DEFINING AND DELINEATING THE FUNCTIONS OF DIRECTORATES/OFFICES INVOLVED IN THE DISPOSITION OF ADMINISTRATIVE/DISCIPLINARY CASES AGAINST MEMBERS OF THE PNP

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I. REFERENCES

a. Sections 41 (b)(3) and 42, RA No. 6975, as amended by Sections 52 and 53, RA No. 8551;
b. Section 26, RA 6975
c. NAPOLCOM Memorandum Circular (NMC) No. 2007-001 entitled: "Uniform Rules of Procedure before the Administrative Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police";
d. Revised Uniform Rules in the Disposition of Administrative Cases in the Civil Service (Revised URACCS [CSC Resolution No. 991936]);
e. Supreme Court Decisions on Administrative Cases; and
f. LOI Patnubay II

II. PURPOSE:

This Circular aims to clearly define and delineate the functions of the different Directorates and Offices involved in the disposition of information/reports and administrative/disciplinary cases filed against members of the PNP to avoid overlapping or duplication of functions and to improve coordination and feedback mechanism with the end view of ensuring the expeditious administration of discipline within PNP ranks without ignoring however, the basic requirements of due process of law.

III. SCOPE OF APPLICATION:

This Circular shall apply to and govern the disposition of information/reports and administrative complaints received or filed against uniformed and non-uniformed personnel of the PNP.

IV. DEFINITION OF TERMS:

a. Terms applicable to PNP Uniformed Personnel:

1. Appellate Authorities – refers to the Regional Appellate Board, from decisions ordering the demotion or dismissal of the respondent rendered by the Police Regional Directors or Equivalent Supervisors; The National Appellate Board, from decisions rendered by the Chief, PNP ordering the demotion or dismissal of the respondent; The Secretary of the Department of the Interior and Local Governments, from decisions rendered by the NAB and RAB; and the Civil Service Commission, in summary dismissal proceedings instituted before the National Police Commission en banc.

2. Motion for Reconsideration – is an application submitted by the respondent or the party adversely affected to the Disciplinary Authority to set aside or modify the decision within ten (10) days from receipt of the copy of the decision based on the following grounds:

2a. Newly discovered evidence which if presented would materially affect the decision rendered; and

2b. Errors of law or irregularities have been committed prejudicial to the substantial rights and interests of the movant.

3. Notice of Appeal – is a written notification filed by the respondent or the party adversely affected with the Disciplinary Authority who rendered the adverse decision that he/she is elevating the case on appeal to the NAPOLCOM appellate board based on the grounds specified thereon and which shall state the material dates showing the timeliness of the appeal. A copy of notice of appeal should also be furnished to the other party and to the appellate body.

4. PNP Disciplinary Authorities – refer to the Chiefs of Police or their equivalent supervisors; the Provincial Directors or their equivalent supervisors; the Regional Directors or their equivalent supervisors; the Chief, PNP; and the NAPOLCOM en banc.

5. Pre-Charge Evaluation – is a process to determine the existence of probable cause based on the allegations on the complaint and supporting evidence.

6. Probable Cause – refers to the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on the facts within the knowledge of investigating officer, that the PNP member complained of is liable for the administrative offense for which he should be investigated.

7. Summary Dismissal Case – is one where the maximum imposable penalty is dismissal from the service and the offense falls under the following cases:

7a. Where the charge is serious and the evidence of guilt is strong;
7b. When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charge;
7c. When the respondent is guilty of a serious offense involving conduct unbecoming of a police officer; and
7d. When any member or officer has been absent without official leave for continuous period of 30 days or more; Provided, that where dropping from the rolls is resorted to as mode of separation from the service, the police officer can no longer be charged for Serious Neglect of Duty arising from absence without official leave (AWOL) and vice versa.

b. Terms applicable to PNP Non-Uniformed Personnel:

1. Finality of Decision – the decision against PNP Non-Uniformed Personnel becomes final after the lapse of fifteen (15) working days without motion or appeal filed.

2. Motion for Reconsideration – is an application submitted by the respondent PNP Non-Uniformed Personnel or the party adversely affected by the Disciplinary Authority to set aside or modify the decision based on:

2a. Newly discovered evidence which materially affects the decision rendered thereof;
2b. The decision is not supported by evidence on record; and
2c. Errors of law or irregularities committed prejudicial to the substantial rights and interests of the movant.

3. Notice of Appeal – is a written notification filed by the respondent PNP Non-Uniformed Personnel or the party adversely affected with the Disciplinary Authority who rendered the adverse decision that he/she is elevating the case on appeal to the Commission (Civil Service) proper based on the grounds specified thereon and which shall state the material dates showing the timeliness of the appeal.

