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GUIDELINES IN THE CONDUCT OF PNP PERSONNEL, PRIVATE SECURITY GUARDS AND GUARD FORCES DURING STRIKES, LOCKOUTS AND LABOR DISPUTES IN GENERAL

NCMB, August 04, 1997

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In order to promote public Interest and safety, industrial peace and stability, and peace and order, the following guidelines are hereby prescribed to govern the official conduct of all members of the PHILIPPINE POLICE (PNP) during strikes, lockouts and labor disputes in general:

GENERAL POLICY

1. It is the essence of these guidelines that labor disputes are within the sole jurisdiction of the Department of Labor and Employment (DOLE) and/or through its appropriate agencies while matters involving peace and order, are under the exclusive jurisdiction of the National Police Commission (NAPOLCOM) through the Philippine National Police (PNP); but as labor disputes involving strikes and lockouts have peace and order implications, close coordination between the two departments is necessary.

2. The involvement of the PNP during strikes, lockouts and labor disputes in general shall be limited to the maintenance of peace and order, enforcement of laws and legal orders of duly constituted authorities.

3. Any request for police assistance issued by duly constituted authorities shall specify the acts to be performed or conducted by PNP personnel.

4. Whenever the assistance of the PNP is necessary, elements of the local police force should be called upon to render assistance. Such request for assistance shall be addressed to the Regional Director, National Capital Regional Command (NCRC), or the City Director in the case of cities, or the Provincial Director in the case of provinces or cities not under a City Police Command. Unless directed by the President or personally by the Chairman of the National Police Commission upon consultation with the Secretary of Labor and Employment for when requested by the latter, personnel from the Armed Forces of the Philippines shall not intervene nor be utilized in any labor dispute.

5. Insofar as practicable, no officer of the law shall be allowed to render services in connection with a strike or lockout if there is question or complaint as regards his relationship by affinity or consanguinity to any official/leader of the parties in the controversy or if he has financial or pecuniary interest therein.

6. A peace keeping detail shall be established in a strike or lockout area when requested by DOLE or as the Regional Director, National Capital Regional Command, City Police Command/Provincial Director may deem necessary for the purpose of maintaining peace and order in the area.

7. Personnel detailed as peace keeping force in strike or lockout areas shall be in uniform, with proper nameplate at all times. They shall exercise maximum tolerance and shall observe courtesy and strict neutrality in their dealings with both parties to the controversy bearing in mind that the parties to the labor dispute are not their adversaries but their partners in the quest for industrial peace and human dignity. As much as possible, they shall

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not inflict any physical harm upon strikers and/or picketers or any person involved in the strike/lockout. When called for by the situation or when all other peaceful and non-violent means have been exhausted, law enforcers may employ, as a last resort only such force as may be necessary and reasonable to prevent or repel an aggression.

PEACE KEEPING DETAILS

8. The peace keeping detail shall not be stationed in the picket (or confrontation line) but should be stationed such that their presence may deter the commission of criminal acts or any untoward incident from either side. The members of the peace keeping detail shall stay outside a 50 meter radius from the picket line, except, if the 50 meter radius includes a public thoroughfare, they may station themselves in such public thoroughfare for the purpose of insuring the free flow of traffic.

ARRESTS/SEARCHES AND SEIZURES

9. Arrests and searches in strike/lockouts areas shall be effected only on the basis of an existing and valid Warrant or Arrest/Search and Seizure or in accordance with Section 5, Rule 113 of the Rules of Court (Annex "A"). Whenever possible, union representatives (for laborers/workers) or management representatives (for management personnel) shall be requested to facilitate the service of the Warrant of Arrest/Search and Seizure Order.

10. Any person who during the strike/lockout, violates any law, statute, ordinance or any provision of Batas Pambansa Blg. 880 or the Public Assembly Act may be arrested and charged accordingly in court.

11. Any person who obstructs the free and lawful ingress to and egress from the employer's premises in contemplation of Article 264, par. (e) of the Labor Code, as amended, (Annex "B") or who obstructs public thoroughfares may be arrested and accordingly charged in court.

12. The DOLE shall immediately be informed by the PNP unit concerned in cases of violence in the picket line. When arrests are made pursuant to a warrant Issued by competent authorities, the arresting officers shall coordinate with the Leaders/Representatives of the union and management, as the case may be, and also inform them of the arrest and the reason therefor.

SERVICE OF DOLE, COURT OR LAWFUL ORDERS/WRITS

13. The service of DOLE, court or other lawful orders/writs is the primary concern of the DOLE representative, sheriff, representative of the government agency issuing the order respectively. Before service of the Order, the DOLE representative, sheriff or representative of the agency issuing the order shall coordinate and dialogue with the leaders of the striking group and the representatives of management and shall inform them of me nature and content of the Order to be enforced including possible consequences of any defiance thereto. Whenever necessary, coordination with the local government units shall be made by the DOLE and the other concerned agencies issuing the Order to facilitate the service of Order and to prevent unnecessary intervention.

14. Orders enjoining any picketing, strike or lockout are enforceable strictly in accordance with Articles 218 and 263 of the Labor Code, as amended.

15. Any person who is not a laborer/worker of the company business establishment on strike but has joined the striking laborers/workers in their picket or strike, shall be treated by the law enforcers in the same manner as the strikers/picketers. If such person's presence in the strike area obstructs the peaceful picketing, the law enforcers shall compel him to leave the area. The conduct of rallies and marches on issues not related to the labor dispute shall be dealt with in accordance with the provisions of Batas Pambansa 880.

