



The Vigilance Committee

GCIC, Inc. 414 West Soledad Avenue, Hagåtña, GU. 96910

During the onset of the COVID-19 pandemic, one of the first actions taken by Governor Lou Leon Guerrero was to gut the Open Government Law denying the rights of the people and their ability to hold their government accountable. In order to restore openness and transparency in government during a declaration of a State of Public Health Emergency, the Vigilance Committee recommends the following *amendment* to the Governor’s Emergency Health Powers:

Section 1. Subsection (a)(1) of §19403 of 10 GCA is *amended* to read:

“... through an executive order suspend, the provisions of any regulatory statute, except 5 GCA Ch. 8 & 10, The Open Government Law and the Sunshine Law, respectively, provided that the executive directors, by whatever title, enforce social distancing during meetings, of prescribing procedures for conducting local business, or the orders, rules and regulations of any government of Guam agency, to the extent that strict compliance with the same would prevent, hinder or delay necessary action (including emergency purchases) by the public health authority to respond to the public health emergency, or increase the health threat to the population; ...”

7.) When any governor declares a State of Public Health Emergency, how will you ensure the Open Government Law and the Sunshine Law remain whole and a priority in government?

CANDIDATE RESPONSES

ADA, Vicente Anthony Borja (R) Tony Ada (Daso/Bodig)	I would support efforts to protect the public interest during a public health emergency, inclusive of the public’s right to be informed. We should not wait for another declaration of a state of public health emergency. We should amend the law to prohibit the waivers or suspensions of FOIA and the Open Government Law by any Executive Order.
ANANICH, John Albert, II (D) Perez Aguon	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
ARMENTA, Michelle Lynn (R) Familian Dasu	I will amend the Governor's Emergency Health Powers as recommended above.
BLAS, Frank Flores, Jr. (R) Dero Jeje Papa	Understanding that in any state of emergency there are urgent and exigent decisions that need to be made that may conflict with provisions of the Open Government Law, a provision requiring a timely explanation and justification for its suspension should be included.
BORDALLO, Fred E., Jr. (D) Kotla Queto	The Chief Law enforcement officer of Guam is the Attorney General of Guam and if necessary immediately communications can be made to obtain the assistance of the Guam AG to intervene and guide the Governor and her staff from violations of the sunshine act. In addition i will support the recommended amendments.

<p>BORJA, Vincent A.V. (R) Dasso & Karabao</p>	<p>Oversight and tough questioning. The current senators do nothing. The legislature should keep the administration in check and not just bow to the orders of the Governor. Things should make sense and the senators should be questioning the decisions especially when one policy contradicts the other.</p>
<p>BROWN, Joanne M. (R)</p>	<p>As I responded in question No. 6, the powers of the Governor to declare a public health emergency should not be extended beyond 30 days without legislation and public deliberation. Also, the law provides for public meetings under emergency conditions. These provisions can be further reviewed and strengthened but our people should not be left in the dark about the operations of their government to include emergency conditions. If elected to the 36th Guam Legislature I will be active in insuring the checks and balances of power in the government and if public notice requirements are not followed to include emergency notices, such decisions should be null and void.</p>
<p>CARILLO, Christopher L. (D) Chris</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>CRUZ, Joseph Iglesias (R) JI Cruz / Familian Lazaro</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>DUENAS, Christopher M. (R) Chris</p>	<p>I currently have a draft bill very similar to this and will introduce it if elected to the 36th Guam Legislature.</p>
<p>DUENAS, David Ralph (D) Dave Inchick</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>EDQUILANE, Don Antonio Ada (R) Balaku Atdot Sam Clara</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>HERNANDEZ, Dominic Joaquin (R) The Informant</p>	<p>If I was in office when I had heard about this issue in the news, I would of challenge it immediately and push the issue to the public to make the aware of the issue. Once the issues has been brought up and support from the public is there, I would convince the rest of the senate body to support public opinion the matter and overwrite the governor on this issue. While I would love for the senate and governor to work together especially during a public emergency, on the same note it is the duty of the senate to also ensure proper balance of power is conducted. No one branch of government should ever take total control of a situation. Hence the reason why our founding fathers of the US & the generations before us have had the 3 body system: Judicial, Executive, and Legislative branches to ensure power is properly balanced and if need be, one can challenge the other on their power & authority.</p>

