

LETTER OF INSTRUCTIONS NO. 621, October 27, 1977

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TO:

The Secretary of National Defense
Camp General Emilio Aguinaldo
Quezon City

WHEREAS, since the promulgation of Presidential Proclamation No. 1081, dated September 21, 1972, as amended by Presidential Proclamation No. 1104, dated January 17, 1973, the Secretary of National Defense has been empowered to arrest and detain persons under various General Orders and Decrees, the latest of which is General Order No. 60, dated June 24, 1977;

WHEREAS, it has always been a policy of government to extend the utmost humane treatment and consideration to such persons;

WHEREAS, there is a need to integrate and formalize the governments various policies, procedures and systems concerning the arrest, prosecution and handling of detainees, as well as other aspects of detainee administration;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution, do hereby order and direct the observance of the following procedures, policies and guidelines in the implementation of General Order No. 60, dated June 24, 1977;

SECTION 1. Definition of Terms. - For purposes of this Letter of Instructions, the following terms shall be interpreted and understood as hereunder indicated:

- Arrest. - Arrest is the taking of a person into physical custody for having committed, or being involved in the commission of, any of the crimes or offenses or acts mentioned in General Order No. 60, dated June 24, 1977.
- Inquest. - The proceedings conducted for the purposes stated in Section 6 hereof,
- Inquest Authority. - The Officer of the Armed Forces of the Philippines or other official designated in accordance herewith to conduct inquest in the manner provided for in this Letter of Instructions.
- Detention. - The physical custody of an arrested person pursuant to General Order No. 60, dated June 24, 1977.
- Detainee. - Any person who is under detention pursuant to General Order No. 60, dated June 24, 1977.
- Inquest Officer. - The lawyer designated by the Inquest Authority to assist in the inquest of arrested persons herein provided,
- Release. - Release is the official action setting at liberty a person who has been arrested and detained pursuant to General Order No. 60, dated June 24, 1977.

SEC. 2. Categories of Arrest, Search and Seizure. - The arrest of a person, the search of a place or the seizure of property may be effected under any of the following categories:

- By virtue of an arrest, search and seizure order issued by me or by the Secretary of National Defense himself or thru a representative duly designated by the latter to issue such arrest, search and seizure order in accordance with Section 2 of General Order No. 60, dated June 24, 1977;

- By virtue of a warrant or order of arrest or a search warrant issued by a competent court, civil or military, in accordance with existing laws; and,

- By virtue of and in accordance with Section 6, Rule 113 of the Rules of Court (citizen's arrest), providing that:

"A peace officer or private person may, without a warrant, arrest a person:

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

"(b) when an offense has in fact been committed, and he has reasonable ground to believe that the person to be arrested has committed it;

"(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."

SEC. 3. Offense for Which Arrest Is Authorized. - The arrest of a person within the purview of this Letter of Instructions shall be for offenses listed in General Order No. 60, dated June 24, 1977. Arrest for any other offense shall be in accordance with the pertinent provisions of the Revised Penal Code and the Rules of Court.

SEC. 4. Inquest. - The person arrested shall be referred to the Inquest Authority/Officer herein designated as follows:

- In Metropolitan Manila:

(1) The Constabulary Judge Advocate (CJA) shall be the Inquest Authority for all arrests effected by members of the Armed Forces of the Philippines, the Integrated National Police and other law enforcement agencies, including arrests effected, by private persons pursuant to Section 6, Rule 113 of the Rules of Court, except those effected by members of the Philippine Constabulary Metropolitan Command (PCM) and the Metropolitan Police Force (MPF).

(2) The Staff Judge Advocate, PCM in cases of arrests effected by the PCM and MPF.

- The Zone or Regional Staff Judge Advocate in provinces/cities where there is a Philippine Constabulary Zone/Regional Headquarters, for arrests effected within said provinces/ cities.

- The military lawyers designated, by The Judge Advocate General, AFP, or, in the absence of a military lawyer so designated, the City or Municipal Judge, for arrests within respective jurisdictions, in other provinces/cities.

SEC. 5. Chief Inquest Authority. - The Judge Advocate General, AFP, shall be the Chief Inquest Authority with the function of assisting and advising the Secretary of National Defense and the Commander, Command for the Administration of Detainees in all matters pertaining to inquest. He shall supervise the conduct of inquests and/or send inquest teams to provinces and cities to assist the Inquest Authorities therein as circumstances may require. Any matter pertaining to inquests, including those not specifically covered by this Letter of Instructions, shall be referred to the Chief Inquest Authority: Provided, That The Judge Advocate General, AFP, may designate senior JAGS officers to perform inquest functions anywhere in the Philippines as the need arises.