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ADMINISTRATIVE JURISDICTION

17. Except as provided in these guidelines the matter of determining whether a strike, picket or lockout is legal or not should be left to DOLE and its appropriate agencies. PNP elements are enjoined from interfering in a strike, picket or lockout, except as herein provided, for the sole reason that it is illegal.

18. Picketing as part of the freedom of expression during the strikes shall be respected provided it is peaceful. Shanties and structures set-up to effectively block lawful ingress and egress from company premises for legal purposes and the free passage in public thoroughfares shall be summarily demolished in accordance with Article 694 of the Civil Code of the Philippines. (Annex "C")

19. No personal escort shall be provided to any of the parties to the controversy unless so directed by the competent authority. Whenever escorts are to be provided to any, the other party shall be informed accordingly. All escorts shall be in uniform at all times.

SOCIALIZING

20. During the pendency of a strike/lockout, the police and military personnel concerned are discouraged from socializing with any of the parties involved in the controversy. These personnel shall not, under any pretext, accept an invitation from management personnel or union officials/personnel involved in the controversy.

LIAISON

21. Liaison shall be established and maintained with the representatives of DOLE, management and the union in the strike/lockout area for the purpose of maintaining peace and order as well as to maintain a continuing peaceful dialogue between the parties to the strike/lockout. If possible, a monthly meeting between the representatives of the PNP, NAPOLCOM and the DOLE and concerned sectors shall be conducted to assess and monitor compliance with and implementation of the guidelines.

ADMINISTRATIVE ACTION

22. All complaints/reports leveled against any personnel of the PNP on the occasion of strike/lockout shall be processed and resolved in accordance with the PNP Administrative Disciplinary Machinery pursuant to Chapter III, paragraph (c) of Republic Act 6975 (Annex "D"). For DOLE personnel the complaints shall be processed in accordance with the DOLE Manual on the Disposition of Administrative Cases (Annex "E"). Whenever applicable, and if the evidence so warrants, appropriate disciplinary action shall be taken against the erring personnel.

ROLE OF SECURITY GUARDS

23. Conduct of security guards during strikes and lockouts shall be in accordance with Rule 18 of the Implementing Rules of Republic Act 5487 (Annex "F").

EFFECTIVITY

24. These Guidelines shall take effect immediately.

Date Filed: 04 August 1997

For the Department of Labor
and Employment

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For the National Police
Commission

(SGD.) LEONARDO A. QUISUMBING
Secretary

(SGD.) ROBERT Z. BARBERS
Chairman

Witnesses:

(SGD.) ROSALINDA D. BALDOZ
Acting Executive Director IV
National Conciliation and
Mediation Board

(SGD.) RECREDO A. SARMIENTO II
Director General
Philippine National Police

ANNEX "A"

Section 5, Rule 113 of the Rules of Court

"Arrest, without warrant; when lawful-A peace officer or a private person may, without a warrant, arrest a person:

(a) when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;

(b) when an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and

(c) when the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

In cases falling under paragraphs (a) and (b) hereof, the person arrested without a warrant shall be forthwith delivered to the nearest police station or jail, and shall be proceeded against in accordance with Rule 112, Section 7."

ANNEX "B"

Article 264 (e) of the Labor Code, as amended:

"No person engaged in picketing shall commit any act of violence, coercion or intimidation or obstruct the free ingress to or egress from the employee's premises for lawful purposes, or obstruct public thoroughfares."

ANNEX "C"

Art. 694. A nuisance is any act, omission, establishment, condition of property, or anything else which:

(1) Injures or endangers the health or safety of others; or

(2) Annoys or offends the senses; or

(3) Shocks, defies or disregards decency or morality; or

(4) Obstructs or interferes with the free passage of any public highway or streets or any body of water; or

(5) Hinders or impairs the use of property.

ANNEX "D"

Chapter III of Republic Act 6975 (The PNP Law)

C. Administrative Disciplinary Machinery

Sec. 41 (a) Citizen's Complaints — Any complaint by an individual person against any member of the PNP shall be brought before the following:

(1) Chiefs of police, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period not exceeding fifteen (15) days.

(2) Mayors of cities or municipalities, where the offense is punishable by withholding of privileges, restriction to specified limits, suspension or forfeiture of salary, or any combination thereof, for a period not less than sixteen (16) days but not exceeding thirty (30) days.

(3) People's Law Enforcement Board, as created under Section 43 hereof, where the offense is punishable by withholding of privileges, restriction to specified limits, for a period not exceeding thirty (30) days, or by dismissal.

The Commission shall provide in its implementing rules and regulations a scale of penalties to be imposed upon any member of the PNP under this section.

(b) Internal Discipline — In dealing with minor offenses involving internal discipline found to have been committed by any regular member of their respective commands, the duly designated supervisors and equivalent officers of the PNP shall, after due notice and summary hearing, exercise disciplinary powers as follows:

1) Chief of police or equivalent supervisors may summarily impose the administrative punishment of admonition or reprimand; restriction to specified limits; withholding of privileges; forfeiture of salary or suspension; or any of the combination of the foregoing: Provided, That, in all cases, the total period shall not exceed fifteen (15) days;

2) Provincial directors or equivalent supervisors may summarily impose administrative punishment of admonition or reprimand; restriction to specified limits; withholding of privileges; forfeiture of salary or suspension; or any combination of the foregoing: Provided, That, in all cases, the total period shall not exceed thirty (30) days;

3) Police regional directors or equivalent supervisors shall have the power to impose upon any member the disciplinary punishment of dismissal from the service. He may also impose the administrative punishment of admonition or reprimand; restriction to specified limits; withholding of privileges; suspension or forfeiture of salary; demotion; or any combination of the foregoing: Provided, That, in all cases, the total period shall not exceed sixty (60) days;

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4) The Chief of the PNP shall have the power to impose the disciplinary punishment of dismissal from the service; suspension or forfeiture of salary; or any of combination thereof for a period not exceeding one hundred eighty (180) days;

(c) Exclusive Jurisdiction — A complaint or a charge filed against a PNP member shall be heard and decided exclusively by the disciplining authority who has acquired original jurisdiction over the case and notwithstanding the existence of concurrent jurisdiction as regards the offense: Provided, That offenses which carry higher penalties referred to a disciplining authority shall be referred to the appropriate authority which has jurisdiction over the offense.