4. Preliminary Investigation – it involves the ex-parte examination of the records and documents submitted by the complainant and the person complained of, as well as documents readily available from other government offices.

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During the said investigation, the parties are given the opportunity to submit affidavits and counter-affidavits.

Failure of the person complained of to submit his/her counter-affidavit shall be considered as a waiver thereof.

Thereafter, if necessary, the parties may be summoned to a conference where the investigator may propound clarificatory and other relevant questions. Upon receipt of the counter-affidavit or comment under oath, the disciplining authority may now determine whether a prima facie case exist to warrant the issuance of a formal charge.

A fact-finding investigation may be conducted further or prior to the preliminary investigation for the purpose of ascertaining the truth. A preliminary investigation necessarily includes a fact-finding investigation.

5. Prima Facie Case - is a degree or quantum of proof greater than probable cause. It denotes evidence which, if unexplained or uncontradicted, is sufficient to sustain a prosecution or establish the facts, as to counterbalance the presumption of innocence and warrant the conviction of the accused.

c. Common provisions:

1. Complaint – is a written and sworn statement regarding a wrong, grievance or injury sustained by a person.

2. Complaint Sheet – is an accomplished form of complaint written in a clear, simple and concise language and in a systematic manner as to apprise the respondent concerned of the nature and cause of the accusation against him/ her and to enable him/her to intelligently prepare his defense or answer. It shall contain the full name and address of the complainant; full name and address of the person complained of as well as his position and office of employment; narration of the relevant and material facts which shows the acts or omissions allegedly committed by the respondent; certified true copies of documentary evidence and affidavits of complainant's witnesses, if any, and certification or statement of non-forum shopping.

3. Charge Sheet – is a written information containing specific allegation of every facts and circumstances necessary to constitute the offense charged.

4. Decision – is the written disposition of the case signed by the Disciplining Authority stating clearly the findings of facts and the provisions of the law, applicable rules and regulations.

5. Information/Reports – pieces of information, reports received or gathered including, among others, accounts from the tri-media text messages, and other sources.

6. Nominal Complainant – the one who initiates a complaint against any member of the PNP representing the Disciplinary Authorities as active prosecutor.

7. Private Complainant – the one who initiates a complaint against any member of the PNP acting as complaining witness/es.

8. Proof of Service – is evidence submitted by a process server that he/she has furnished the parties to an administrative case, particularly the respondent, of the decision or resolution rendered by the Disciplining Authority.

9. Public Complainant – the one who initiates a complaint against any member of the PNP as concerned government agency or office.

10. Respondent – refer to any PNP personnel who were formally charged by the Disciplinary Authority.

11. Sensational Case – refers to a widely-publicized case involving PNP personnel as shown and heard either in print media or broadcast media (i.e. radio, television, internet and others) arousing or intended to arouse strong curiosity, interest, or reaction, especially by exaggerated or lurid details.

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12. Summary Hearing Officer or Board – is the designated representative/s of the Disciplining Authority who is tasked to hear, conduct the necessary proceedings, receive and evaluate the evidence presented and prepare the appropriate report for reconsideration by the Disciplining Authority.

13. Summary Administrative Proceedings – refers to administrative proceeding conducted consistent with due process to determine the culpability or innocence of the respondent.

14. Venue – the administrative complaints or cases against any PNP member shall be filed before the Disciplinary Authority or IAS having territorial jurisdiction where the offense was committed, except citizen's complaints falling under Rule 3 Section 1 (d) of NAPOLCOM Memorandum Circular No. 2007-001.

V. DELINEATION OF FUNCTIONS:

a. The DIDM or RIDMD or its equivalent office in the NSU shall:

