 423. Indecent Exposure.

20 (a) Any person who wilfully and lewdly exposes his sexual
21 organs or any part thereof in a public place is guilty of indecent
22 exposure.

23 (b) Indecent exposure may be punished by not more than
24 one year imprisonment.

25 Section 424. Resisting Arrest.

1 (a) A person who willfully resists, delays, or obstructs any
2 law enforcement officer, in the discharge, or attempt to discharge,
3 any duty of his or her office commits the offense of resisting
4 arrest.

5 (b) "Law Enforcement Officer" shall include any police
6 officer, corrections officer, or fire service officer of the
7 Department of Public Safety, any conservation officer of the
8 Department of Natural Resources, any customs officer of the
9 Department of Finance, or any other law enforcement officer of
10 the Commonwealth.

11 (c) A person convicted of resisting arrest shall be punished
12 by not more than one year imprisonment or not more than \$1,000
13 fine or both.

14 Part II. Offense Against Property

15 "Section 431. Theft.

16 (a) A person commits the offense of theft if he unlawfully
17 takes, uses or consumes the property or services of another with
18 intent to permanently deprive the owner of his rights to such
19 property or services. An accusation of theft may be supported by
20 evidence that it was committed in any manner that would be theft
21 under this Chapter, notwithstanding the specification of a
22 different manner in the indictment or information, subject only
23 to the power of the court to ensure a fair trial by granting a
24 continuance or other appropriate relief where the conduct of the
25 defense would be prejudiced by lack of fair notice or by surprise.

1 (b) A person convicted of theft under any section of this
2 Chapter shall be punished:

3 (1) if the value of the property or service is twenty
4 thousand dollars or more, by imprisonment for not more than
5 ten years; or

6 (2) if the value of the property or service is at least
7 two hundred fifty dollars but less than twenty thousand
8 dollars, by imprisonment for not more than five years; or

9 (3) if the value of the property or service is less
10 than two hundred fifty dollars, by imprisonment for not more
11 than one year; or

12 (c) The amount involved in a theft shall be deemed to be the
13 highest value, by any reasonable standard, of the property or
14 service which the defendant stole or attempted to steal. Amounts
15 involved in thefts committed pursuant to one scheme or course of
16 conduct, whether from the same person or several persons, shall
17 be aggregated in determining whether an offense has been committed
18 and the grade of the offense.

19 (d) It is an affirmative defense to prosecution for theft
20 that the defendant:

21 (1) was unaware that the property or service was that
22 of another; or

23 (2) acted under an honest claim of right to the
24 property or service involved or that he had a right to
25 acquire or dispose of it as he did; or

1 (3) took property exposed for sale, intending to
2 purchase and pay for it promptly, or reasonably believing
3 that the owner, if present, would have consented.

4 "Section 432. Theft by Unlawful Taking or Disposition.

5 (a) A person commits theft if he unlawfully takes, or
6 exercises unlawful control over, movable property of another
7 with purpose to deprive him thereof.

8 (b) A person commits theft if he unlawfully transfers
9 immovable property of another or any interest therein, with
10 intent to benefit himself or another not entitled thereto.

11 "Section 433. Theft by Deception.

12 (a) A person commits theft if he purposely obtains property
13 of another by deception. A person deceives if he purposely:

14 (1) creates or reinforces a false impression, including
15 false impressions as to law, value, intention, or other state
16 of mind; but deception as to a person's intention to perform
17 a promise shall not be inferred from the fact alone that he
18 did not subsequently perform the promise; or

19 (2) prevents another from acquiring information which
20 would affect his judgment of a transaction; or

21 (3) fails to correct a false impression which the
22 defendant previously created or reinforced, or which the
23 defendant knows to be influencing another to whom he stands
24 in a fiduciary or confidential relationship; or

25

1 (4) fails to disclose a known lien, adverse claim or
2 other legal impediment to the enjoyment of property which he
3 transfers or encumbers in consideration for the property
4 obtained, whether such impediment is or is not valid, or is
5 or is not a matter of official record.

6 (b) The term "deceive" does not, however, include falsity
7 as to matters having no pecuniary significance, or exaggerating
8 by statements unlikely to deceive ordinary persons.

9 "Section 434. Theft by Extortion.

10 (a) A person commits theft if he purposely obtains property
11 of another by threatening to:

12 (1) inflict bodily injury on anyone or commit any other
13 criminal offense; or

14 (2) accuse anyone of a criminal offense; or

15 (3) expose any secret tending to subject any person to
16 hatred, contempt or ridicule, or to impair his credit or
17 business repute; or

18 (4) take or withhold action as an official, or cause an
19 official to take or withhold action; or

20 (5) testify or provide information or withhold
21 testimony or information with respect to another's legal
22 claim or defense.

23 (b) It is an affirmative defense to prosecution based on
24 Paragraphs (2), (3), or (4) in Subsection (a) of this Section that
25 the property obtained by threat of accusation, exposure, lawsuit

1 or other invocation of official action was honestly claimed as
2 restitution or indemnification for harm done in the circumstances
3 to which such accusation, exposure, lawsuit, or other official
4 action relates, or as compensation for property or lawful services.

5 "Section 435. Theft of Property Lost, Mislaid, or Delivered by
6 Mistake. A person who comes into control of property of another that
7 he knows to have been lost, mislaid, or delivered under a mistake as
8 to the nature or amount of the property or the identity of the recipient
9 commits theft if, with purpose to deprive the owner thereof, he fails
10 to take reasonable measures to restore the property to a person entitled
11 to have it. If such restoration is not possible, within 60 days the
12 property shall be placed in the custody of the Department of Public
13 Safety, which shall take reasonable steps to restore the property to a
14 person entitled to it, including giving prompt notice thereof in a
15 newspaper of general circulation in the Commonwealth. If, after a
16 period of 6 months from such notice, the owner is not located or does
17 not contact such Department, the property shall be returned to such
18 person with a receipt indicating he is the lawful possessor thereof.
19 The Department of Public Safety shall receive reimbursement for or
20 offset the expenses it incurs under this section prior to releasing
21 custody of the property.

22 "Section 436. Receiving Stolen Property.

23 (a) A person commits theft if he purposely receives, retains,
24 or disposes of property of another knowing that it has been stolen,
25 or having reasonable cause to believe under all of the circumstances

1 that it has probably been stolen. It shall be an affirmative
2 defense that the property is received, retained, or disposed with
3 purpose to restore it to the owner.

4 (b) "Receiving" means acquiring possession, control or title
5 of the property.

6 (c) Presumption of knowledge. The requisite knowledge or
7 belief is presumed in the case of a dealer who:

8 (1) is found in possession or control of property stolen
9 from two or more persons on separate occasions; or

10 (2) has received stolen property in another transaction
11 within the year preceding the transaction charged; or

12 (3) being a dealer in property of the sort received,
13 acquires it for a consideration which he knows is far below
14 its reasonable value.

15 "Section 437. Theft of Services.

16 (a) A person commits theft if he purposely obtains services
17 which he knows are available only for compensation, by deception or
18 threat, or by false token or other means to avoid payment for the
19 service. Evidence that the person left premises where compensation
20 is ordinarily paid prior to departure, as in the case of hotels or
21 restaurants, with a refusal to pay or by absconding without payment
22 or offer to pay gives rise to a presumption that the service was
23 obtained by deception as to intention to pay.

24 (b) A person commits theft if, having control over the
25 disposition of services of others to which he is not entitled,

1 he knowingly diverts such services to his own benefit or to the
2 benefit of another not entitled thereto.

3 "Section 438. Theft by Failure to Make Required Disposition of
4 Funds Received. A person who purposely obtains property upon agreement
5 or subject to a known legal obligation to make specified payment or
6 other disposition, whether from such property or its proceeds or from
7 his own property in equivalent amount, commits theft if he deals with
8 the property obtained as his own and fails to make the required payment
9 or disposition and such dealing is to his benefit or the benefit of
10 another without lawful authorization. The foregoing applies
11 notwithstanding that it may be impossible to identify particular
12 property as belonging to the victim at the time of the defendant's
13 failure to make the required payment or disposition. An officer or
14 employee of the government or of a financial institution is presumed:

15 (a) to know any legal obligation relevant to his criminal
16 liability under this Section; and

17 (b) to have dealt with the property as his own if he fails
18 to pay or account upon lawful demand, or if an audit reveals a
19 shortage or falsification of accounts.

20 Part III. Forgery and Other Fraud Offenses

21 "Section 441. Forgery.

22 (a) A person commits the offense of forgery if:

23 (1) he forges a writing which is or purports to be part
24 of an issue of money, securities, postage or revenue stamps,
25 or other instruments issued by any government or part of an

1 issue of stock, bonds, or other instruments representing
2 interests in or claims against any property or enterprise; or
3 (2) he forges a writing which is or purports to be a
4 will, deed, contract, release, commercial instrument, check,
5 negotiable instrument, or other document evidencing, creating,
6 transferring, altering, terminating or otherwise affecting
7 legal relations.

8 (b) A person commits the offense of forgery if, with intent
9 to defraud or injure anyone, or with knowledge that he is
10 facilitating a fraud or injury to be perpetrated by anyone, he:

11 (1) alters any writing of another without his
12 authority; or

13 (2) makes, completes, executes, authenticates, issues,
14 or transfers any writing so that it purports to be the act
15 of another or did not authorize that act, or to have been
16 executed at a time or place or in a numbered sequence other
17 than was in fact the case, or to be a copy of an original
18 when no such original existed; or

19 (3) utters any writing which he knows to be forged in
20 a manner specified in Paragraph (1) or (2) of this Subsection.