<p>LEON GUERRERO, Frank G. (D) Nacha / Liberato</p>	<p>I am in a position that “if a state of emergency” is declared for legitimate reasons, I will not be concerned too much about openness and transparency for the duration of the emergency. My priority will be for the people who require immediate care or attention.</p> <p>A leader must be able to make sound decisions to address the emergency and not be burdened with general policies and procedures.</p>
<p>LEON GUERRERO, Joaquin Vicente (R) Ken Leon Guerrero</p>	<p>I filed a lawsuit in District Court that hastened the end of the Road Blocks that were created outside the purview of the Sunshine Laws. I will change the Sunshine Law to require payment of fines to the Sunshine Act to the prosecuting party instead of payment to the Government of Guam; to encourage more people to hold government officials accountable. I will introduce legislation that will create a Corrupt Practices Act that will strengthen the Sunshine Laws by adding more recourse options to the petitioner including the possibility of suing violating officials on behalf of the public for financial damages to cover petitioner's actual expenses including personal time expenditures. Passage of Bill 30-35 cost taxpayers more than \$10 Million Dollars a year and violated Guam Procurement Law. Inaction by the Attorney General of Guam and the Chief Procurement Officer of Guam would be violations under the proposed act, and actionable in a court of law.</p>
<p>MARSH, Kelly G. (D) (Incumbent) Taitano Kaluu</p>	<p>Throughout the nation this has been an evolving issue and the subject of litigation in the courts. I continue to have my office stay abreast of it and will continue to do so. I would seek legal counsel for guidance.</p>
<p>MENO, Franklin J. (D) Bunker</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>
<p>MOYLAN, James C. (R) (Incumbent) Jim Camacho Aragon Jeju</p>	<p>I have introduced legislation to include transparency language in Chapter 19, Title 10, GCA to assure that any action pursued by Adelup during the declaration is reported. The measure places strong teeth in the statute and is one way to assure that the Open Government and Sunshine Laws remain whole and a priority. Obviously much more can be done, and I would be open to that discussion with the Vigilance Committee to help champion their recommendations.</p>
<p>MUÑA BARNES, Tina Rose (D) (Incumbent) Pungco/Che/Inda</p>	<p>Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".</p>

<p>NELSON, Telena Cruz (D) (Incumbent) Flores Torres Fungo</p>	<p>"Vice Speaker Telena Cruz Nelson has always been a champion of transparency and accountability within our government. In this term alone and to ensure accountability, Vice Speaker Nelson has conducted numerous oversight hearings with agencies under her purview, including the Guam Department of Education, charter schools, and the Guam International Airport Authority. In late 2019, Nelson assumed temporary oversight of the Committee on Public Safety and oversaw two oversight hearings with the Department of Corrections after multiple inmates had been erroneously released. Nelson has gone as far as to oppose the confirmation of a government board member who had a controversial history with transparency and complying with Guam's Open Government Law. Through innumerable Sunshine Reform Act (FOIA) requests and letters to various government agencies, a host of oversight hearings and, in her capacity as a check and balance of the government, Vice Speaker Nelson has proved time and time again that transparency and accountability is of the utmost importance in our democracy. She has fought to protect an open government and one that is accountable to the people it serves, and has always pledged to uphold these values in service to the People of Guam. Currently, Vice Speaker Nelson is on active duty orders with the Guam National Guard and is unable to participate in this survey while she continues serving our island in a different capacity. This official response has been submitted on her behalf from The Office of Vice Speaker Telena Cruz Nelson."</p>
<p>PEREZ, Sabina E. (D) (Incumbent) Familian Gollo, Cabesa</p>	<p>I agree with the amendment, provided the language is adjusted to read: "...regulatory statute, except 5 GCA Ch. 8 & 10, The Open Government Law and the Sunshine Law, respectively, to the maximum extent possible, provided that...". I am open to alternative language as well, provided it accomplishes the goal of only accommodating rare, but still possible, public health emergencies that require immediate (even same-day) actions and make it impossible to wait for public notices. Theoretically, if there's a sudden and immediate danger (chemical spill, explosion, etc) that requires the removal of people from an area, or restricting movement, the Governor will not have time to publish a notice in advance of her actions. We must allow this flexibility in our laws, given the difficulty in anticipating what forms future public health emergencies may take. However, this does not mean we should abdicate our responsibility to practice full transparency as much as possible. I believe that when declaring an ongoing public health emergency, we can continue to follow all government laws intending to preserve transparency and accountability. If there is a need to bypass such a law due to a time-sensitive emergency, the Governor must declare so on a case-by-case basis, in writing, that such action is necessary in order to protect lives.</p>
<p>RIDGELL, Clynton E. (D) (Incumbent) Clynt Ridgell</p>	<p>Candidate did not respond to question 7.</p>

SAN AGUSTIN, Joe Shimizu (D) (Incumbent)	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
SEAU, Sandra Reyes (R) Familian Tung & Kinto	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
SHELTON, Amanda (D) (Incumbent) Familian Carabao	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".
TAITAGUE, Telo Teresa (R) (Incumbent) Tell it to Telo	While the current public health emergency may require additional time for gov't agencies to respond to certain requests for information, there is no excuse for agencies that do not respond to these requests. I urge those seeking public information to not give up on their efforts and to file the necessary complaints against those agencies that deliberately disregard information requests by members of the public.
TERLAJE, Jose Toves (D) (Incumbent) Jose "Pedo" Toves Terlaje	Candidate did not respond to question 7.
TERLAJE, Therese M. (D) (Incumbent) Attorney	Only limited provisions of the Open Government and Sunshine Laws should be allowed to be waived during a health emergency and they should be specified in writing along with a written explanation by the Governor how strict compliance with the specific provision would prevent, hinder or delay necessary action. I believe my advocacy and questioning of the blanket waiver of the Open Government Law contributed to notices being published again for public agency meetings during the health emergency.
TORRES, Mary Camacho (R) (Incumbent) MARY- Your Voice	Candidate did not respond to the "non-partisan survey promoting openness and transparency in government".