For purposes of this Act, a "minor offense" shall refer to an act or omission not involving moral turpitude, but affecting the internal discipline of the PNP, and shall include, but not limited to:

(1) Simple misconduct or negligence;
(2) Insubordination;
(3) Frequent absences or tardiness;
(4) Habitual drunkenness; and
(5) Gambling prohibited by law.

SEC. 42. Summary Dismissal Powers of the PNP Chief and Regional Directors. The Chief of the PNP and regional directors, with due notice and summary hearings, may immediately remove or dismiss any respondent PNP member in any of the following:

a) When the charge is serious and the evidence of guilt is strong;

b) When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges; and

c) When the respondent is guilty of conduct unbecoming of a police officer.

SEC. 43. People's Law Enforcement Board (PLEB). — (a) Creation and functions — Within thirty (30) days from the issuance of the implementing rules and regulations by the Commission, there shall be created by the sangguniang panglungsod/bayan in every city and municipality such number of People's Law Enforcement Boards (PLEBs) as may be necessary: Provided, That there shall be at least one (1) PLEB for every municipality and for each of the legislative districts in a city. The PLEB shall have jurisdiction to hear and decide citizens' complaints or cases filed before it against erring officers and members of the PNP. There shall be at least one (1) PLEB for every five hundred (500) city or municipal police personnel.

(b) Composition and Term of Office. — The PLEB shall be composed of the following:

1) Any member of the sangguniang panglungsod/bayan chosen by his respective sanggunian;

2) Any barangay captain of the city or municipality concerned chosen by the association of captains; and

3) Three (3) other members who shall be chosen by the peace and order council from among the respected members of the community known for their probity and integrity, one (1) of whom-must be a member of the Bar or, in the absence thereof, a college graduate, or the principal of the central elementary school in the locality.

The Chairman of the PLEB shall be elected from among its members. The term of the office of the members of the PLEB shall be for a period of two (2) years from assumption of office, such member shall hold office until his successor shall have been chosen and qualified.

(c) Compensation — Membership in the PLEB is a civic duty. However, PLEB members may be paid per diem as

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may be determined by the city or municipal council from city or municipal funds.

(d) Procedure — 1) The PLEB, by a majority vote of all its members and its Chairman shall determine whether or not the respondent officer or member of the PNP is guilty of the charge upon with the complaint is based.

2) Each case shall be decided within sixty (60) days from the time the case has been filed with PLEB.

3) The procedures in the PLEB shall be summary in nature, conducted in accordance with due process, but without strict regard to technical rules of evidence.

4) The Commission shall issue the necessary implementing guidelines and procedures to be adopted by the PLEB, including graduated penalties which may be imposed by the PLEB.

5) The Commission may assign the present NAPOLCOM hearing officers to act as legal consultants of the PLEBs and provide, whenever necessary, legal services, assistance and advise to members of the PNP, especially those involving difficult questions of law. Provided, That these lawyers may also be assigned to investigate claims for death and disability benefits of PNP members or their heirs.

(c) Decisions — The decisions of the PLEB shall become final and executory: Provided, That a decision involving demotion or dismissal from the service may be appealed by either party with the regional appellate board within ten (10) days from receipt of the copy of decision.

SEC. 44. Disciplinary Appellate Boards. The formal administrative disciplinary machinery for the PNP shall be the National Appellate Board and the regional appellate boards.

The National Appellate Board shall consist of four (4) divisions, each division composed of a Commissioner as Chairman and two (2) other members. The Board shall consider appeals from decisions of the Chief of the PNP.

The National Appellate Board may conduct its hearings or sessions in Metropolitan Manila or any part of the country as it may deem necessary.

There shall be at least one (1) regional appellate board per administrative region in the country to be composed of a senior officer of the regional Commission as Chairman and one (1) representative each from the PNP, and the regional peace and order council as members. It shall consider appeals from decisions of the regional directors, other officials, mayors, and the PLEBs: Provided, That the Commission may create additional regional appellate boards as the need arises.

SEC. 45. Finality of Disciplinary Action. The disciplinary action imposed upon a member of the PNP shall be final and executory: Provided, That a disciplinary action imposed by the Regional Director or by the PLEB involving demotion or dismissal from the service may be appealed to the regional appellate board within ten (10) days from receipt of the copy of the notice of decision: Provided further, That the disciplinary action imposed by the Chief of the PNP involving demotion or dismissal may be appealed to the National Appellate Board within ten (10) days from receipt thereof. Provided furthermore, That the regional or National Appellate Board, as the case may be, shall decide the appeal within sixty days from receipt of the notice of appeal. Provided finally, That failure of the regional appellate board to act on the appeal within said period shall render the decision final and executory without prejudice, however, to the filing of an appeal by either party with the Secretary.