21 (c) A person convicted of forgery shall be punished by
22 imprisonment for not more than five years.

23 "Section 442. Possession of Forged Writing or Forgery Device.

24 (a) A person commits an offense if:

25 (1) he knowingly possesses any forged writing; or

1 (2) he knowingly brings into the Commonwealth of
2 the Northern Mariana Islands, or buys, sells, exchanges,
3 transfers, receives, or delivers, or attempts to do so,
4 any forged writing; or

5 (3) he makes or possesses with knowledge of its
6 character any plate, die, or other device, apparatus,
7 equipment, or article specifically designed or adapted
8 for use in forging writings.

9 (b) This Section applies only to the forged writings which
10 are prohibited under Section 441 of this Code.

11 (c) A person convicted under this Section shall be punished
12 by imprisonment for not more than five years.

13 "Section 443. Fraudulent Destruction, Removal or Concealment of
14 Recordable Instruments. A person who, with purpose to deceive or injure
15 anyone, destroys, removes, or conceals any will, deed, lease, mortgage,
16 security instrument or other writing for which the law provides public
17 recording, shall be punished by imprisonment for not more than five
18 years.

19 "Section 444. Misuse of Credit Cards and Issuance of Bad Checks.

20 (a) A person commits an offense if he misuses a credit card
21 to obtain valuable property or services from one or more persons
22 or businesses.

23 (b) A person misuses a credit card if he uses a credit card
24 for the purpose of obtaining property or services with knowledge
25 that:

-
- 1 (1) the card is stolen or forged; or
 - 2 (2) the card has been revoked or cancelled; or
 - 3 (3) for any other reason his use of the card
 - 4 is unauthorized by the issuer.

5 (c) A person who issues or passes a check or similar sight
6 order for the payment of money, knowing that it will not be honored
7 by the drawee, commits an offense. For the purposes of this
8 Section as well as in any prosecution for theft committed by means
9 of a bad check, an issuer is presumed to know that the check or
10 order (other than a postdated check or order) would not be paid, if:

- 11 (1) the issuer had no account with the drawee at the
- 12 time the check or order was issued; or
- 13 (2) payment was refused by the drawee for lack of funds,
- 14 upon presentation within 30 days after issue, and the issuer
- 15 failed to make good within 10 days after receiving notice of
- 16 that refusal.
- 17 (3) for any other reason his use of the cards is
- 18 unauthorized by the issuer.

19 (d) A person convicted under this Section shall be punished
20 as provided in Section 431(b).

21 Section 445. Deceptive Business Practices.

22 (a) A person commits an offense if in the course of
23 business he:

- 24 (1) uses or possesses for use a false weight or measure,
- 25 or any other device for falsely determining or recording any

1 quality or quantity; or

2 (2) sells, offers or exposes for sale, or delivers less
3 than the represented quantity of any commodity or service; or

4 (3) takes or attempts to take more than the represented
5 quantity of any commodity or service when as buyer he
6 furnishes the weight or measure; or

7 (4) sells, offers or exposes for sale adulterated or
8 misabeled commodities. "Adulterated" means varying from the
9 standard of composition or quality prescribed by or pursuant
10 to any statute providing criminal penalties for such variance,
11 or set by established commercial usage. "Misabeled" means
12 varying from the standard of truth or disclosure in labeling
13 prescribed by or pursuant to any statute providing criminal
14 penalties for such variance, or set by established commercial
15 usage; or

16 (5) makes a false or misleading statement in any
17 advertisement addressed to the public or to a substantial
18 segment thereof for the purpose of promoting the purchase
19 or sale of property or services; or

20 (6) makes a false or misleading written statement for
21 the purpose of obtaining property or credit; or

22 (7) makes a false or misleading written statement for
23 the purpose of promoting the sale of securities, or omits
24 information required by law to be disclosed in written
25 documents relating to securities.

1 (b) It is an affirmative defense to prosecution under this
2 Section if the defendant proves by a preponderance of the evidence
3 that his conduct was neither knowingly or recklessly deceptive.

4 (c) A person convicted under this Section shall be punished
5 by not more than one year imprisonment or a fine of not more than
6 \$20,000 or both.

7 Section 446. Receiving Deposits in a Financial Institution.

8 An officer, manager or other person directing or participating in the
9 direction of a financial institution commits a misdemeanor offense if he
10 receives or permits the receipt of a deposit, premium payment or other
11 investment in the institution knowing that:

12 (1) due to financial difficulties the institution
13 is about to suspend operations or go into receivership or
14 reorganization; and

15 (2) the person making the deposit or other payment is
16 unaware of the precarious situation of the institution.

17 Part IV. Other Property Offenses

18 "Section 451. Burglary.

19 (a) A person commits the offense of burglary if he enters a
20 building or occupied structure, or separately occupied or secured
21 portion thereof, or a vehicle with the purpose to commit any
22 felony or crime against property, unless the premises are at the
23 time open to the public or the person is licensed, authorized or
24 privileged to enter. It is an affirmative defense to prosecution
25 for burglary that the building or structure was abandoned.

1 (b) A person convicted under this Section shall be punished:
2 (1) by imprisonment for not more than five years; or
3 (2) by imprisonment for not more than ten years if:
4 (A) the dwelling is entered during the period
5 between thirty minutes past sunset and thirty minutes
6 before sunrise; or
7 (B) if the defendant or an accomplice inflicts
8 bodily injury on anyone or is armed with a dangerous
9 weapon.
10 "Section 452. Arson and Related Offenses.
11 (a) A person commits the offense of arson if he starts a
12 fire or causes an explosion with the purpose of:
13 (1) damaging a building or occupied structure of
14 another; or
15 (2) destroying or damaging any property, whether his
16 own or another's, to collect insurance for such loss.
17 (b) A person convicted under Subsection (a) of this Section
18 shall be punished by imprisonment for not more than ten years.
19 (c) A person commits the offense of reckless burning or
20 exploding if he purposely starts a fire or explosion, whether
21 on his own property or another's, and thereby recklessly:
22 (1) places another person in danger of death or bodily
23 injury; or
24 (2) places a building or occupied structure of another
25 in danger of damage or destruction.

1 (d) A person convicted under Subsection (c) of this Section
2 shall be punished by imprisonment for not more than two years.

3 "Section 453. Criminal Mischief.

4 (a) A person commits the offense of criminal mischief if he
5 intentionally or knowingly:

6 (1) causes damage to property of another;

7 (2) causes another, by deception or threat, to suffer
8 pecuniary or property loss;

9 (3) tampers with property of another thereby causing a
10 a danger to person or property or causing a substantial
11 interruption or impairment of public communication,
12 transportation, supply of water, power or other public
13 service; or

14 (4) discards waste, debris or trash upon land of another
15 or upon any public land not designated as a disposal site.

16 (b) A person convicted under this Section shall be punished
17 as provided in Section 431 (b).

18 "Section 454. Criminal Trespass.

19 (a) A person commits the offense of trespass if he makes
20 an unlawful and unauthorized entry upon or interferes with the
21 peaceful use and enjoyment of the property of another, and upon
22 being lawfully advised to leave or desist refuses to promptly
23 do so.

24 (b) A person convicted of trespass shall be punished by
25 imprisonment for not more than six months.

1 Part V. Offenses Against Public Peace, Safety and Morals

2 "Section 461. Disturbing the Peace.

3 (a) A person commits the offense of disturbing the peace if
4 he unlawfully and willfully does any act which unreasonably annoys
5 or disturbs another person so that he is deprived of his right to
6 peace and quiet, or which provokes a breach of the peace.

7 (b) A person convicted of disturbing the peace shall be
8 punished by imprisonment for not more than six months.

9 "Section 462. Riot.

10 (a) A person commits the offense of rioting if he assembles
11 with two or more other persons and together with the latter, by
12 force, violence, loud noise, shouting or threats, places others in
13 fear or danger.

14 (b) A person convicted of rioting shall be punished by
15 imprisonment for not more than six months.

16 "Section 463. Bigamy.

17 (a) A person commits the offense of bigamy if he shall
18 unlawfully and willfully marry any person while legally married to
19 any other living person: Provided, that no person may be convicted
20 of bigamy whose wife or husband has been absent for a period of
21 five years and who has had no knowledge if such missing spouse is
22 alive during that period.

23 (b) For purposes of this Section 463 "legally married"
24 means a marriage sanctioned by civil or canon authority.

25 (c) A person convicted of bigamy shall be punished by

1 imprisonment for not more than one year.

2 "Section 464. Nuisance.

3 (a) A person commits the offense of maintaining a nuisance
4 if by an act or neglect of a legal duty he maintains or allows to
5 exist a thing or a place in a condition which is a hazard or
6 otherwise prejudicial to the health, comfort, safety, property,
7 or to rights to peace, quiet and privacy of another. Such person
8 must know of such condition or have received notice thereof from
9 any responsible person.

10 (b) A person convicted of maintaining a nuisance shall be
11 punished by imprisonment for not more than six months.

12 "Section 465. Duty to Report Wounds or Deaths.