SEC. 6. Purpose of Inquest. - The inquest herein authorized shall be conducted for the following purposes:

- To properly identify the persons arrested in cases of arrests effected, by virtue of an arrest, search and seizure order referred, to in Section 2a hereof, or pursuant to a warrant or order of arrest issued, by a competent court, civil or military, as the case may be;
- To determine whether there exists probable cause in case of a citizen's arrest;
- To determine or cause the determination of the physical condition of the arrested person;
- To determine if the admission and/or confession that may have been executed by the arrested person was taken strictly in accordance with Section 20, Article IV, of the Constitution;
- To determine if maltreatment or other forms of torture have been committed on the person arrested, and to institute the necessary charges/actions if there be so, immediately;
- To insure that confiscated articles, items, documents or other personal property or effects are duly accounted for and/or covered by proper receipts.

Any military personnel or other person who shall unduly interfere with the conduct of inquest or unduly influence the Inquest Authority in the disposition of a person/case under inquest, shall be proceeded against in accordance with the Articles of War and/or appropriate penal and/or administrative law,

SEC. 7. Period of Delivery for Inquest. - Persons arrested pursuant to General Order No. 60, dated June 24, 1977, must be delivered to the Inquest Authority concerned within the periods hereunder indicated:

- Eighteen (18) hours if the arrest has been effected for light felonies/offenses (those punishable by imprisonment from 1-30 days and/or a fine of less than 200 pesos);
- Forty-eight (48) hours if the arrest has been effected for less grave felonies/offenses (those punishable by imprisonment for one month and one day to six months and/or a fine of not more than 6,000 pesos); and,
- Seventy-two (72) hours if the arrest has been effected for grave felonies/offenses (those punishable by imprisonment for more than six months and/or fine of more than 6,000 pesos).

SEC. 8. Charges. - A person arrested shall, for purposes of determining whether he shall be detained, be considered to be facing charges:

- When the arrest has been effected by virtue of an arrest, search and seizure order, it being understood that in these cases there is a previous determination of probable cause as basis for such arrest;
- When the arrest is effected by virtue of an order or warrant of arrest issued by a competent court, civil or military;
- When, after inquest as herein prescribed in the case of citizen's arrests, the Inquest Authority shall have been satisfied that there exists probable cause as basis for detention of the person arrested; or .
- When the person arrested is an escaped prisoner referred to in Section 6(c) of Rule 113, Rules of Court,

SEC. 9. Powers, Functions and Duties of Inquest Authority. - The Inquest Authority shall exercise/discharge the following powers and duties:

- To issue commitment orders for the detention of the persons arrested pursuant to:
 - (1) Section 6, Rule 113, Rules of Court, after determining the existence of probable cause;
 - (2) An Arrest, Search and Seizure Order or Warrant of Arrest issued by a competent court upon confirmation of

the fact of such person being the one referred to in said ASSO or Warrant.

- To direct the release of the arrested person if there is no probable cause against him in the case of citizen's arrest, or if the person arrested is not the one referred to in the Arrest, Search and Seizure Order or Warrant of Arrest.
- In case probable cause exists but the crime or offense that may be charged against the person arrested is not a ground for detention under General Order No. 60, dated June 24, 1977, or that, although the offense is a ground for detention but the same is not within the jurisdiction of the military tribunals, to insure that the arresting officer refers/delivers without delay such person and his record to the fiscal/court concerned for disposition unless otherwise provided by law. The procedural implementation of this subsection shall be strictly in accordance with the rules and regulations to be promulgated as called for by the provisions of Section 17 hereof.
- Within, 24 hours after delivery to him of the person arrested, or within a reasonable time thereafter, to prefer charges against such person as to whom probable cause has been determined.

SEC. 10. Place of Detention. - As a rule, only persons who are charged with offenses triable by the military tribunals shall be detained in military detention centers and, conversely, persons arrested for offenses triable by the civil courts shall be detained in the proper prison or jail, without prejudice to a contrary disposition, determined by the Secretary of National Defense, as necessary in the interest of national security and public order. The Secretary of National Defense shall see to it that appropriate segregations are made in military detention centers for purposes of security, morality, convenience and other cogent considerations.