SEC. 46. Jurisdiction in Criminal Cases. Any provision of law to the contrary notwithstanding, criminal cases involving PNP members shall be within the exclusive jurisdiction of the regular courts: Provided, That the courts-martial appointed pursuant to Presidential Decree No. 1850 shall continue to try PC-INP members who have already been arraigned, to include appropriate actions thereon by the reviewing authorities pursuant to Commonwealth Act No. 408, otherwise known as the Manual for Courts-Martial: Provided further, That criminal

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cases against PC-INP members who may not yet been arraigned upon the effectivity of this Act shall be transferred to the proper city or provincial prosecutor or municipal trial court judge.

SEC. 47. Preventive Suspension Pending Criminal Case. Upon the filing of a complaint or information sufficient in form and substance against a member of the PNP for grave felonies where the penalty imposed by the law is six (6) years and one (1) day or more, the court shall immediately suspend the accused from office until the case is terminated. Such case shall be subject to continuous trial and shall be terminated within ninety (90) days from arraignment of the accused.

SEC. 48. Entitlement to Reinstatement and Salary. A member of the PNP who may have been suspended from office in accordance with the provisions of this Act or who shall have been terminated or separated from office shall, upon acquittal from the charges against him, be entitled to reinstatement and to prompt payment of the salary, allowances and other benefits withheld from him by reason of such suspension or termination.

SEC. 49. Legal Assistance. The Secretary of the Department of Justice, the Chairman of the Commission or the Chief of the PNP may authorize lawyers of their respective agencies to provide legal assistance to any member of the PNP who is facing before the prosecutor's office, the court or any competent body, a charge or charges arising from incident which is related to the performance of his official duty: Provided, That government lawyers so authorized shall have the power to administer oaths. The Secretary of Justice, the Chairman of the Commission, and the Chief of the PNP shall jointly promulgate rules and regulations to implement the provisions of this section

SEC. 50. Power to Administer Oaths. Officials of the Commission who are appointed by the President, as well as officers of the PNP from rank of inspector to senior superintendent, shall have the power to administer oaths on matters which are connected with the performance of their official duties.

ANNEX "E"

Department of Labor and Employment Manual
on Disposition of Administrative Cases

Pursuant to the Constitutional principle, that a public office is a trust, and for effective implementation of Presidential Decree No. 807 and E.O. 292, particularly the provisions on discipline of public officers and employees, consistent with the constitutional guarantees of security of tenure and speedy disposition of cases, the following rules governing the disposition of administrative cases are hereby adopted and promulgated.

Declaration of Policy

No office or employee in the Civil Service shall be suspended or dismissed except for cause provided by law and after due process.

Rule I

SECTION 1. Title. — These Rules shall be blown and cited as the Manual on Disposition of Administrative Cases of the Department of Labor and Employment. It shall hereinafter be referred to as the "Manual".

SECTION 2. Applicability. — This Manual shall apply to the investigation and disposition of administrative cases involving officers and employees of the Department of Labor and Employment, including its attached agencies.

SECTION 3. Revised Rules of Court Suppletory. — In all matters of procedure not covered by this Manual, the pertinent provisions of the Revised Rules of Court shall be applied in a suppletory character.

Rule II

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Jurisdiction

SECTION 1. General/Provision. — The Secretary of Labor and Employment, Heads of Bureaus or Attached Agencies and the Regional Directors shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their supervision and control.

SECTION 2. Secretary of Labor and Employment. — The Secretary of Labor and Employment shall have exclusive and original jurisdiction over all cases involving a grave offense.

SECTION 3. Heads of Bureaus or Attached Agencies and Regional Directors; Jurisdiction. The Heads of Bureaus or Attached Agencies and Regional Directors shall have original and, exclusive jurisdiction over all cases involving a less grave offense, the Heads of Bureaus or Attached Agencies and the Regional Directors, shall immediately refer the matter to the Secretary of Labor and Employment.

If on the face of the complaint the same involves a less grave and light offense, but after due investigation it becomes apparent that the matter involves a grave offense, the Heads of Bureaus or Attached Agencies and the Regional Directors shall, instead of deciding the case, submit a report to the Secretary of Labor and Employment for his consideration.

SECTION 4. Delegation. The Disciplining Authority may delegate the conduct of the investigation to any subordinate officer.

Disciplining authority refers to the Secretary of Labor and Employment, Heads of Bureaus or Attached Agencies and the Regional Directors authorized under this Manual to investigate and decide matters involving disciplinary action against officers and employees under their supervision and control. The Executive Labor Arbiters of the National Labor Relations Commission and the Executive Conciliators of the National Conciliation and Mediation Board are not considered Disciplining Authorities under this Manual.

Rule III
Administrative Action

SECTION 1. Administrative Action. — An Administrative action may be initiated against a subordinate officer or employee upon the instance of the Disciplining Authority or upon sworn written complaint of any other person.

SECTION 2. Complaints, form and Content. — A complaint filed by a person other than the Disciplining Authority must be in writing, signed and sworn to by the complainant. No particular form is required but the complaint must specifically contain: (a) the full name and address of the complainant; (b) the full name and address of the respondent; (c) a specification of the charge or charges; and (d) a brief statement of the relevant and material facts. In support of the complaint, the complainant shall submit sworn statements covering his testimony and those of his witnesses, together with his documentary evidence, if any.

Unsigned complaints shall be considered as not having been duly filed.

Where the complaint is not under oath, the complainant shall be summoned by the Disciplining Authority to swear to the truth of the allegations in the complaint.

A complaint initiated by the Disciplining Authority shall be in writing and signed, but need not to be sworn to.