13 (a) Every person who gains knowledge of a rape, aggravated
14 assault, or death or injury resulting from a knife wound, bullet
15 wound, powder burn, or other cause sustained in a suspicious or
16 unusual manner or under conditions suggesting poisoning or
17 violence, shall make a report thereof immediately, and in any
18 case within five days of obtaining such knowledge, to the nearest
19 law enforcement official or to any police officer or to the
20 Director of Public Safety. The report shall state:

21 (1) the name and location of injured or deceased person;

22 (2) the date of injury or death, or date of gaining
23 knowledge thereof by informant, if date of injury or death is
24 unknown;

25 (3) the cause and manner of injury or death;

1	<u>Division 7. Offenses Against Government Property</u>
2	(RESERVED)
3	<u>Division 8. Civil Rights</u>
4	(RESERVED)
5	<u>Division 9. Emergency Proclamations</u>
6	(RESERVED)
7	<u>Division 10. Weapons Control</u>
8	(RESERVED)
9	<u>Division 11. Controlled Substances</u>
10	Sections
11	1101. Definitions.
12	1102. Nomenclature.
13	1103. Schedule I.
14	1104. Schedule II.
15	1105. Schedule III.
16	1106. Schedule IV.
17	1107. Schedule V.
18	1108. Schedule VI.
19	1109. Regulation of Manufacture, Authorization,
20	Licensing, Distribution and Dispensing of
21	Controlled Substances.
22	1110. Trafficking Offenses - Penalties.
23	1111. Possession - Penalties.
24	1112. Commercial Offenses - Penalties.
25	

1 1113. Fraud Offenses - Manufacture and
2 Distribution - Penalties.

3 1114. Additional Penalties.

4 1115. Distribution to Minors.

5 1116. Bar to Prosecution.

6 1117. Forfeitures.

7 "Section 1101. Definitions. As used in this Division:

8 (a) "Administer" means the direct application of a
9 controlled substance, whether by injection, inhalation,
10 ingestion, or any other means to the body.

11 (b) "Agent" means an authorized person who acts on behalf
12 of or at the direction of a manufacturer, distributor, or
13 dispenser but does not include a common or contract carrier,
14 public warehouseman, or employee thereof.

15 (c) "Cocaine" means coca leaves and any salt, compound,
16 derivative, or preparation of coca leaves, and any salt, compound,
17 isomer, derivative, or preparation thereof which is chemically
18 equivalent or identical with any of these substances, but not
19 including decocainized coca leaves or extractions of coca leaves
20 which do not contain cocaine or ecgonine.

21 (d) "Controlled substance" means a drug, substance, or
22 immediate precursor in Schedules I through VI of this Division.

23 (e) "Counterfeit substance" means a controlled substance
24 which, or the container or labeling of which, without authorization,
25 bears the trademark, trade name, or other identifying mark, imprint,

1 number or device, or any likeness thereof, of a manufacturer,
2 distributor, or dispenser other than the person or persons who in
3 fact manufactured, distributed, or dispensed such substance and
4 which thereby falsely purports or is represented to be the product
5 of, or to have been distributed by, such other manufacturer,
6 distributor, or dispenser.

7 (f) "Deliver" or "Delivery" means the actual, constructive,
8 or attempted transfer from one person to another of a controlled
9 substance whether or not there exists an agency relationship, and
10 whether or not there is an exchange or sale of such substance for
11 value.

12 (g) "Dispense" means to deliver a controlled substance to
13 the ultimate user or human research subject by or pursuant to the
14 lawful order of a practitioner, including prescribing,
15 administering, the packaging, labeling, or compounding necessary
16 to prepare the substance for that delivery.

17 (h) "Dispenser" is a practitioner who dispenses.

18 (i) "Distribute" means to deliver other than by
19 administering or dispensing a controlled substance.

20 (j) "Distributor" means a person who distributes.

21 (k) "Drug" means (a) substances recognized in the official
22 United States Pharmacopoeia, official Homeopathic Pharmacopoeia
23 of the United States, or official national Formulary, or any
24 supplement to any of them; and (b) substance intended for use in
25 the diagnosis, cure, mitigation, treatment, or prevention of

1 disease in man or animals; and (c) substances (other than food)
2 intended to affect the structure or any function of the body of
3 man or animals; and (d) substances intended for use as a component
4 of any article specified in clause (a), (b), or (c) of this
5 paragraph; but does not include devices or their components,
6 parts, or accessories.

7 (1) "Drug dependent person" means a person who is using a
8 controlled substance and who is in a state of psychic, emotional or
9 physical dependence arising from administration of that controlled
10 substance on a continuous basis. Drug dependence is characterized
11 by behavioral, emotional and other responses which include a strong
12 compulsion to take the substance on a continuous basis in order to
13 experience its effects, or to avoid the discomfort of its absence.

14 (m) "Manufacture" means the production, preparation,
15 propagation, compounding, conversion or processing of a controlled
16 substance, either directly or indirectly by extraction from
17 substances of natural origin, or independently by means of chemical
18 synthesis, or by a combination of extraction and chemical synthesis,
19 and includes any packaging or repackaging of the substance or
20 labeling or relabeling of its container, except that this term does
21 not include the preparation or compounding of a controlled substance
22 by an individual for his own use or the preparation, compounding,
23 packaging, or labeling of a controlled substance:

24 (1) by a practitioner as an incident to his
25 administering or dispensing of a controlled substance in

1 the course of his professional practice; or

2 (2) by a practitioner, or by his authorized agent
3 under his supervision, for the purpose of, or as an incident
4 to research, teaching, or chemical analysis and not for sale.

5 (n) "Marijuana" means all parts of the plant *Cannabis sativa*,
6 whether growing or not; the seeds thereof; the resin extracted
7 from any part of such plant; and every compound, manufacture,
8 salt, derivative, mixture, or preparation of such plant, its seeds
9 or resin, but shall not include the mature stalks of such plant,
10 fiber produced from such stalks, oil or cake made from the seeds
11 of the plant, any other compound, manufacture, salt, derivative,
12 mixture, or preparation of such mature stalks (except the resin
13 extracted therefrom), fiber, oil, or cake, or the sterilized seed
14 of such plant which is incapable of germination.

15 (o) "Narcotic drug" means any of the following whether
16 produced directly or indirectly by extraction from substances of
17 vegetable origin, or independently by means of chemical synthesis,
18 or by a combination of extraction and chemical synthesis:

19 (1) opium and opiate, and any salt, compound,
20 derivative, or preparation of opium or opiate;

21 (2) any salt, compound, isomer, derivative, or
22 preparation thereof which is chemically equivalent or
23 identical with any of the substances referred to in
24 clause (1), above, but not including the isoquinoline
25 alkaloids of opium; or

1 (3) opium poppy and poppy straw.

2 (p) "Opiate" means any substance having an addiction-forming
3 or addiction-sustaining liability similar to morphine or being
4 capable of conversion into a drug having addiction-forming or
5 addiction-sustaining liability. It does not include the
6 dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its
7 salts (dextromethorphan). It does include its racemic and
8 levorotatory forms.

9 (q) "Opium poppy" means the plant of the species *Papaver*
10 *somniferum* L., except its seeds.

11 (r) "Person" means any individual, corporation, government
12 or governmental subdivision or agency, business trust, estate,
13 trust, partnership or association, or any other legal entity.

14 (s) "Poppy straw" means all parts, except the seeds of the
15 opium poppy, after mowing.

16 (t) "Practitioner" means:

17 (1) a physician, dentist, veterinarian, scientific
18 investigator, or other person licensed, registered or
19 otherwise authorized by the Commonwealth to distribute,
20 dispense, conduct research with respect to or to administer
21 a controlled substance in the course of professional practice
22 or research in this jurisdiction; or

23 (2) a pharmacy, hospital or other institution licensed,
24 registered or otherwise authorized by the Commonwealth to
25 distribute, dispense, conduct research with respect to or to

1 administer a controlled substance in the course of
2 professional practice or research in the Commonwealth.

3 (u) "Production" includes the manufacture, planting,
4 cultivation, growing, or harvesting of a controlled substance.

5 (v) "Precursor" means a substance which is the principal
6 compound commonly used or produced primarily for use, and which
7 is an immediate chemical intermediary used or likely to be used
8 in the manufacture of a controlled substance, the control of
9 which is necessary to prevent, curtail, or limit such manufacture.

10 (w) "Ultimate user" means a person who lawfully possesses a
11 controlled substance for his own use or for the use of a member of
12 his household or for administering to an animal owned by him or
13 by a member of his household.

14 (x) "Unlicensed and untaxed" means a substance which is not
15 manufactured, delivered or dispensed pursuant to a license,
16 franchise or other permission granted by the Commonwealth and for
17 which all applicable taxes, fees and other charges levied by the
18 laws of the Commonwealth and of the United States Government have
19 not been paid or otherwise satisfied.

20 Section 1102. Nomenclature. The following schedules include the
21 controlled substances listed or to be listed by whatever official name,
22 common or usual name, chemical name, or trade name designated.

23 Section 1103. Schedule I. The controlled substances listed in
24 this Section are included in Schedule I, in that the substance:

25 (1) has a high potential for abuse; and

1 (2) has no accepted medical use in treatment in the
2 United States or lacks accepted safety for use in treatment
3 under medical supervision.

