POLICY GUIDELINE ON THE SPEEDY, IMPARTIAL AND JUDICIOUS CONDUCT OF PRE-CHARGE INVESTIGATION AND CLASSIFYING SOME ACTS AS CONDUCT UNBECOMING OF A POLICE OFFICER

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I. REFERENCES:

a. Section 11, Article III of the 1987 Constitution;
b. Omnibus Rules Implementing Book V of EO 292;
c. Civil Service Law, Rules and Regulations;
d. NAPOLCOM Memorandum Circular No. 95-017;
e. NAPOLCOM Memorandum Circular No. 93-024;
f. NAPOLCOM Memorandum Circular No. 96-010;
g. NAPOLCOM Memorandum Circular No. 99-006;
h. The Family Code of the Philippines;
i. The Civil Code of the Philippines; and
j. DIDM Memorandum Circular No. 00-01 dated May 5, 2001.

II. PURPOSE

This Memorandum Circular is intended as guide in the speedy, impartial, inexpensive and judicious conduct of Pre-Charge Investigation and classifying some acts as Conduct Unbecoming of a Police Officer, which is applicable to all level of the PNP Units exercising Disciplinary Authority.

III PRE-CHARGE INVESTIGATION

Consistent with the provision of NAPOLCOM Memorandum Circular 96-010 and pursuant to the power of the Directorate for Investigation and Detective Management (DIDM "for brevity) of general supervision overall subordinate units/personnel insofar as pre-charge investigation is concerned, the following guidelines are henceforth adopted:

A. Complaint

The verified complaint to be filed by any complaining party including the affidavil(s) of his/her witnesses shall be prepared by the said complaining party or by his or her Attorney. A legible copy of the said verified complaint shall be filed with the Pre-Charge Investigation Division (PCID) Docket Section or other equivalent investigative body of the PNP as the case maybe. The complaint shall state the rank, name, present unit assignment of the respondent as well as the acts and/or omissions complained of. it shall likewise state the full name, address and contract telephone number of the complainants(s). The complainant shall be responsible to provide the PCID or other equivalent investigative body of the PNP as the case maybe, copy of the complaint equivalent to the number of the respondent's

B. Anonymous Complaint

Although anonymous letter/complaint do not comply with the prescribed form, the PCID, DIDM or other

equivalent investigative body of the PNP as the case maybe, shall consider such letter as investigation leads. As such, information gathered from anonymous complaint shall be verified not only from persons, offices or documents mentioned therein but also from other sources, from which the truthfulness of the anonymous complaint may be inferred. If the veracity of the allegation in the anonymous complaint is verified from sources either mentioned or not in the anonymous complaint, the Chief, PCID or other equivalent investigative body of the PNP as the case maybe shall:

a. Execute the appropriate administrative complaint as nominal complainant; and/or
b. Refer the case to the CIDG or other appropriate law enforcement office for the conduct of investigation and/or filing of appropriate criminal action as the case maybe.

C. Notice to the Respondent

Respondent(s) shall be apprised of the complaint filed against him. Whenever practicable, the summons shall be served by handing a copy thereof to the PCO, PNCO or NUP concerned in person, or if he/she refuses to receive and sign for it, by tendering it to him/her. If, for justifiable causes, the PCO, PNCO or NUP concerned cannot be personally served with the summons, the service thereof may be effected thru substituted service -that is by leaving a copy of the summons at the said PCO's, PNCO's or NUP's office or residence, as the case maybe with some person of suitable age and discretion therein. Service of the summons by registered mail with return card may be availed of in cases where personal or substituted service thereof cannot be effected. The notice and proof of service of the notice shall constitute an integral part of the Pre-Charge Investigation records.

The notice/summon shall include copy of the complaint and its pertinent documents requiring the respondent to submit his/her counter-affidavit at the PCID, DIDM, National Headquarters Building, Camp Crame, Quezon City or other equivalent investigative body of the PNP as the case maybe, within ten (10) days from receipt of the complaint. The period for the submission of Counter-Affidavit and controverting evidence shall be reckoned from the date of the actual receipt by the respondent of the complaint. Failure on the part of the respondent to submit counter-affidavit within the regiementary period shall constitute a waiver and the investigation shall proceed ex parte.