Where the complaint is vague and too general, the complainant shall be required by the investigating officer to submit a bill of particulars within five (5) days from receipt of notice thereof, otherwise, the complaint shall be dismissed.

SECTION 3. Complaints by Telegrams, Radiogram and Similar Means of Communication. — In case of complaint

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by telegram, radiogram or other means of communication, the complainant shall be required to substantiate the complaint with a sworn statement within five (5) days from notice. Otherwise, the complaint shall be deemed not duly filed.

SECTION 4. Where Filed. — The Complaint shall be filed with the Office of the Disciplining Authority.

SECTION 5. Case Number. — All duly filed administrative cases shall be docketed chronologically.

SECTION 6. Notice of Complaint. — If a prima facie case exists, the Disciplining Authority shall notify the respondent in writing of the charges against the latter, together with copies of the complaint, sworn statements and other documents submitted.

SECTION 7. Parties to the Case. — The party filing the complaint shall be called COMPLAINANT, while the officer or employee charged or against whom the complaint is filed shall be called the RESPONDENT.

SECTION 8. Effect of Withdrawal. — A withdrawal of the complaint made or filed at any stage of the proceeding shall not preclude the Disciplinary Authority from proceeding with the investigation of the case.

Rule IV
Answer

SECTION 1. Time to Answer. — Unless a different period is indicated in the notice issued by the Disciplining Authority, the respondent shall be allowed not less than seventy-two (72) hours after receipt of the complaint to answer the charges in writing under oath, together with supporting sworn statements and documents. If the answer is found satisfactory, the Disciplining Authority may dismiss the complaint.

SECTION 2. Contents and Form. — The answer shall be in writing, signed and sworn to by the respondent, and copy furnished the complainant. No particular form shall be required but it is sufficient if the answer contains a specific admission or denial of the charge or charges and a statement of the relevant facts constituting the respondent's defense. The respondent shall indicate in his answer whether or not he elects a normal investigation. In support of the answer, the respondent shall submit sworn statements covering his testimony and those of his witnesses, together with his documentary evidence, if any, which shall constitute his direct evidence.

No answer by telegram, radiogram or any similar form of communication shall constitute, or have the effect of an answer as required by the Manual.

SECTION 3. New Filed. — The answer may be filed through personal service or by registered mail. If it is filed by registered mail, the date of mailing shall be considered as the date of filing.

SECTION 4. Reply. — The complainant may file a reply within five (5) days from receipt of the answer.

SECTION 5. Effect of Failure to File Answer, or to Appear. — Unless otherwise directed by the Disciplining Authority, failure of the respondent to file an answer or to appear in the investigation shall be construed as waiver to present evidence in this behalf and shall authorize the Disciplining Authority to resolve the case on the basis of the evidence and pleadings submitted.

Rule V
Preventive Suspension

SECTION 1. Grounds. — The Disciplining Authority may suspend any subordinate officer or employee for not more than ninety (90) days pending an investigation, if the charges against such officer or employee involve a serious offense such as dishonesty, oppression, grave misconduct, or if there are strong reasons to believe that the respondent is guilty of charges which would warrant his removal from the service.

SECTION 2. Lifting of Preventive Pending Investigation. — When the administrative case against the officer or employee under preventive suspension is not finally decided within a period of ninety (90) days after the date of the suspension of the respondent who is not a presidential appointee, the respondent shall be automatically reinstated in the service: Provided, that when the delay in the disposition of the case is due to the fault, negligence or petition of the respondent, the period of delay shall not be counted in computing the period of suspension.

Rule VI
Hearing

SECTION 1. Formal Hearing. — A formal hearing shall be conducted when from the allegations of the complaint and the answer of the respondent, including their supporting documents, the merits of the case cannot be decided judiciously without conducting such hearing.

The hearing shall be held not earlier than five days nor not later than ten days from the date of receipt of respondent's answer by the Disciplining Authority, and shall be finished within thirty days from the filing of the charges, unless the period is extended by the Disciplining Authority in meritorious cases.

SECTION 2. Hearing, Who Conducts. — The hearing shall be conducted by the Disciplining Authority in case of complaints filed with his Office or by any other official designated by him.

SECTION 3. Subpoena and Subpoena Duces Tecum. — Either party may require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena and subpoena duces tecum.

SECTION 4. Assistance of Counsel. — Either party may avail himself of the services of counsel.

SECTION 5. Notice of Hearing. — The parties and their respective witnesses shall be notified of the scheduled hearing at least five (5) days before the date hereof, specifying the time, date and place of hearing.

SECTION 6. Postponement. — No postponement shall be granted except in meritorious cases.

SECTION 7. Admission of Evidence. — All documentary evidence shall be admitted for whatever value they may have and shall be attached to the record of the case.

SECTION 8. Memoranda. — The parties may be required to submit their respective memoranda within three (3) days after resting their case.

SECTION 9. Report and Recommendation. — In case of an official designated to conduct an investigation or hearing, he shall make the necessary report and recommendation to the Disciplining Authority within fifteen (15) days after conclusion of the investigation or hearing. The same reporting period shall apply to Heads of Bureaus, Attached Agencies and Regional Offices in cases where the proper penalty imposable is beyond his authority.

Rule VII
Decision

SECTION 1. Decision When Rendered. — Within thirty (30) days from the conclusion of the investigation/hearing or from the submission of the report and recommendation by the Investigating/Hearing Officer, as the case may be, the Disciplining Authority shall render a decision on the case.

SECTION 2. Quantum of Evidence. — The guilt of the respondent need not be established beyond reasonable doubt; it is sufficient that there be substantial evidence on the record to prove his guilt.