4 Schedule I includes:

5 (a) Any of the following opiates, including their isomers,
6 esters, ethers, salts, and salts of isomers, esters, and ethers,
7 unless specifically excepted, whenever the existence of such
8 isomers, esters, ethers and salts is possible within the specific
9 chemical designation:

- 10 1. Acetylmethadol;
- 11 2. Allylprodine;
- 12 3. Alphacetylmethadol;
- 13 4. Alphameprodine;
- 14 5. Alphamethadol;
- 15 6. Bensethidine;
- 16 7. Betacetylmethadol;
- 17 8. Betameprodine;
- 18 9. Betamethadol;
- 19 10. Betaprodine;
- 20 11. Clonitazene;
- 21 12. Dextromoramide;
- 22 13. Dextrorphan;
- 23 14. Diampromide;
- 24 15. Diethylambutene;
- 25 16. Dimenoxadol;

1	17. Dimepheptanol;
2	18. Dimethylthiambutene;
3	19. Dioxaphetyl butyrate;
4	20. Dipipanone;
5	21. Ethylmethyl thiambutene;
6	22. Etonitazene;
7	23. Etoxidine;
8	24. Furethidine;
9	25. Hydroxypethidine;
10	26. Ketobemidone;
11	27. Lavomoramide;
12	28. Levophenacymorphan;
13	29. Morpheridine;
14	30. Noracymethadol;
15	31. Norlevorphanol;
16	32. Normethadone;
17	33. Norpipanone;
18	34. Opium;
19	35. Phenadoxone;
20	36. Phenampromide;
21	37. Phenomorphan;
22	38. Phenoperidine;
23	39. Piritramide;
24	40. Proheptazine;
25	41. Properidine;

1 42. Propiram;

2 43. Racemoramide;

3 44. Trimeperidine.

4 (b) Any of the following opium derivatives, their salts,
5 isomers and salts of isomers, unless specifically excepted whenever
6 the existence of these salts, isomers and salts of isomers is
7 possible within the specific chemical designation:

8 1. Acetorphine;

9 2. Acetyldihydrocodeine;

10 3. Benzylmorphine;

11 4. Codeine;

12 5. Codeine methylbromide;

13 6. Codeine-N-Oxide;

14 7. Cyprenorphine;

15 8. Demerol;

16 9. Desoporphine;

17 10. Dihydromorphine;

18 11. Dilaudid;

19 12. Drotebanol;

20 13. Etorphine, (Except hydrochloride salt);

21 14. Heroin;

22 15. Hydromorphenol;

23 16. Methyl desorphine;

24 17. Methyl dihydromorphine;

25 18. Morphine;

- 1 19. Morphine methylbromide;
- 2 20. Morphine methylsulfonate;
- 3 21. Morphine-N-Oxide;
- 4 22. Myrophine;
- 5 23. Nicocodeine;
- 6 24. Nicomorphine;
- 7 25. Normorphine;
- 8 26. Percodan;
- 9 27. Phoclodine;
- 10 28. Thebacon.

11 (c) Any material, compound, mixture or preparation which
12 contains any quantity of the following hallucinogenic substances,
13 their salts, isomers and salts of isomers, unless specifically
14 excepted, whenever the existence of salts, isomers, and salts of
15 isomers is possible within the specific chemical designation:

- 16 1. 2,5 dimethoxyamphetamine (2.5-DMA);
- 17 2. 3,4-methylenedioxy amphetamine;
- 18 3. 5-methoxy-3,4-methylenedioxy amphetamine;
- 19 4. 4-bromo-2,5 dimethoxy amphetamine (4-bromo-2,5-DMA);
- 20 5. 3,4,5-trimethoxy amphetamine;
- 21 6. Bufotenine;
- 22 7. 4-methoxyamphetamine (PMA);
- 23 8. Diethyltryptamine;
- 24 9. Dimethyltryptamine;
- 25 10. 4-methyl-2,5-dimethoxylamphetamine;

-
11. Ibogaine;
 12. N-ethyl-3-piperidyl benzilate;
 13. N-methyl-3-piperidyl benzilate;
 14. PCP phencylidine.

5 Section 1104. Schedule II. The controlled substances listed in
6 this Section are included in Schedule II, in that:

- 7 (1) the substance has a high potential for abuse;
- 8 (2) the substance has currently accepted medical use
9 with severe restrictions; and
- 10 (3) abuse of the substance may lead to severe psychic
11 or physical dependence.

12 Schedule II includes:

13 (a) Any of the following substances except those narcotic
14 drugs listed in other schedules, whether produced directly or
15 indirectly by extraction from substances of vegetable origin, or
16 independently by means of chemical synthesis, or by combination
17 of extraction and chemical synthesis:

- 18 (1) opium and opiate, and any salt, compound,
19 derivative, or preparation of opium or opiate;
- 20 (2) any salt, compound, isomers, derivative or
21 preparation thereof which is chemically equivalent or
22 identical with any of the substances referred to in (1),
23 above, but not including the isoquinoline alkaloids of
24 opium; or
- 25 (3) opium poppy and poppy straw;

-
11. Ibogaine;
 12. N-ethyl-3-piperidyl benzilate;
 13. N-methyl-3-piperidyl benzilate;
 14. PCP phencylidine.

5 Section 1104. Schedule II. The controlled substances listed in
6 this Section are included in Schedule II, in that:

- 7 (1) the substance has a high potential for abuse;
- 8 (2) the substance has currently accepted medical use
9 with severe restrictions; and
- 10 (3) abuse of the substance may lead to severe psychic
11 or physical dependence.

12 Schedule II includes:

13 (a) Any of the following substances except those narcotic
14 drugs listed in other schedules, whether produced directly or
15 indirectly by extraction from substances of vegetable origin, or
16 independently by means of chemical synthesis, or by combination
17 of extraction and chemical synthesis:

- 18 (1) opium and opiate, and any salt, compound,
19 derivative, or preparation of opium or opiate;
- 20 (2) any salt, compound, isomers, derivative or
21 preparation thereof which is chemically equivalent or
22 identical with any of the substances referred to in (1),
23 above, but not including the isoquinoline alkaloids of
24 opium; or
- 25 (3) opium poppy and poppy straw;

18. Pethidine--Intermediate--B, ethyl-4-phenylpiperidine-4-carboxylate;
19. Pethidine--Intermediate--C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
20. Phenazocine;
21. Piminodine;
22. Racemethorphan;
23. Racemorphan.

Section 1105. Schedule III. The controlled substances listed in this Section are included in Schedule III, in that:

- (1) the substance has a potential for abuse less than the substances listed in Schedules I and II;
- (2) the substance has currently accepted medical use in treatment in the United States; and
- (3) abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.

Schedule III includes:

(a) Unless listed in another schedule any material, compound, mixture, or preparation which contains any quantity of the following substances having a potential for abuse associated with a depressant effect on the central nervous system:

1. Any substance which contains any quantity of a derivative of barbituric acid, or any salt of a derivative of barbituric acid, except those substances which are specifically listed in other schedules;

1	2. Amytal;
2	3. Benzphetamine;
3	4. Chlorhexadol;
4	5. Chlorphentermine;
5	6. Clortermine;
6	7. Clutethimide;
7	8. Diethylpropion;
8	9. Mazindol;
9	10. Methypropylon;
10	11. Nembutal;
11	12. Optimil;
12	13. Parest;
13	14. Phencyclidine;
14	15. Phendimetrazine;
15	16. Phentermine;
16	17. Quaalude;
17	18. Seconal;
18	19. Somnafac;
19	20. Sopor;
20	21. Sulfondiethylmethane;
21	22. Sulfonethylmethane;
22	23. Sulfonmethane;
23	24. Tuinal.
24	(b) Nalorphine.
25	(c) Any material, compound, mixture, or preparation containing

1 limited quantities of any of the following narcotic drugs, or any
2 salts thereof:

3 (1) Not more than 1.8 grams of codeine, or any of its
4 salts, per 100 milliliters or not more than 90 milligrams
5 per dosage unit, with an equal or greater quantity of an
6 isoquinoline alkaloid of opium;

7 (2) Not more than 1.8 grams of codeine, or any of its
8 salts, per 100 milliliters or not more than 90 milligrams
9 per dosage unit, with one or more active, non-narcotic
10 ingredients in recognized therapeutic amounts;

11 (3) Not more than 300 milligrams of dihydrocodeinone,
12 or any of its salts, per 100 milliliters or not more than
13 15 milligrams per dosage unit, with a fourfold or greater
14 quantity of an isoquinoline alkaloid of opium;

15 (4) Not more than 300 milligrams of dihydrocodeinone,
16 or any of its salts, per 100 milliliters or not more
17 than 15 milligrams per dosage unit, with one or more
18 active, non-narcotic ingredients in recognized therapeutic
19 amounts;

20 (5) Not more than 1.8 grams of dyhydrocodeine, or any
21 of its salts, per 100 milliliters or not more than 90
22 milligrams per dosage unit, with one or more active,
23 non-narcotic ingredients in recognized therapeutic amounts;

24 (6) Not more than 300 milligrams of ethylmorphine, or
25 any of its salts, per 100 milliliters or not more than

1 15 milligrams per dosage unit, with one or more ingredients
2 in recognized therapeutic amounts;

3 (7) Not more than 500 milligrams of opium per 100
4 milliliters or per 100 grams, or not more than 25 milligrams
5 per dosage unit, with one or more active, non-narcotic
6 ingredients in recognized therapeutic amounts;

7 (8) Not more than 50 milligrams of morphine, or any
8 of its salts, per 100 milliliters or per 100 grams with one
9 or more active, non-narcotic ingredients in recognized
10 therapeutic amounts.