D. Confrontation between the Complainant and the Respondent

The presence of the complainant and the respondent before the investigator-on-Case is not an indispensable part of pre-charge investigation. As such, the Investigator-on-Case shall immediately endeavor to resolve the pre-charge investigation based on the evidence submitted by the parties without requiring the presence of the litigants, save in cases where a clarificatory confrontation is extremely necessary or in cases initially cognizable by the Women and Children Concerns Division of the DIDM or other equivalent investigative body of the PNP as the case maybe, where mediation is resorted to before the conduct of Pre-charge Investigation.

This innovation is recognized to save the respondent from extreme expenses undergoing the process and to guard him against frivolous complainant, harassment from unscrupulous person.

IV. CLASSIFICATION OF OFFENSE

Willful Failure to Pay Just Debt, Non-support and/or abandonment

Willful and unjust failure to pay just debt, abandonment and/or non-support, come within the contemplation of and shall be treated and categorized as Conduct Unbecoming of a Police Officer which has been defined under NAPOLCOM MC No. 96-010, to wit: "refers to any behavior or action of policeman, irrespective of rank, done in his official capacity which in dishonoring or disgracing himself as a policeman in such a manner as to indicate

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vitiated or corrupt state of moral character; it may also refer to an act or behavior of a policeman in an unofficial or private capacity which, in dishonoring or disgracing himself as a gentleman, seriously compromises his position as a member of the PNP and exhibits himself as morally unworthy to remain as a member of the police organization". Being classified as such, the imposable penalty therein shall apply.

V. STATUS OF ADMINISTRATIVE CASE

A. Pending Case

A PNP member is deemed to have a pending case against him the moment the designated SHO take cognizance of the case after the approval by the C, PNP that probable cause exists against the respondent. The moment the SHO take cognizance of the case, he acquires jurisdiction over the case and of the respondent. The pendency of the administrative complaint shall subsist from the date the SHO take cognizance of the case up to the final disposition of the same.

For purposes of determining the existence of a pending case, a Motion for Reconsideration filed by either party, or an Appeal filed by the respondent shall preclude the Order/Decision of the Disciplinary Authority from attaining finality hence, a pending case subsists during the pendency of the motion for reconsideration and/or appeal as the case maybe.

B. Presidential Clearance

A Pre-Charge Investigation againsts a Presidential Appointee may be conducted without the need of securing the appropriate Presidential Clearance. However, after the determination of the existence of probable cause against the respondent Presidential Appointee, a Presidential Clearance for the conduct of the administrative summary hearing must first be secured before the summary proceedings is commenced.

VI. Recommendation of the SHO/Board

The recommendation of the SHO/Board shall be reviewed by DIDM prior to the approval of the C, PNP. In this manner, the DIDM being the Directorial Staff for Investigation shall guide the C, PNP in coming up with a judicious decision and/or resolution based on the pieces of evidence on records The pi DM should apprise the C, PNP of the matters at issue and advice the latter on the merits of the case in accordance with the existing laws, Rules and Regulations governing the PNP. In this regard, the DIDM may recommend to the C, PNP the course of action in resolving the case to be taken for the perusal and approval of the latter

VII. FINAL PROVISIONS

A. Applicability

This Policy Guidelines shall apply to all administrative proceedings including but not limited to cases involving non-support, abandonment, willful and unjustified non-payment of just debt conducted by all disciplinary authority against erring PNP member i.e. Regional Directors, Provincial Directors, Municipal and/or City Chiefs of Police and Station Commanders.

B. Repealing Clause

If any part, section or provision of this Memorandum Circular is declared invalid or unconstitutional, the other parts thereof not affected thereby shall remain valid.

C. Effectivity

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This Policy Guidelines shall take effect immediately upon approval.

Adopted: 30 May 2005

(SGD.) ARTURO C. LOMIBAO
Police Director General
Chief, PNP

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