SECTION 3. Contents of Decision. — The decision shall state the charge or charges, the name of the complainant,

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the name of the respondent and his office, a brief statement of the material and relevant facts, and in case of a finding of guilt, the offense committed and the penalty imposed.

SECTION 4. Grounds for Disciplinary Action. — The following shall be grounds for disciplinary action.

- Dishonesty;

- Oppression;

- Neglect of Duty;

- Misconduct;

- Disgraceful and immoral conduct;

- Discourtesy in the course of official duties;

- Inefficiency and incompetence in the performance of official duties;

- Conviction of a crime involving moral turpitude;

- Improper or unauthorized solicitation of contributions from subordinate employees and transacting business with the Office or agencies concerned;

- Violation of existing Civil Service Law and rules or reasonable office regulations;

- Falsification of official documents;

- Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours;

- Habitual drunkenness;

- Gambling prohibited by law;

- Refusal to perform official duty or render overtime service when exigency of the service requires;

- Physical or mental incapacity or disability due to immoral or vicious habits;

- Borrowing money by superior officers from subordinates to superior officers;

- Lending money at an unconscionable rates of interest;

- Willful failure to pay just debts or willful failure to pay taxes due to government;

- Contracting loans of money or other property from persons with whom the office of the employee concerned has the business relations;

- Pursuit of private business, vocation or profession without the permission required by the Civil Service Rules and Regulations.

- Engaging directly or indirectly in partisan political activities by one holding non political office;

- Lobbying for personal interest or gain in legislative halls and offices without authority;

- Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter case, if there is no prior authority;

- Conduct prejudicial to the best interest of the service.

SECTION 5. Decision, Who Signs. — The Disciplining Authority shall sign and promulgate the decision involving employees under his jurisdiction.

SECTION 6. Penalties. — In meting out punishment, the same penalties shall be imposed for similar offenses and only one penalty shall be imposed for similar-offenses and only one penalty shall be imposed in one case. The Disciplining Authority may impose the penalty of removal from the service, transfer, demotion in rank, suspension for not more than one year without pay, fine in an amount not exceeding six month's salary, or reprimand. If the respondent is found guilty of two or more charges or counts the penalty to be imposed should be that corresponding to the serious charge or count and the rest shall be reconsidered as aggravating circumstances.

For the purpose of the application of penalties, administrative offenses, are classified into grave, less grave and light.

A. The following are grave offenses:

- Dishonesty;

- Oppression;

- Gross misconduct;

- Disgraceful and immoral conduct;

- Receiving for personal use of a fee, gift or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded other persons;

- Conviction of a crime involving moral turpitude;

- Violation of existing Civil Service Law or rules;

- Falsification of official documents;

- Physical or mental incapacity or disability due to immoral or vicious habits;

- Contracting loans of money or other property from persons with whom the office of the employee concerned has business relations;

- Gross insubordination;

- Engaging directly or indirectly in partisan political activities by one holding non-political office;

- Nepotism as defined in Section 60 of Title I, Subtitle A of E.O. 292;

- Conduct prejudicial to the best interest of the service or similar acts to the foregoing.

B. The following are less grave offenses:

- Gross neglect of duty;

- Inefficiency and incompetence in the performance of official duties;

- Improper or unauthorized solicitation of contributions from subordinates or persons transacting business with the office or agency concerned;

- Violation of office regulations;

- Refusal to perform official duty or render overtime when exigency of the service requires;

- Borrowing money by superior officers from subordinates or lending by subordinates to superior officers;

- Lending money at unconscionable rates of interest;

- Lobbying for personal interest or gain in legislative halls and offices without authority.

C. The following are light offenses:

- Discourtesy in the course of official duties;

- Frequent unauthorized absences or tardiness in reporting for duty, loafing or frequent unauthorized absences from duty during regular office hours;

- Habitual drunkenness;

- All form of gambling during office hours;

- Willful failure to pay just debts or willful failure to pay taxes due to the government;

- Pursuit of private business, vocation or profession without the permission required by Civil Service rules and regulations;

- Promoting the sale of tickets in behalf of private enterprises that are not intended for charitable or public welfare purposes and even in the latter case if there is no prior authority.

The penalties for light, less grave offense shall be made in accordance with the following schedule of penalties:

A. For light offenses:

- Reprimand or fine or suspension from one day to ten-days in its minimum period;

- Fine or suspension for twenty one days to thirty days in its maximum period.

B. For less grave offenses:

- Transfer or demotion in rank or salary of one grade or fine or suspension from one month and one day to six months in its minimum period;

- Suspension for four to six months and one day to eight months in its medium period;

- Suspension for eight months and one day to one year or demotion in rank or salary of not more than 3 grades in its maximum.

C. For grave offenses:

- Transfer or demotion in rank or salary from two to three grades or suspension for one year in its minimum period;

- Forced resignation without prejudice to reinstatement to forced resignation with prejudice to reinstatement in its medium period;

- Dismissal in its maximum period.

In the submission of the penalties to be imposed, mitigating and aggravating circumstances attendant to the commission of the offense shall be considered:

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A. The following are mitigating circumstances:

- Physical Mental illness;

- Good faith;

- Length of service in the government;

- Analogous circumstances.

B. The following are aggravating circumstances:

- Taking advantage of official position;

- Taking undue advantage of subordinates

- Undue disclosure of confidential information

- Use of government property in the commission of the offense;

- Habituality;

- Offense is committed during the office hours and/or within the premises of the working office or building;

- Employment of fraudulent means to commit or conceal the offenses;

- Analogous circumstances.