11 (d) Any material, compound, mixture, or preparation which
12 contains any quantity of the following substances having a
13 potential for abuse associated with a stimulant effect on the
14 central nervous system:

15 (1) amphetamine, its salts, optical isomers, and
16 salts of its optical isomers;

17 (2) any substance which contains any quantity of
18 methamphetamine, including its salts, isomers,
19 and salts of isomers;

20 (3) benzedrine;

21 (4) biphedamine;

22 (5) desoxyn;

23 (6) dexedrine;

24 (7) methedrine;

25 (8) methylphenidate;

- 1 (9) phenmetrazine and its salts;
- 2 (10) preludin;
- 3 (11) ritalin.

4 Section 1106. Schedule IV. The controlled substances listed
5 in this Section are included in Schedule IV, in that:

- 6 (1) the substance has a low potential for abuse
7 relative to substances in Schedule III;
- 8 (2) the substance has currently accepted medical use
9 in treatment in the United States; and
- 10 (3) abuse of the substance may lead to limited physical
11 dependence or psychological dependence relative to the
12 substances listed in Schedule III.

13 Schedule IV includes:

14 (a) Any material, compound, mixture, or preparation which
15 contains any quantity of the following substances or salts thereof
16 having a potential for abuse associated with a depressant effect
17 on the central nervous system:

- 18 1. Barbital;
- 19 2. Chloral betaine;
- 20 3. Chloral hydrate;
- 21 4. Diethylpropion;
- 22 5. Doriden;
- 23 6. Ethchlorvynol;
- 24 7. Ethinamate;
- 25 8. Fenfluramine;

- 1 9. Methohexital;
- 2 10. Meproamate;
- 3 11. Methylphenobarbital;
- 4 12. Noludar;
- 5 13. Paraldehyde;
- 6 14. Petrichloral;
- 7 15. Phenobarbital;
- 8 16. Placidyl.

9 (b) Any material, compound, mixture, or preparation which
10 contains any quantity of the following hallucinogenic substances,
11 their salts, isomers and salts of isomers:

- 12 1. Lysergic acid;
- 13 2. Lysergic acid amide;
- 14 3. Lysergic acid diethylamide;
- 15 4. Mescaline;
- 16 5. Peyote;

17 (c) Any material, compound, mixture, or preparation which
18 contains any quantity of the following tranquilizers, their salts,
19 isomers and salts of isomers:

- 20 1. Mellaril;
- 21 2. Thorazine;

22 Seciton 1107. Schedule V. The controlled substance listed in this
23 Section are included in Schedule V, in that:

- 24 (1) the substance has a low potential for abuse relative
25 to the controlled substances listed in Schedule IV;

1 (2) the substance has currently accepted medical use
2 in treatment in the United States; and

3 (3) the substance has limited physical dependence or
4 psychological dependence liability relative to the controlled
5 substances listed in Schedule IV.

6 Schedule V includes:

7 (a) Any compound, mixture, or preparation containing limited
8 quantities of any of the following narcotic drugs, which shall
9 include one or more non-narcotic active medicinal ingredients in
10 sufficient proportion to confer upon the compound, mixture, or
11 preparation, valuable medicinal quantities other than those
12 possessed by the narcotic drug alone:

13 (1) Not more than 200 milligrams of codeine, or any
14 of its salts, per 100 milliliters or per 100 grams;

15 (2) Not more than 100 milligrams of dihydrocodeine; or
16 any of its salts, per 100 milliliters or per 100 grams;

17 (3) Not more than 100 milligrams of ethylmorphine, or
18 any of its salts, per 100 milliliters or per 100 grams;

19 (4) Not more than 2.5 milligrams of dephenoxylate,
20 and not less than 25 micrograms of atropine sulfate per
21 dosage unit;

22 (5) Not more than 100 milligrams of opium per 100
23 milliliters or per 100 grams, or not more than 5 milligrams
24 per dosage unit.
25

1 (b) Any compound, mixture, or preparation containing
2 cocaine, cocaine hydrochloride, including coca leaves and any
3 salt, compound, derivative or preparation thereof which is
4 chemically equivalent or identical with any of these substances,
5 but not including decocainized coca leaves or extractions which
6 do not include cocaine or ecgonine.

7 (c) Any material, compound, mixture, or preparation which
8 contains any quantity of the following tranquilizers, their
9 salts, isomers and salts of isomers:

- 10 1. Dalmane;
- 11 2. Librium;
- 12 3. Serax;
- 13 4. Valium.

14 (d) Any material, compound, mixture, or preparation which
15 contains any quantity of the following analgesics, their salts,
16 isomers and salts of isomers:

- 17 1. Darvon;
- 18 2. Pentazocine;
- 19 3. Talwin.

20 Section 1108. Schedule VI. The controlled substances listed in
21 this Section are included in Schedule VI in that:

- 22 (1) the substance has low potential for abuse and
23 limited dependence relative to the controlled substances
24 listed in Schedule V; and

25

1 (2) the danger to public peace, safety and welfare
2 is less than that posed by the controlled substances listed
3 in Schedule V.

4 Schedule VI includes any compound, mixture, or
5 preparation containing any of the following substances:

- 6 1. Hashish;
- 7 2. Hash oil;
- 8 3. Marijuana;
- 9 4. Psilocyn (psilocin);
- 10 5. Psilocybin;
- 11 6. Tetrahydrocannabinol;
- 12 7. Unlicensed and untaxed alcohol (beer, wine and
13 liquor);
- 14 8. Unlicensed and untaxed tobacco;

15 Section 1109. Regulation of Manufacture, Authorization, Licensing,
16 Distribution and Dispensing of Controlled Substances. The Director of
17 Public Health and Environmental Services, after consultation with the
18 Director of Public Safety and the Attorney General shall develop, adopt,
19 issue and promulgate regulations in accordance with applicable law in
20 order to carry out the purpose and intent of this Division regarding
21 the manufacture, authorization, licensing, distribution and dispensing
22 of Controlled Dangerous Substances. Such regulations shall include:
23 (a) registration, licensing and authorization requirements;
24 (b) revocation and suspension of registration licenses and
25 authorization;

- 1 (c) notice and hearings;
- 2 (d) records, applications and fees;
- 3 (e) order forms;
- 4 (f) prescriptions; and
- 5 (g) such other matters as may be necessary to carry out the
- 6 intent and purposes of this Division.

7 Section 1110. Trafficking Offenses--Penalties.

- 8 (a) Except as authorized by this Division, it shall be
- 9 unlawful for any person knowingly or intentionally:

- 10 (1) to manufacture, deliver or possess with intent to
- 11 manufacture, deliver or dispense, a controlled substance; or
- 12 (2) to create, distribute, or possess with intent to
- 13 deliver, a counterfeit controlled substance.

- 14 (b) Any person who violates paragraph (a) with respect to:

- 15 (1) a substance classified in Schedule I shall be
- 16 sentenced to a term of imprisonment for not more than ten
- 17 years, a fine of not more than ten thousand dollars, or both;
- 18 (2) a substance classified in Schedules II or III shall
- 19 be sentenced to a term of imprisonment of not more than five
- 20 years, a fine of not more than five thousand dollars, or both;
- 21 (3) a substance classified in Schedule IV shall be
- 22 sentenced to a term of imprisonment for not more than two
- 23 years, a fine of not more than one thousand dollars, or both;
- 24 (4) a substance classified in Schedule V shall be
- 25 sentenced to a term of imprisonment for not more than one

-
- 1 (c) notice and hearings;
2 (d) records, applications and fees;
3 (e) order forms;
4 (f) prescriptions; and
5 (g) such other matters as may be necessary to carry out the
6 intent and purposes of this Division.

7 Section 1110. Trafficking Offenses--Penalties.

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9 unlawful for any person knowingly or intentionally:

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11 manufacture, deliver or dispense, a controlled substance; or

12 (2) to create, distribute, or possess with intent to
13 deliver, a counterfeit controlled substance.

- 14 (b) Any person who violates paragraph (a) with respect to:

15 (1) a substance classified in Schedule I shall be
16 sentenced to a term of imprisonment for not more than ten
17 years, a fine of not more than ten thousand dollars, or both;

18 (2) a substance classified in Schedules II or III shall
19 be sentenced to a term of imprisonment of not more than five
20 years, a fine of not more than five thousand dollars, or both;

21 (3) a substance classified in Schedule IV shall be
22 sentenced to a term of imprisonment for not more than two
23 years, a fine of not more than one thousand dollars, or both;

24 (4) a substance classified in Schedule V shall be
25 sentenced to a term of imprisonment for not more than one

1 (d) Any person who violates subsection (a) of this Section
2 with respect to a substance classified in Schedule VI shall be
3 penalized as follows:
4 (1) by a fine of not more than two hundred dollars if:
5 (A) such substance is used on a public street or
6 sidewalk or on the premises of a public carrier or
7 business establishment or any other public place; or
8 (B) the possession is of more than one ounce
9 (28.3495 grams) of marijuana or any amount of any other
10 substance classified in Schedule VI, on a public street
11 or sidewalk or on the premises of a public carrier or
12 business establishment or any other public place; or
13 (C) such substance is possessed or controlled while
14 operating a motor vehicle, power boat or airplane; or
15 (D) such person is under the age of eighteen.
16 (2) by a civil fine of not more than fifty dollars if:
17 (A) such person is eighteen years of age or
18 older; and
19 (B) any amount of any such substance is possessed
20 in other than a public place for his own use, or the
21 possession is less than one ounce (28.3495 grams) of
22 marijuana in a public place.
23 (e) A violation of paragraph (2) of subsection (d) of this
24 Section shall not constitute a crime and a conviction thereunder
25 shall not give rise to any disability, disqualification or other

1 legal disadvantage. All proceedings under such paragraph shall
2 be initiated by civil complaint, citation, summons or other civil
3 process. The Commonwealth Trial Court may establish procedures
4 for payment of such civil fines by mail or process similar to
5 that established for minor traffic violations.

