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REVISED PROCEDURES IN ADMINISTRATIVE CASES

BOC MEMORANDUM, January 12, 1994

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1. References:

a) Sections 30 and 36 of Chapter 6, Book 1V, Revised Administrative Code of 1987 (Tab 1);

b) Rule XIV (Discipline) of the Omnibus Rules Implementing Book V of Executive Order No. 292 and Other Pertinent Civil Service Laws (Tab 3); and

c) Paragraph 2 (a) (5) (6), Chapter 2 of the Operating Manual of the Bureau of Corrections (Tab 2).

2. The erring prison officials or employees may be liable criminally and/or administratively. Thus, if the act complained of is criminal and there is sufficient evidence to warrant prosecution, a criminal complaint may be filed by the concerned Penal Superintendent, upon approval of the Director of the Bureau of Corrections (DC for short), against an erring personnel before the prosecutor's office or to the Ombudsman for preliminary investigation, without prejudice to the Filing of administrative complaint against him if warranted. If the act complained of is not per se criminal but can be dealt with administratively, an administrative complaint shall be filed against him in accordance with the procedures mentioned in the next succeeding paragraph.

3. in order to streamline the bureaucracy, cut red tape and expedite the disposition of administrative cases, hereunder are the procedures that shall govern the conduct of fact-finding and formal investigation of any valid complaint against personnel of the Bureau, to wit:

a) In the case of a complaint filed by any other person, the complainant shall submit to the concerned Assistant Penal Superintendent (APS for short) or his duly authorized representative his sworn statement and those of his witnesses together with his documentary evidence.

In the case where the Bureau itself appears to be the complainant (e.g. escape of prisoners, the respondent being notoriously undesirable, anonymous complaints when there is obvious truth or merit to the allegations therein, etc.), the concerned APS or his duly authorized representatives shall conduct fact-finding investigation.

b) In both cases, or on the basis of such papers the concerned APS finds that no prima facie case exists, he shall dismiss the case subject to the approval of DC. Otherwise, he shall notify the respondent in writing of the formal charge/s against him with all the pertinent documents attached thereto, and shall require the respondent to submit his sworn written answer not later than five (5) days from receipt of the formal charge. Supporting sworn statements and documents may also be submitted. The respondent shall indicate in his answer whether or not he elects a formal investigation (or Hearing) of his case.

c) If the respondent does not elect a formal investigation, the concerned APS shall resolve the case based on the evidence on hand. He shall transmit his resolution and recommendation together with the entire records of the case, for review, to the Chief, Legal Office (CLO for short) whose findings shall be subject to the approval of DC.

Although a respondent does not request a formal investigation, one shall nevertheless be conducted by the concerned APS or his duly authorized representative when from the allegations of the complaint and answer,

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including its supporting documents, the merit of the case cannot be decided judiciously without conducting such investigation.

d) If the respondent elects a formal investigation, the concerned APS or his duly authorized representative shall commence the same not earlier than five (5) days nor later than ten (10) days from the receipt of the entire records of the case. Said investigation shall be finished within thirty (30) days from its commencement.

e) The direct evidence for the complainant and the respondent shall consist of sworn statement and documents submitted in support of the complaint or answer as the case may be, without prejudice to the presentation of additional evidence deemed necessary but was unavailable at the time of the filing of the complaint or the answer upon which the cross-examination, by the respondent and the complainant respectively, shall be based. Following cross-examination, there may be re-direct and re-cross examination. Either party may avail himself of the services of counsel and may require the attendance of witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena or subpoena duces tecum.

The investigation shall be conducted for the purpose of ascertaining the truth without necessarily adhering to technical rules applicable in judicial proceedings.

f) Within 15 days from the termination of the formal investigation, the concerned APS or his duly authorized representative shall forward his findings and recommendations together with the entire records of the case, for review, to CLO whose findings shall be subject to the approval of DC.

g) A respondent who feels aggrieved by the decision/ findings of DC may file an appeal or a petition for reconsideration in accordance with the civil service rules and regulations (Reference 1-b above).]

4. In administrative proceedings, the bottomline is the observance of due process, which must be adhered to by the investigating/fact-finding body, such as the right to a hearing, which includes the right to present one's case and submit evidence in support thereof. The evidence must be substantial. The decision/resolution must have something to support itself and must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected.

5. All orders, issuances, rules and regulations inconsistent with this memorandum are hereby repealed, superseded, amended or modified accordingly.

6. This memorandum shall take effect immediately upon receipt hereof.

7. For dissemination and strict compliance.

Adopted: 12 Jan. 1994

(SGD.) ATTY. VICENTE G. VINARAO
Major General PNP (Ret.)
Director

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