1. Initiate investigation and evaluation of information/reports, particularly on sensational cases involving PNP personnel and involving Third Level Officers (PSSUPT and above) in close coordination with the IAS/RIAS.
2. Receive and act on all complaints against PNP personnel and conduct pre-charge evaluation as warranted in accordance with Rules 13 and 14, NMC No. 2007-001 and Rule II of the Revised URACCS.
3. Initiate the filing of corresponding administrative case against personnel who committed acts or omissions punishable by the Revised Penal Code and Special Laws as provided in Section 2, Paragraph C(3) (r) , Rule 21 of NAPOLCOM Memorandum Circular No. 2007-001, and shall be the repository of records on criminal cases filed against all personnel.
4. In case probable cause is established, transmit the complete records of the case to the DPRM or its counterpart in the PROs or NSUs for Summary Hearing. In cases when PCE was conducted by the DIDM itself, venue of the summary hearing must be indicated in the PCE report.
5. Recommend appropriate actions such as issuance of preventive suspension, restrictive custody or filing of criminal cases in court against the erring PNP personnel.
6. Actively prosecute administrative cases forwarded to the DPRM or RPHRDD or its counterpart in the PROs or NSUs especially those grave and sensational in nature before the Summary Hearing Officer by appearing for the prosecution in all stages of summary administrative procedure.
7. Supervise all Court Process Officer (CPO) who shall be responsible for the service of notices, subpoenas and other legal processes and ensure timely delivery of such process to the parties concerned.
8. Initiate appellate actions for and in behalf of the PNP on any adverse decision rendered by an appellate body such as the RAB, NAB, SILG, and CSC.
9. Perform other functions as may be required.

b. The DPRM or RPHRDD or its equivalent office in the NSU shall:

1. Upon receipt of the pre-charge evaluation report and the complete records of the complaint, the DPRM or its equivalent Office in the PROs and NSUs shall enter the case into its official docket by stamping on the face of the report or complaint the time and date of receipt and assign an administrative case number to it. The PCE docket number shall not be omitted for monitoring purposes. The DPRM or its equivalent Office in the PROs and NSUs shall inform the DIDM or its equivalent Office in the PROs and NSUs of the pending cases, as well as the PNP Unit where the respondent is assigned.
2. Ensure the timely disposition of cases through summary administrative proceedings and monitor the progress of each case. If warranted, call the attention of the SHO concerned to resolve his/her designated case within the prescribed period.
3. Report SHOs who failed to resolve their designated cases beyond prescribed period without any justifiable reasons and submit same to the DLOD or counterpart for PCE.
4. Transmit the report of summary hearing to the Disciplinary Authority concerned, along with complete records of the case.

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5. Resolve Motions for Reconsideration or Appeal, as the case may be and submit recommendation to the Disciplinary Authority. A copy of the MR or Appeal be furnished the DIDM for comment or opposition before resolving the same.
6. Furnish the offices concerned with a copy of the order implementing the decision and require these offices to submit report of action taken on the said order.
7. Initiate and dispose termination of case/s against PNP personnel in temporary appointment status.
8. Maintain a pool of qualified SHO and conduct appropriate training on quarterly basis in order to develop their skills in the conduct of summary hearing as well as refresh their knowledge on amended or newly issued laws, rules, regulations, and current Supreme Court jurisprudence pertaining to administrative cases.
9. Serve as repository of records and implementer of the decisions rendered by the Disciplinary Authority.
10. Issue Clearance of Non-Pending Case to PNP personnel applying for: leave abroad; UN mission; personal loan; promotion; transfer to other units; retirement, and resignation. The Clearance shall also be issued to any public or private personality requesting to verify, when deemed appropriate, the good standing of any PNP personnel on records that is subject for scrutiny.
11. Ensure efficient discharge of above function through formulation of detailed or specific policy and procedures for the purpose in accordance with NMC 2007-001, Revised URACCS and other issuances.
12. Act as repository of all administrative cases involving PNP personnel and perform other functions as may be required.

c. The NHQ or Regional Internal Affairs Service shall:

1. Initiate necessary investigation on cases in the exercise of its motu proprio mandate.
2. Investigate complaints and gather evidence in support of an open investigation in coordination with the DIDM/RIDMD.
3. Conduct summary hearing on PNP members facing administrative charges.
4. Submit a periodic report on the assessment, analysis and evaluation of the character and behavior of PNP personnel and units to the Chief, PNP and the Commission.
5. File appropriate criminal cases against PNP members before the court as evidence warrants and assist in the prosecution of the case.
6. Provide assistance to the Office of the Ombudsman in cases involving the personnel of the PNP.

d. The NHQ or PRO Legal Service or Legal Officer, NSU shall:

1. Act on referrals made by the DPRM or RPHRDD or its equivalent office in the NSU regarding the draft decisions prepared by the designated SHOs only on matters involving the application of laws, rules and regulations.
2. Act on referrals or instructions made by the members of the Command Group or the Disciplinary Authority concerned.
3. Perform other functions as may be required.

VI. REPEALING CLAUSE

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

VII. EFFECTIVITY

This Circular takes effect fifteen (15) days from the date of filing with a copy thereof with the University of the Philippines Law Center pursuant to Sections 3 and 4 of Chapter 2, Book VII of EO 292, otherwise known as the Administrative Code of 1987.

(SGD.) ATTY. RAUL M. BACALZO, PH.D.

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