6 (f) The possession of more than the following amounts of
7 substances classified in Schedule VI shall constitute a rebuttable
8 presumption that the possession was with the intent to manufacture,
9 deliver, dispense or possess for the purpose of sale or exchange
10 for a valuable consideration:

11 (1) hashish - one ounce (28.3495 grams).

12 (2) hash oil - one ounce (.0296 liter).

13 (3) marijuana - two and two tenths pounds (1 kilo).

14 (4) psilocyn (psilocin, Psilocybin) -- one ounce
15 (28.3495 grams).

16 (5) tetrahydrocannabinol - one ounce (28.3495 grams).

17 (6) unlicensed and untaxed alcohol - 30 gallons
18 (113.5 liters) for beer and other malt beverages;
19 20 gallons (75.7 liters) for wine, liquor and other
20 distilled or fermented alcoholic beverages.

21 (7) unlicensed and untaxed tobacco - 1000 cigarettes
22 or 10 pounds (4.53 kilos) of bulk tobacco.

23 (g) The cultivation of more than two and two tenths pounds
24 (1 kilo) of marijuana shall be a misdemeanor punishable by
25 imprisonment for not more than six months or a fine of not more

1 than five hundred dollars or both.

2 Section 1112. Commercial Offenses--Penalties.

3 (a) It shall be unlawful for any person who is subject to
4 the requirements of Section 1109 and any regulations issued
5 thereunder:

6 (1) to distribute or dispense a controlled substance
7 not authorized by his registration to another registrant or
8 other authorized person;

9 (2) to manufacture, distribute, or dispense a
10 controlled substance not authorized by his registration
11 to another registrant or other authorized person;

12 (3) to refuse or fail to make, keep or furnish
13 any record, notification, order form, statement, invoice
14 or information required; or

15 (4) to refuse an entry into any premises for any
16 authorized inspection; or

17 (5) to knowingly keep or maintain any store, shop,
18 warehouse, dwelling house, building, vehicle, boat, aircraft,
19 or any other structure or place whatever, which is resorted
20 to by persons using controlled substances, or which is used
21 for the keeping or selling of the same in violation of this
22 Division.

23 (b) Any person who violates this Section is punishable by
24 imprisonment for not more than two years or a fine of not more
25 than one thousand dollars, or both.

1 Section 1113. Fraud Offenses--Manufacturer and Distribution--
2 Penalties.

3 (a) It shall be unlawful for any person knowingly or
4 intentionally:

5 (1) who is a registrant to distribute a controlled
6 substance classified in Schedules I through V, in the course
7 of his legitimate business, except pursuant to an order form
8 as required by Section 1109;

9 (2) to use in the course of the manufacture or
10 distribution of a controlled substance a registration number
11 which is fictitious, revoked, suspended or issued to another
12 person;

13 (3) to acquire or obtain possession of a controlled
14 substance by misrepresentation, fraud, forgery, deception or
15 subterfuge;

16 (4) to furnish false or fraudulent material information
17 in, or omit any material information from, any application,
18 report, or other document required to be kept or filed under
19 this Division or any record required to be kept by this
20 Division;

21 (5) to make, distribute, or possess any punch, die,
22 plate, stone or other thing designed to print, imprint, or
23 reproduce the trademark, trade name, or other identifying
24 mark, imprint, or device of another or any likeness of any
25 of the foregoing upon any drug or container or labeling

1 thereof so as to render such drug a counterfeit controlled
2 substance.

3 (b) Any person who violates this Section is punishable by
4 imprisonment for not more than five years, a fine of not more than
5 one thousand dollars, or both.

6 Section 1114. Additional Penalties. Any penalty imposed for
7 violation of this Division shall be in addition to, and not in lieu of,
8 any penalty imposed for violations of any other Division or Section of
9 this Code or of any traffic laws or regulations, or of any civil or
10 administrative penalty or sanction authorized by law.

11 Section 1115. Distribution to Minors. Any person who is at least
12 18 years of age who violates any Section of this Division by distributing
13 a controlled substance to a person under 18 years of age, who is at least
14 three years his junior, is punishable by a term of imprisonment, a fine,
15 or both, up to twice that authorized by such Section.

16 Section 1116. Bar to Prosecution. If a violation of this Division
17 is a violation of a Federal law or the law of another State or Territory,
18 a conviction or acquittal under Federal law or the law of another State
19 or Territory for the same act is not a bar to prosecution in the
20 Commonwealth.

21 Section 1117. Forfeitures.

22 (a) The following shall be subject to forfeiture to the
23 Commonwealth and no property right shall exist in them:

24 (1) All controlled substances which have been
25 manufactured, distributed, dispensed, or acquired

1 in violation of this criminal code.

2 (2) All raw materials, products, land, and equipment of
3 any kind which are used, or intended for use, in manufacturing,
4 compounding, processing, delivering, importing, or exporting
5 any controlled substance in violation of this criminal code.

6 (3) All property which is used, or intended for use,
7 as a container or warehouse for property described in
8 paragraph (1) or (2).

9 (4) All conveyances, including aircraft, vehicles, or
10 vessels, which are used, or are intended for use, to transport,
11 or in any manner to facilitate the transportation, sale,
12 receipt, possession, or concealment of property described in
13 paragraph (1) or (2), except that:

14 (A) no conveyance used by any person as a common
15 carrier in the transaction of business as a common
16 carrier shall be forfeited under the provisions of this
17 section unless it shall appear that the owner or other
18 person in charge of such conveyance was a consenting
19 party or privy to a violation of this criminal code; and

20 (B) no conveyance shall be forfeited under the
21 provisions of this section by reason of any act or
22 omission established by the owner thereof to have been
23 committed or omitted by any person other than the owner
24 while the conveyance was unlawfully in the possession
25 of a person other than the owner in violation of the

1 criminal laws of the United States, or of any State,
2 territory, or the Commonwealth.

3 (5) All books, records, and research, including
4 formulas, microfilm, tapes, and data which are used, or
5 intended for use, in violation of this criminal code.

6 (6) All moneys, negotiable instruments, securities, or
7 other things of value furnished or intended to be furnished
8 by any person in exchange for a controlled substance in
9 violation of this criminal code, all proceeds traceable to
10 such an exchange, and all moneys, negotiable instruments,
11 and securities used or intended to be used to facilitate
12 any violation of this criminal code, except that no property
13 shall be forfeited under this paragraph, to the extent of
14 the interest of an owner, by reason of any act or omission
15 established by that owner to have been committed or omitted
16 without the knowledge or consent of that owner.

17 (b) Any property subject to forfeiture to the Commonwealth
18 under this criminal code may be seized by the Attorney General upon
19 process issued by any court of the Commonwealth having jurisdiction
20 over the property, except that seizure without that process may be
21 made when:

22 (1) the seizure is incident to an arrest or a
23 search under a search warrant or an inspection under
24 an administrative inspection warrant;
25

1 (2) the property subject to seizure has been
2 the subject of a prior judgment in favor of the
3 Commonwealth in a criminal injunction or forfeiture
4 proceeding under this criminal code;

5 (3) the Attorney General has probable cause
6 to believe that the property is directly or indirectly
7 dangerous to health or safety; or

8 (4) the Attorney General has probable cause to
9 believe that the property has been used or is intended
10 to be used in violation of this criminal code.

11 In the event of seizure pursuant to paragraph (3) or (4) of this
12 subsection, proceedings under subsection (d) of this section shall
13 be instituted promptly.

14 (c) Property taken or detained under this section shall not
15 be replaceable, but shall be deemed to be in the custody of the
16 Attorney General, subject only to the orders and decrees of the
17 court or the official having jurisdiction thereof. Whenever
18 property is seized under the provisions of this title, the
19 Attorney General may:

20 (1) place the property under seal;
21 (2) remove the property to a place designated by him; or
22 (3) require that the Supply Division of the
23 Commonwealth Government take custody of the property
24 and remove it to an appropriate location for disposition
25 in accordance with law.

1 (d) The provisions of law relating to the seizure, summary
2 and judicial forfeiture, and condemnation of such property for
3 violation of the customs laws; the disposition of property or the
4 proceeds from the sale thereof; the remission or mitigation of such
5 forfeitures; and the compromise of claims shall apply to seizures
6 and forfeitures incurred, or alleged to have been incurred, under
7 the provisions of this criminal code insofar as applicable and not
8 inconsistent with the provisions hereof; except that such duties
9 as are imposed upon the customs officer or any other person with
10 respect to the seizure and forfeiture of property under the
11 customs laws shall be performed with respect to seizures and
12 forfeitures of property under this criminal code by such officers,
13 agents, or other persons as may be authorized or designated for
14 that purpose by the Attorney General, except to the extent that
15 such duties arise from seizures and forfeitures effected by any
16 customs officer.

