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APPEARANCE OF PNP PERSONNEL AT THE SENATE, HOUSE OF REPRESENTATIVES AND THE COMMISSION ON HUMAN RIGHTS

PNP MEMO CIRCULAR NO. 2009-005, March 12, 2009

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I. REFERENCES:

a. 1987 Constitution, Article VI (Legislative Department) and Article XIII Section 17 (Human Rights);
b. PNP Memorandum Circular No. 2007-015 dated November 23, 2007;
c. PNP Issuances on Appearance in Congressional Hearing; and
d. Jurisprudence (Arnault vs. Nazareno 87 Phil 29; Simon vs. CHR GR No. 100150, Jan. 5, 1994)

2. PURPOSE:

This Circular aims to provide the proper guidelines for PNP personnel invited and required to attend committee hearings, technical working group, inquiries in aid of legislation and plenary deliberation at the Senate or House of Representatives (HOR) or investigations conducted by the Commission on Human Rights.

3. DEEFINITION OF TERMS:

a. Congressional Hearing is a meeting or session of a Senate, HOR, Joint, or Special Committee of Congress, usually open to the public, to obtain information and opinions on proposed legislation, conduct an investigation, or evaluate/oversee the activities of a government department or the implementation of a law.

b. Inquiry in aid of legislation may refer to the implementation or re-examination of any law or appropriation or in connection with any proposed legislation or the formulation of, or in connection with future legislation, or will aid in the review or formulation of a new legislative policy or enactment. They may also extend to any and all matters vested by the Constitution in the House of Representatives or the Senate.

c. Contempt for purposes of this policy shall mean willful disregard or disobedience to a public authority.

4. GUIDELINES:

a. Article VI of the 1987 Constitution provides the following:

Section 1: The Legislative power shall be vested in the Congress of the Philippines which shall consist of a Senate and a House of Representatives, except to the extent reserved to the people by the provision on initiative and referendum.

Section 21: The Senate or the House of Representatives or any of its respective committees may conduct inquiries in aid of legislation in accordance with its duly published rules of procedure. The rights of persons appearing in or affected by such inquiries shall be respected.

b. Article XIII, Section 18 (1-2) of the 1987 Constitution states that “The Commission on Human Rights shall have the following powers and functions:

1) Investigate, on its own or on complaint filed by any party, all forms of human rights violations involving civil and political rights;

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2) Adopt its operational guidelines and rules of procedure, and cite for contempt for violations thereof in accordance with the Rules of Court xxx

c. The power of Congress to punish for contempt is inherent as a matter of self-preservation being one of the three independent and coordinate branches of the government. In the old case of Arnault vs. Nazareno, 87 Phil 29, the Supreme Court stated that "A legislative body cannot legislate wisely or effectively in the absence of information respecting the conditions which the legislation is intended to affect or change; and where the legislative body does not itself possess the requisite information which is infrequently true, recourse must be had to others who possess it. xxx The power of investigation necessarily includes the power to punish a contumacious witness for contempt.

d. With respect to the power of contempt by the Commission on Human Rights, the Supreme Court mentioned in the en banc case of Brigido Simon, et al vs. CHR, G.R. No. 100150, 1994 January 5 that "the power to cite for contempt could be exercise against persons who refuse to cooperate with the said bod y, or who would unduly withhold relevant information, or who decline to honor summons, and the like, in pursuing its investigative work xxx".

e. PNP personnel who failed to attend the committee hearings, deliberations, technical working group, inquiries in aid of legislation and human rights investigations in the Senate, House of Representatives or Commission on Human Rights may be held in contempt and may thereafter be arrested by the Sergeant-at-Arms of the Senate/HOR.

5. PROCEDURES:

a. Invitations from the Senate/House of Representatives:

1) All invitations for the Senate of the Philippines (SENATE) and the House of Representatives (HOR) must be officially received by the Liaison Officer for Legislative Affairs (LOLA) - SENATE/HOR of the Directorate for Plans (DPL).

In case the invitation was personally sent to the concerned PNP personnel, office/unit, said PNP personnel, office/unit must inform DPL thru the LOLA-SENATE/HOR as the case may be within the day of the receipt of such invitation or summons.

2) The Legislative Affairs Division (LAD) of DPL shall prepare the necessary Memorandum for the PNP attendees and coordinate with the Directorate for Logistics for the transportation, Directorate for Comptrollership for the funds and the Headquarters Support Service for the food of the attendees to be signed by the Chief, Directorial Staff.

3) The LOLA-SENATE/HOR shall coordinate with the inviting committee of the SENATE/HOR as to the essential details of the hearing or deliberation. Any vital information or incident that would affect the PNP organization must be immediately relayed to TDPL and the Command Group for the Chief, PNP's guidance or instruction.