SEC. 11. Arrest, and Handling, Treatment, and Other Aspects of Administration of Detainees. - In the arrest, and handling, treatment, and other aspects of administration of detainees, the following policies shall continue to be strictly observed:

- Arrests shall be effected with uncompromising firmness and impartiality but with due regard to the rights and dignity of the persons being arrested. The arresting officer shall be of such rank/grade and so attired and be of such comportment as to generate respect for and confidence in authority as well as to insure a most judicious conduct of the arrest.
- The system of seasonable reporting of arrests and accounting of arrested persons shall be continually reviewed, and modified if necessary, with the view to precluding malpractices in the arrest and administration of detainee's.
- The policy of government against torture or any other form of cruel, inhuman or degrading treatment of detainees shall remain inviolate.
- Scrupulous adherence to, and respect for, the constitutional rights of detainees, including their right to the speedy disposition of their cases, shall at all times be observed.
- Detention authorities shall insure that detainees are accorded the basic necessities of life. Segregation procedures based upon considerations of sex, morality, security and other cogent factors shall continue to be observed.
- Measures shall continue to be adopted aimed at improving the relationship between detainees and their custodians and to make military personnel more sensitive to their responsibilities to detainees, not only as such custodians, but as agents of change with the duty of winning over those outside the fold of the law to the new social order. Such measures shall be given emphasis in the troop information and education program of the Armed Forces of the Philippines.
- A continuing evaluation and review of arrest procedures and detainee administration shall be made aimed at pinpointing problem areas, to include breaches of the requisite norms of conduct by the personnel concerned and the setting up of punitive/corrective mechanisms for dealing swiftly but fairly with infractions or deficiencies

noted.

SEC. 12. Release. - Any person arrested and detained pursuant to General Order No, 60, dated June 24, 1977, may be released in accordance with the following guidelines:

- Nature of Release. The release of a detainee shall either be temporary or permanent. It is temporary if it is effected prior to the final result of the case against the detainee. It is permanent if it is effected as a result of the termination or final disposition of the case against him.

- Temporary Release. - It shall be effected as follows:

- (1) Prior to Trial. - During pre-trial detention, a detainee may be granted temporary release by me or by the Secretary of National Defense himself or thru a representative duly designated by him to grant such temporary release.

- (2) During Trial. - During trial, a detainee may be granted temporary Release by me or by the Secretary of National Defense or the military tribunal trying him.

- (3) After Trial. - A detainee who has already been convicted and sentenced to imprisonment but awaiting the review of his case or the final action taken thereon by the appointing or confirming authority, may also be granted temporary release by me or by the Secretary of National Defense.

- Grounds for Temporary Release. - A detainee may be granted temporary release for humanitarian considerations and/or upon such other grounds as the Secretary of National Defense shall prescribe.

- Permanent Release. - A person detained or on temporary release in accordance herewith shall be granted permanent release by me or by the Secretary of National Defense upon acquittal or upon dismissal or final disposition of the case against him without conviction, except when he is detained for some other valid ground. Such person shall also be permanently released upon the grant of pardon or amnesty, subject to the conditions thereof.

SEC. 13. Prosecution. - The prosecution of persons arrested and detained must be expeditiously terminated, consistent with the pertinent laws, specially considering the following:

- Preliminary Investigation. - The preliminary investigation of cases against persons arrested and detained shall be conducted and terminated within a period of three (3) months from the date the records of the case are received by the officer designated to conduct the same, unless an extension of the period is cogently justified by the circumstances of each case,

- Cases Triable by the Civil Court. - The court/fiscal taking cognizance, for purposes of preliminary investigation, of a case in which the respondent/accused has been arrested/detained pursuant to General Order No. 60, dated June 24, 1977, shall require the investigating law-enforcement agency to complete immediately the submission of prosecution evidence and thereafter dispose of the case pursuant to Presidential Decree No. 77, dated December 6, 1972, as amended by Presidential Decree No. 911, dated March 23, 1976.

SEC. 14. Arrest and Detention of Military Personnel. - The arrest, detention and other types of restraint of members of the Armed Forces of the Philippines, as well as their release from such arrest, detention or other restraint may be done in accordance with Commonwealth Act No. 408, otherwise known as the Articles of War, as amended, and Executive Order No. 178, series of 1938, otherwise known as the Manual for Courts-Martial, as amended.

SEC. 15. Office for Detainee affairs. - The Office for Detainee Affairs as established by the Secretary of National

Defense shall continue to assist him in the supervision and control of the Command for the Administration of Detainees, and in the exercise of his functions pursuant to General Order No. 60, dated June 24, 1977. The Undersecretary for Home Defense shall continue to head this Office.

SEC. 16. Administrative Support. - In order to effectively implement this Letter of Instructions, the Secretary of National Defense shall maximize support therefor.

SEC. 17. Rules and Regulations. - The Secretary of National Defense, in consultation with the Chief Justice of the Supreme Court as needful, shall promulgate such rules and regulations necessary for the effective implementation of this Letter of instructions.

SEC. 18. Repealing Clause. - All previous order and instructions which are inconsistent herewith are hereby rescinded or modified accordingly.

Done in the City of Manila, this 27th day of October, in the year of our Lord, nineteen hundred and seventy-seven.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

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