17 (e) Whenever property is forfeited under this criminal
18 code the Attorney General may:

19 (1) retain the property for official use;

20 (2) sell any forfeited property which is not
21 required to be destroyed by law and which is not harmful
22 to the public;

23 (3) require that the Supply Division take custody of
24 the property and remove it for disposition in accordance
25 with law; or

1 (4) forward it to any Commonwealth or Federal agency
2 for disposition (including delivery for medical or scientific
3 use to any Federal agency under regulations of the Attorney
4 General).

5 The proceeds from any sale under paragraph (2) and any moneys
6 forfeited under this criminal code shall be used to pay all proper
7 expenses of the proceedings for forfeiture and sale including
8 expenses of seizure, maintenance of custody, advertising, and
9 court costs. The Attorney General shall forward to the Treasurer
10 of the Commonwealth for deposit in the general fund of the
11 Commonwealth any amounts of such moneys and proceeds remaining
12 after payment of such expenses.

13 (f) All controlled substances that are possessed,
14 transferred, sold, or offered for sale in violation of the
15 provisions of this criminal code shall be deemed contraband and
16 seized and summarily forfeited to the Commonwealth. Similarly,
17 all controlled substances which are seized or come into the
18 possession of the Commonwealth the owners of which are unknown,
19 shall be deemed contraband and summarily forfeited to the
20 Commonwealth.

21 (g)(1) All species of plants from which controlled substances
22 may be derived which have been planted or cultivated in
23 violation of this criminal code or of which the owners or
24 cultivators are unknown, or which are wild growths, may be
25 seized and summarily forfeited to the Commonwealth.

1 (2) The failure, upon demand by the Attorney General or
2 his duly authorized agent, of the person in occupancy or in
3 control of land or premises upon which such species of plants
4 are growing or being stored, to produce an appropriate
5 registration, or proof that he is the holder thereof, shall
6 constitute authority for the seizure and forfeiture.

7 (3) The Attorney General, or his duly authorized agent,
8 shall have authority to enter upon any lands, or into any
9 dwelling pursuant to a search warrant, to cut, harvest, carry
10 off, or destroy such plants.

11 Division 12. SENTENCING.

12 Sections

- 13 1201. Fines.
- 14 1202. Mandatory Sentencing.
- 15 1203. Recognition of Custom.
- 16 1204. Alternative Sentencing.
- 17 1205. Suspension of Sentence.
- 18 1206. Consideration of Previous Convictions.
- 19 1207. Imposition of Fines.
- 20 1208. Orders Requiring Specified Residence.
- 21 1209. Restitution, Compensation or Forfeiture.
- 22 1210. Closing of Business.
- 23 1211. Community Service.
- 24 1212. Designation of Place of Confinement.
- 25 1213. Probation.

1 1214. New Trial; Correction or Reduction
2 of Sentence.

3 1215. Findings on Sentencing.

4 1216. Conditional Discharge for possession as
5 First Offense.

6 "Section 1201. Fines. A person who has been convicted of any
7 offense under this Code, unless a fine is elsewhere prescribed by law,
8 in addition to any other punishment authorized by law, may be sentenced
9 to pay a fine not exceeding:

10 (a) Ten thousand dollars when the conviction is for an
11 offense punishable by a maximum of ten years imprisonment;

12 (b) Five thousand dollars when the conviction is for an
13 offense punishable by a maximum of five years imprisonment;

14 (c) One thousand dollars when the conviction is for an
15 offense punishable by a maximum of one year imprisonment;

16 (d) Two hundred dollars when the conviction is for an
17 offense punishable by a maximum of six months imprisonment;

18 (e) Fifty dollars when the conviction is for an offense
19 punishable by a maximum of thirty days imprisonment;

20 (f) Any higher amount equal to double the pecuniary gain
21 obtained from the offense by the defendant; or

22 (g) Any higher amount specifically authorized by statute.

23 "Section 1202. Mandatory Sentencing.

24 (a) Any person who is armed with a dangerous weapon in the
25 commission of an offense shall be sentenced to serve no less than

1 one-third the maximum term of imprisonment which may otherwise be
2 imposed upon conviction of the offense, which sentence may not be
3 suspended unless the Court determines that unique circumstances
4 exist in the light of which imprisonment of the convicted person
5 is inhumane, cruel or otherwise extremely detrimental to the
6 interest of justice, and is not necessary for the protection of
7 the public or any witness.

8 (b) Any person who is armed with a dangerous weapon which is
9 also a firearm in the commission of an offense shall be sentenced
10 to serve no less than one-third the maximum term of imprisonment
11 which may otherwise be imposed upon conviction of the offense,
12 which sentence may not be suspended.

13 (c) No penalties pursuant to this section 1202 shall be
14 imposed unless being armed with a dangerous weapon is alleged
15 and proved as an element of the underlying offense.

16 "Section 1203. Recognition of Custom. In imposing or suspending
17 sentences in accordance with this Code, due consideration shall be
18 given to the local customs of the people of the Commonwealth in so
19 far as a custom may provide mitigating or aggravating factors.

20 "Section 1204. Alternative Sentencing. Except as otherwise
21 provided in this Code, the Courts of the Commonwealth are authorized to
22 impose, in conjunction with suspension of all or part of a sentence of
23 imprisonment or fine, alternative sentences which benefit the community
24 and serve the interests of justice, including community service and
25 restitution of the victims or of the community. Intentional failure

1 to properly perform an alternative sentence may result in imposition
2 of all or part of the suspended sentence.

3 "Section 1205. Suspension of Execution of Sentence. Except as
4 restricted by a specific provision of a section of this Code or by
5 Section 1202, the Court may suspend or modify all or part of a sentence
6 and order probation or other sentencing where such action is deemed to
7 be in the best interests of justice, and may reimpose all or part of
8 the suspended sentence upon violation of the terms of the suspension.

9 "Section 1206. Consideration of Previous Conviction. Before
10 imposing or suspending the execution of sentence upon a person found
11 guilty of a criminal offense, or in suspending the imposition of
12 sentence and granting probation, evidence of good or bad character,
13 including any prior criminal record of the defendant, may be received
14 and considered by the court.

15 "Section 1207. Imposition of Fines; Procedure Upon Nonpayment of
16 Fines. Where an offense is made punishable by fine, the court imposing
17 the fine may give such directions that appear to be just with respect
18 to the payment of the fine. In default of payment of the fine or any
19 part thereof, the court may order the defendant to be imprisoned for
20 such period of time as it may direct. These directions may be given
21 and orders for imprisonment made at any time, and may be modified if
22 the court deems justice so requires, until the fine is paid in full or
23 the imprisonment served which has been ordered in default of payment:
24 Provided, that the accused shall be given an opportunity to be heard
25 before any such direction or order is given, made, or modified, except

1 when that is done at the time sentence is imposed; and provided further,
2 that no defendant shall be imprisoned for a longer period of time than
3 that fixed by law for such offense.

4 "Section 1208. Orders Requiring Specified Residence. The court
5 may, in lieu of or in addition to other lawful punishment or as a
6 condition of probation or suspension of sentence, direct that a person
7 found by it to be guilty of a criminal offense shall establish his place
8 of residence within a specified area and maintain it there for a period
9 of time not exceeding the maximum period of imprisonment which may be
10 imposed for the offense.

11 "Section 1209. Restitution, Compensation or Forfeiture. If a
12 defendant is convicted of any offense defined in this Act, the court
13 may, in lieu of or in addition to other lawful punishment or as a
14 condition of probation or suspension of sentence, order restitution
15 or compensation to the owner or person damaged or the forfeiture of
16 wrongfully obtained property to the Commonwealth.

17 "Section 1210. Closing of Business. If a defendant is convicted
18 of an offense involving the sale of a harmful article or the operation
19 of an unlawful business, the court may, in lieu of or in addition to
20 other lawful punishment, order that the place of sale or business be
21 vacated or closed for a specified time.

22 "Section 1211. Community Service. In any case in which a court
23 is authorized to impose sentence of imprisonment, the court may, if it
24 deems best, instead of imposing imprisonment, sentence the accused to
25 perform hard labor or such other community service in accordance with

1 his physical ability on any public project for a period not exceeding
2 that for which imprisonment might be imposed.

3 "Section 1212. Designation of Place of Confinement. (a) Any court
4 upon sentencing a person to imprisonment may designate in the commitment
5 order a place of confinement within the Commonwealth. The place of
6 confinement may be changed or otherwise designated, either within or
7 without the Commonwealth, on motion by the Director of Public Safety
8 as may be necessary to protect the person and the public welfare.

9 (b) If a treaty in effect between the United States and a
10 foreign country provides for the transfer or exchange of convicted
11 offenders to the country of which they are citizens or nationals,
12 the governor may, on behalf of the Commonwealth and subject to the
13 terms of the treaty, authorize the Director of Public Safety to
14 consent to the transfer or exchange of offenders and take any
15 other action necessary to initiate the participation of this
16 Commonwealth in the treaty.