4) The DPL in coordination with the PNP officer from the lead Directorate who attended the hearing, deliberation, inquiries or TWG shall prepare the after conference report to be submitted to the Command Group.

5) The attendees from the concerned D-Staff, NSU's and PROs shall thereafter submit their comments and recommendations on the proposed bill and other data to the Directorate for Plans which shall consolidate the same as position paper for signature of the Chief, PNP prior to submission to the concerned SEN ATE/HOR Committee.

6) The PNP Legal Service shall also submit their legal opinion on the proposed bill or inquiries made during

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the hearings to the Directorate for Plans for consolidation, prior to submission of the PNP's official position paper to the SENATE/HOR or CHR.

b. Invitations from the Commission on Human Rights:

1) Invitations from the Commission on Human Rights (CHR) must be officially received by the Human Rights Affairs Office (HRAO). If the invitation was personally sent to the concerned PNP personnel, office/unit, said personnel, office/unit shall inform the C, HRAO of said invitation.

2) The Chief, HRAO shall coordinate with the CHR as to the schedule and names of attendees with regard to any investigation pertaining to alleged violation of human rights. The Chief, HRAO shall also inform the CHR that it shall be the central receiving office of the PNP with regard to the service of summons or subpoena duces tecum issued by the CHR to ensure compliance thereof by those concerned.

3) The Chief, HRAO shall likewise furnish the DPL (attn: Legislative Affairs Division) copies of CHR invitations and the Legal Service (attn: Legal Assistance Division) of the summons or subpoena duces tecum for appropriate action.

6. APPEARANCE AT THE SENATE, HOUSE OF REPRESENTATIVES and the COMMISSION ON HUMAN RIGHTS:

a) Only Senior Officers from the concerned D-Staff, NSUs, PROs, preferably POLICE CHIEF SUPERINTENDENTS or POLICE SENIOR SUPERINTENDENTS, shall attend committee hearings, technical working group, inquiries in aid of legislation, plenary deliberations or investigations. These officers may however be accompanied by junior officers or technical staff but only to assist them during the hearing/deliberations or investigations.

Provided, however that hearings or deliberations in the SENATE Committee of Public Order and Illegal Drugs and the HOR Committee on Public Order and Safety wherein the PNP Legislative Agenda are pending, the attendee must be a POLICE CHIEF SUPERINTENDENT from the concerned D-Staff, NSUs and PROs.

Provided, furthermore, that during BUDGET HEARINGS all the Directors of the Directorial Staff and Regional Directors must attend, except when such absence is authorized by the C, PNP.

b) If a junior officer (PSUPT and below) or a PNCO is explicitly requested by the SENATE/HOR to attend the committee hearings, inquiries in aid of legislation, or human rights investigations, his/her direct immediate superior who is knowledgeable of the subject matter in issue or other details thereof must accompany said officer/ PNCO during his/her appearance,

c) The PNP Legal Service (preferably a senior legal officer) shall assist the attendees in the committee hearings, deliberations, inquiries in aid of legislation, plenary deliberation in the SENATE/HOR or investigations in the CHR.

d) Be it noted that, appearance or attendance at such hearings are considered mandatory regardless of whether the subject matters are sub judice or under judicial determination. Such invocation may however, be raised or manifested during the said hearings to avoid being questioned on matters that are sub judice.

e) The DPL thru the LOLA-SENATE/HOR shall ensure the attendance of PNP personnel. C, HRAO shall also ensure the attendance of PNP personnel appearing at SENATE/HOR/CHR on inquiries related to human rights. Names of absent invitees/ non-attendees shall be submitted to the DIDM for appropriate action.

f) In case of issuance of arrest order from the Senate/HOR, the PNP officer shall be delivered/surrendered by the PNP to the Senate/HOR.

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7. PENAL CLAUSE:

The PNP personnel who failed to attend the committee hearings, technical working group, inquiries in aid of legislation and plenary deliberations at the SENATE and HOUSE OF REPRESENTATIVES or investigations at the COMMISSION ON HUMAN RIGHTS shall be administratively liable for SERIOUS NEGLECT OF DUTY subject to penalties provided for by law and after observance of due process.

8. REPEALING CLAUSE:

All PNP issuances which are contrary to or inconsistent with this Circular are hereby amended or repealed accordingly.

9. EFFECTIVITY:

This Circular takes effect fifteen (15) days from the date of filing of a copy thereof with the University of the Philippines Law Center pursuant to Sections 3 and 4 of Chapter 2, Book VII of EO No. 292, otherwise known as the Administrative Code of 1987.

Adoptd: 12 March 2009

(SGD.) JESUS A. VERZOSA, CEO VI
Police Director General
Chief, PNP

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