The imposition of the penalty shall be made in accordance with the manner herein below provided:

- Minimum penalty shall be imposed where only mitigating and no aggravating circumstances are present.

- Medium penalty shall be imposed where no mitigating but only aggravating circumstances are present.

- Maximum penalty shall be imposed where two or more aggravating and mitigating circumstances are present.

SECTION 7. Decision When Final. — Decision of the Disciplining Authority shall be final and executory fifteen (15) days after receipt thereof by the adverse party, unless appealed.

Rule VIII
Motion for Reconsideration

SECTION 1. Period for Filing Motion. — A motion for reconsideration may be filed by the party adversely affected by the decision within fifteen (15) days from receipt of the decision. No more than one motion for reconsideration shall be entertained.,

SECTION 2. Grounds. — The Motion for reconsideration shall be based on any of the following grounds:

- New evidence has been discovered which materially affects the decision rendered;

- The decision is not supported by the evidence on record;

- Errors of law or misappreciation of facts have been committed prejudicial to the interest of the respondent.

SECTION 3. When Motion Deemed Filed. — The motion for reconsideration shall be deemed filed on the date received by the office of the Disciplining Authority, if filed personally, and on the date shown by the postmark on the envelop which shall be attached to the records of the case, if by registered mail.

SECTION 4. Motion Suspends Period for Appeal. — A motion for reconsideration suspends the running of the

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period for appeal which period shall again resume to run after receipt by the movant of its denial.

Rule IX
Appeal

SECTION 1. Appeal, When and Where Filed. — The aggrieved party or parties may appeal the decision of the Disciplining Authority to the Secretary of Labor and Employment within fifteen (15) calendar days from receipt of the decision unless a motion for reconsideration is reasonably filed, which motion shall be decided within fifteen (15) days from its filing. The appeal shall be filed with the Office of the Disciplining Authority, which shall forward the records of the case, together with the appeal, to the Secretary within fifteen (15) days from filing of the appeal with its comment, if any.

The Appeal shall be deemed filed on the date received by the Disciplining Authority, if filed personally, or on the date shown by the postmark on the envelope which shall be attached to the record of the case, if by registered mail.

SECTION 2. Grounds for Appeal. — The appeal shall be based on any of the grounds for filing a motion for reconsideration.

SECTION 3. Contents of Appeal. — The appeal shall state clearly, among others, the date of receipt of the decision of resolution thereon, a brief statement of facts, the ground or grounds relied upon by the appellant and the arguments in support thereof.

SECTION 4. Appeal, Effect. — An appeal shall stay the execution of the decision of the Disciplining Authority. Provided, however, That if the appeal is resolved against the appellant, the said decision shall be immediately executory, unless stayed by the Civil Service Commission: Provided, furthermore, That if the penalty is suspension or removal, the appellant/respondent shall be considered as having been under preventive suspension during the pendency of the appeal in the event that he is acquitted by the Commission: Provided, finally, that in case the penalty is suspension for more than thirty (30) days, the preventive suspension shall in no case exceed the period of the penalty imposed.

SECTION 5. Transmittal of Records. — Within fifteen (15) days from the filing of the appeal, the Disciplining Authority shall transmit the records of the case to the Office of the Secretary of Labor and Employment.

To ensure the orderly transmittal of records of administrative case, the Records Officer shall be responsible for the proper compliance with provisions of Rule X of this Manual concerning the proper keeping of the records of cases.

A certification that the record of a case is complete including the number of pages thereof, shall be issued and signed by the above officer and attached to the record of the case.

RULE X
Records

SECTION 1. Duties of Records Officer. — The Records Officer shall perform the following duties:

(a) Keep a book of recording of administrative cases filed against officers and employees of the Department, Bureau, Attached Agency or Regional Office;

(b) Receive and compile all pleadings and other papers filed in connection with an administrative case involving an officer or employee of the Department, Bureau, Attached Agency or Regional Office, as the case may be;

(c) Affix on all pleadings the date and hour of receipt thereof;

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(d) Arrange and securely bind the record of each case including all pleadings, supporting documents and other papers in connection with the case, and number the papers chronologically; and

(e) Prepare a label of contents for each case indicating the corresponding pages of the pleadings (including the complaint, formal charge, answer, reply, memoranda), the order of preventive suspension, sworn statement of each party and the witnesses, the documentary evidences, motion for reconsideration, decisions and others.

SECTION 2. Records Confidential. — Records in administrative cases are confidential in nature. Any information or record in connection therewith may not be released except to the parties involved on their representative, with the prior approval of the head of office concerned.

Rule XI
Special Provisions

SECTION 1. Investigation by Legal Service. — Complaints and charges filed with, the Secretary or heads of any Bureau, Attached Agencies or Regional Offices, as the case may be, may be referred to the Chief, Legal Service who shall take immediate appropriate action thereon in accordance with the provisions of this Manual.

SECTION 2. Records. — For purposes of proper and effective monitoring of administrative cases, the heads of Bureaus, Attached Agencies and Regional Offices shall submit to the Legal Service of the Department, within the first five (5) days following the end of each quarter, a status report of all administrative cases filed and/or pending during the preceding quarter in the form prescribed therefor.

The Legal Service shall submit bi-annual reports to the Secretary on the status of administrative cases filed or pending with the Department.

SECTION 3. Copies of Decisions. — The Disciplining Authority shall, within five (5) days from promulgation, furnish the Legal Service and the Administrative Service, copies of decisions on all administrative cases.

SECTION 4. Compilation of Decisions. — The Legal Service shall compile, digest, index and annotate decisions in administrative cases for the use and reference of the Department.