17 "Section 1213. Probation And Suspension of Imposition of Sentence.

18 (a) Upon entering a judgment of conviction of any offense not
19 punishable by life imprisonment, the court, when satisfied that the
20 ends of justice and the best interests of the public as well as the
21 defendant will be served, may suspend the imposition of sentence
22 and may direct that the suspension continue for a period of time,
23 not exceeding the maximum term of sentence which may be imposed,
24 and upon the terms and conditions which the court determines, and
25 shall place the person on probation, under the charge and

1 supervision of a probation officer or any other person designated
2 by the court, during the suspension.

3 (b) Upon violation of any of the terms and conditions of
4 probation at any time during the probationary period, the court
5 may issue a warrant for the rearrest of the person on probation
6 and, after giving the person an opportunity to be heard and to
7 rebut any evidence presented against him, may revoke and terminate
8 the probation.

9 (c) Upon the revocation of the probation, the court may
10 then impose any sentence which may have initially been imposed
11 had the court not suspend imposition of sentence in the first
12 instance.

13 (d) The court may at any time during the period of probation
14 modify its order of suspension of imposition of sentence. The
15 court may at any time, when the ends of justice and the best
16 interests of the public as well as the defendant will be served,
17 and when the good conduct and reform of the person held on
18 probation warrants it, terminate the period of probation and
19 discharge the person held. If the court has not revoked the
20 order or probation and pronounced sentence, the defendant shall,
21 at the end of the term of probation, be discharged by the court.

22 (e) Upon discharge of the defendant without imposition of
23 sentence, the court shall vacate the judgment of conviction and
24 the defendant shall not be deemed to have been convicted of the
25 crime for any purpose.

1 (f) Whenever restitution or a fine is ordered the court shall
2 place the defendant on probation pursuant to this Section 1213.
3 The Court shall review financial compliance sufficiently prior to
4 the termination of probation to permit an extension of supervision
5 if necessary.

6 "Section 1214. New Trial; Correction or Reduction of Sentence.
7 The court may correct an illegal sentence at any time. The court may
8 reduce a sentence within 120 days after the sentence is imposed, or
9 within sixty days after receipt by the court of a mandate issued upon
10 affirmance of the judgment or dismissal of the appeal.

11 "Section 1215. Findings on Sentencing. The court, in imposing
12 any felony sentence, shall enter specific findings why a sentence,
13 fine, alternative sentence, suspension of a sentence, community
14 service or probation, will or will not serve the interests of justice.

15 Section 1216. Conditional Discharge for Drug Possession as First
16 Offense.

17 (a) Whenever any person who has not previously been convicted
18 of any offense under this Code, the Trust Territory Code, or under
19 any statute of the United States or of any State or Territory
20 relating to narcotic drugs, marijuana, or stimulant, depressant,
21 or hallucinogenic drugs, pleads guilty to or is found guilty of
22 possession of a controlled substance under Division 11, the court,
23 without entering a judgment of guilt and with the consent of the
24 accused, may defer further proceedings and place him on probation
25 upon terms and conditions. Upon violation of a term or condition

1 the court may enter an adjudication of guilt and proceed as
2 provided. Upon fulfillment of the terms and conditions, the court
3 shall discharge such person and dismiss the proceedings against
4 him. Discharge and dismissal under this Section shall be without
5 court adjudication of guilt and shall not be deemed a conviction
6 for purposes of disqualifications or disabilities imposed by law
7 upon conviction of a crime including the additional penalties
8 imposed for second or subsequent convictions under Section 1116.
9 Discharge and dismissal under this Section may occur only once
10 with respect to any person.

11 (b) Upon the dismissal of such person and discharge of the
12 proceedings against him under paragraph (a) of this Section, such
13 person may apply to the court for an order to expunge from all
14 official records (other than the nonpublic records retained by the
15 court solely for the purpose of use by the courts in determining
16 whether or not, in subsequent proceedings, such person qualifies
17 under this Section) all recordation relating to his arrest,
18 indictment or information, trial, finding of guilty, and dismissal
19 and discharge pursuant to this Section. If the court determines
20 after hearing, that such person was dismissed and the proceedings
21 against him discharged, it shall enter such order. The effect of
22 such order shall be to restore such person, in the contemplation
23 of the law, to the status he occupied before such arrest or
24 indictment or information. No person as to whom such order has
25 been entered shall be held hereafter under any provisions of any

1 law to be guilty of perjury or otherwise giving a false statement
2 by reason of his failure to recite or acknowledge such arrest, or
3 indictment or information, or trial in response to any inquiry
4 made of him for any purpose.

5 Division. 13. Pardons and Paroles.

6 Sections

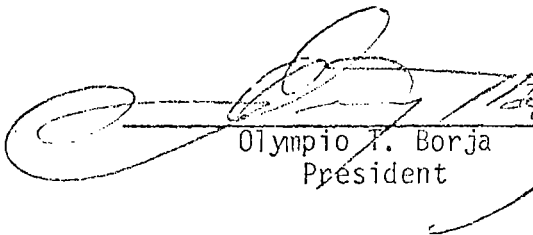
7 1301. Pardons.

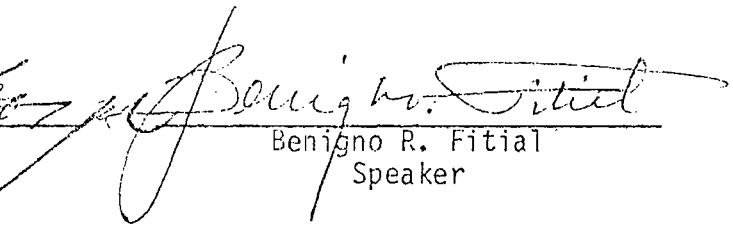
8 1302. Paroles.

9 Section 1301. Pardons. As vested by Section 9(c) of Article III
10 of the Constitution, the Governor shall, after consultation with the
11 Board of Parole, have the clemency power to grant reprieves,
12 commutations and pardons after convictions to any person for all
13 offenses except impeachments. A "reprieve" shall postpone the
14 execution of a sentence. A "commutation" substitutes a lighter
15 penalty for that imposed by the Court. A "pardon" ends all penalties
16 or legal disabilities imposed after conviction. Prior to granting any
17 reprieve, commutation or pardon, the Governor shall, after initial
18 consultation with the Board of Parole, submit a written notice of
19 intention to grant to an individual a reprieve, commutation or pardon,
20 as the case may be, to the Board of Parole and shall thereafter again
21 consult with the Board of Parole. If the Board of Parole fails,
22 neglects or refuses to consult with the Governor on such intention
23 within thirty days of the receipt of such notice, the Board of Parole
24 shall be deemed to have been consulted and concurred in such intention.
25 Prior to submitting such written notice, the Governor shall request and

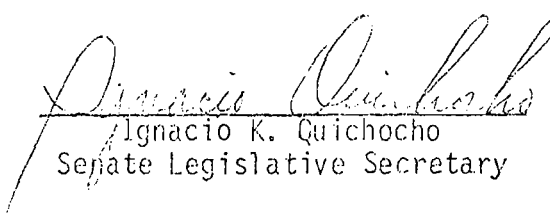
1 the Office of the Attorney General, the Department of Public Safety
2 and the Board of Parole shall provide to the Governor all information
3 relating to the criminal record of such person.

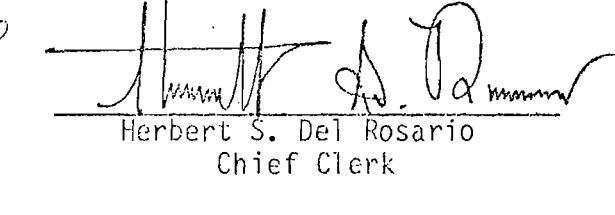
4 Section 1302. Paroles. The Board of Parole, acting pursuant to
5 applicable Commonwealth laws and the rules and regulations of the Board
6 of Parole, shall have the power to grant parole to any person convicted
7 of an offense under this Code or prior law, after the person has
8 completed at least one third of the minimum term of imprisonment
9 sentenced by the Court. After reasonable notice and an opportunity
10 for a hearing, the Board of Parole may revoke parole if there has
11 been a violation of the conditions of parole by a parolee.

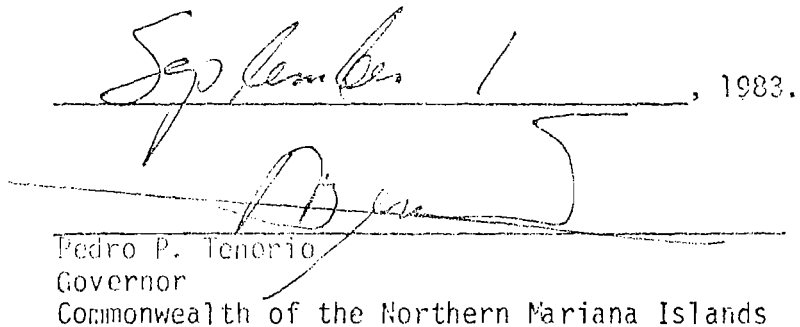

Olympio T. Borja
President


Benigno R. Fitial
Speaker

ATTEST:


Ignacio K. Quichocho
Senate Legislative Secretary


Herbert S. Del Rosario
Chief Clerk


September 1, 1983.
Pedro P. Tenorio
Governor
Commonwealth of the Northern Mariana Islands