SECTION 5. Clearance and/or Certification. — Clearance on administrative cases within the Department shall be issued by the Legal Service only after submission of a certificate that there is no pending administrative case against the applicant-employee. The certification shall be issued by the office where the applicant-employee is assigned.

Rule XII
Attached Agencies

SECTION 1. Integrity Board. — Notwithstanding the provisions of this Manual, the Attached Agencies shall be encouraged to constitute their own administrative investigation bodies which may be referred to as "Integrity Board" or any appropriate name for that matter. The Integrity Board shall be authorized to formulate and adopt its own rules in the disposition of administrative cases patterned after the provisions of this Manual.

The decisions of the Integrity Board shall be appealable to the Secretary.

Rule XIII
Effectivity

SECTION 1. This Manual shall take effect immediately upon approval.

Adopted: 31 May 1989

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(SGD.) FRANKLIN M. DRILON
Secretary

ANNEX "F"

Rule XVIII of the Implementing Rules of
Republic Act 5487 — Duties During Strikes and Lockouts

SEC. 1. Policies —

a. all private security personnel in direct confrontation with strikers, marchers and demonstrators shall not carry firearms. They may, at best, carry only right sticks (batuta) which may or not be provided with tear gas canister and dispenser. Private security personnel of strike — bond established not in direct confrontation with strikers may carry in the usual prescribed manner their issued firearms.

b. Private security personnel shall avoid direct contact, either physically or otherwise, with the strikers.

c. Private security personnel shall stay only within the perimeter of the installation which they are protecting at all times.

d. Private security personnel, in protecting and securing the assets and persons of their clients, shall use only sufficient and reasonable force necessary to overcome the risk or danger posed by strikers or hostile crowds.

e. Private security personnel shall refrain from abetting or assisting acts of management leading to physical clash of forces between labor and management. These hostile acts include breaking of the strike; smuggling in of scabs and preventing strikers from conducting peaceful pickets.

f. Private security personnel shall not enforce the provisions of the Revised Labor Code pertaining to strikes/lockouts.

g. Private security personnel on duty must at all time be in complete uniform with their names and agency name shown in their shirts above the breast pockets.

SEC. 2. For Private Security Agencies/Company Security Force Chief Security Officers —

(1) Upon declaration of a strike, or upon the establishment of a picket line or mass action at the vicinity of a firm/establishment, the Detachment Commander or the Chief Security Officer of the company guard force, shall immediately collect all firearms of the guards in direct or about to have direct confrontation with the crowd and deposit these firearms in merit vault; or re-issue these firearms to other private security personnel not issued firearms but assigned to performing guard duties away from and not visible to strikers or the crowd as may be required by the circumstances.

(2) The Detachment Commander or Security Director shall account for all firearms of every shall and record the whereabouts of these firearms in a logbook.

(3) In instances where there is no Detachment Commander or Security Director, as in a compound where there are only a few guards, agency operator or Security Officer in the case of company security forces, shall immediately be informed by the guards of the declaration of strike or about to approach of strikers or a crowd; where-upon the agency operator/security officer shall immediately assess the situation and take appropriate action to forestall violence, but at the same time insuring security of the premises.

(4) The Detachment Commander or Security Director shall maintain constant contact with the management and if he notices or observes the strikers or the crowd to be up to something unlawful, or are clearly violating the

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provisions of the Revised Labor Code, the Revised Penal Code and/or local ordinances, this information shall be relayed to the Commander of the Peace Keeping Force for his appropriate action.

(5) If it becomes unavoidable for private security personnel to talk to strikers or members of the crowd, only Detachment Commander or Security Director shall talk to the leader or leaders of the strikers or crowd. What transpires in this dialogue shall be reported to the management immediately. At no instance shall private security personnel negotiate with the strikers or unfriendly crowd in relation to the labor management dispute. This is a function of management.

(6) If the situation worsens or becomes untenable for the private security personnel to cope up with, the Detachment Commander or Security Director or in instances where there is no Detachment Commander; or Security Director, the guard on post, shall immediately advise the management to request for PNP security assistance.

(7) The Detachment Commander and Security Director shall publish emergency telephone numbers (Police, Fire, Hospital) at all guard posts and detachments.

SEC. 3. Inter-relationship Between Private Security Personnel and Members of the PNP —

a. Private security personnel are always subordinate to members of the PNP on matters pertaining to law enforcement and crime prevention. They cannot enforce any provision of the law except in executing citizen's arrest. In such case, any arrested person shall be turned over immediately to the nearest PNP unit/station. If the situation renders it difficult because such action will aggravate the situation, then utmost efforts shall be exerted to request to the nearest PNP unit/station to pick-up the arrested person.

b. Criminal investigation is the responsibility of the PNP. All results of initial investigation conducted by private security personnel and all evidence gathered by them shall be turned over to the PNP unit/station concerned as a matter of course without delay.

6. Responsibilities of Private Security Personnel —

a. Private security personnel are responsible purely for enforcing company policies, rules and regulations of management and clients, with the ultimate objective of providing security to the assets and persons of clients.

b. Private security personnel are authorized and empowered by law to act as such in manner prescribed by the chief, PNP only within their specifically assigned areas to be secured, as provided for in the contract between the client and the private security agency, and, in the case of company security services, as specifically stated in their private security firm licenses.

SEC. 4. Punitive Clause —

a. Violation of the provisions of this directive by private security personnel is punishable by suspension or cancellation of their individual private security service or private security agencies.

b. Individual acts of private security personnel in violation of the provisions of appropriate laws shall be subject to criminal prosecution, administrative penalties and such other sanctions provided by law.

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