GUIDELINES AND PROCEDURES IN THE SERVICE OF AND THE ISSUANCE OF ORDERS FOR LEGAL PROCESSES IN ADMINISTRATIVE PROCEEDINGS

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I. REFERENCES

a. NAPOLCOM Memorandum Circular (NMC) No. 2007-001; and

b. PNP Memorandum circular No. 2008-0801-003 dated August 1, 2008 re: Uniform Guidelines in the Service of Sub-poena and other Legal Processes issued by the Courts, Tribunals, Administrative and Quasi-Judicial Bodies.

II. PURPOSE

This Circular aims to provide clear guidelines and procedures to be followed by Court Process Officers in the service of notices and other legal processes and to ensure the preservation of the evidentiary value of all proofs of service of these legal processes in administrative proceedings by issuing corresponding Special Orders, which shall form part of respondent's 201 File and shall be reflected in the Personnel Accounting and Information System of the Records Management Division, Directorate for Personnel and Records Management or its equivalent offices in the PROs and NSUs.

III. SCOPE

This Circular shall apply to the PNP Uniformed and Non-Uniformed Personnel.

IV. DEFINITION OF TERMS

a. Constructive Service – if, for whatever justifiable reason, the respondent cannot be served with legal processes personally, service may be made by leaving a copy of the notice and summons at the respondent's official station, which shall be received by the designated Court Process Officer, or in his absence, the Administrative Officer or any responsible Officer who, in turn, has the obligation to serve the same to the respondent/ PNP member named in the notices or other legal processes.

b. Court Process Officer (CPO) – designated PNP personnel who shall be responsible for the service of notices, subpoena and other legal processes and ensure the timely delivery of such process to the personnel concerned.

c. Decision – the written disposition of the disciplinary authority or appellate body stating clearly the facts and the law upon which it is based;

d. Legal Processes – the means used by a court, tribunal or investigating body to compel obedience to its mandates.

e. Notice – is the legal concept describing a requirement that a party be aware of legal process affecting their rights, obligations or duties.

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f. Personal Service – whenever practicable, the notices and other legal processes shall be served by the CPO by handing a copy thereof to the concerned party in person at his official station or residence or last known address or station (or, if he/she refuses to receive and sign for it, by tendering it to him/her), or by endorsement to his Chief of Police or equivalent supervisor who shall have the duty to serve the same to the concerned party personally.

g. PNP Disciplinary Authority (DA) – refers to the PNP Regional Directors, Directors of National Support Units, and the Chief, PNP who could impose the maximum disciplinary sanction of dismissal from the police service pursuant to Section 41(b)(3) and 42, RA No. 6975, as amended by Sections 52 and 53, RA 8551.

h. Proof of Service – is a written statement under oath made by the CPO and shall set forth the manner, place and date of service; shall specify the papers which have been served with the process and the name of the person who received the same.

i. Records Custodian – personnel under the DLOD, DPRM or its equivalent offices in the PROs and NSUs who is in-charged in the keeping and filing of all accomplished proof of service, notices and other legal processes submitted by the CPO. He is also responsible in the cause of the issuance of the Special Orders of said proof of service, notices and other legal processes.

k. Resolution – the written disposition of the disciplinary authority or appellate body resolving the motion for reconsideration of the aggrieved party, stating clearly the facts and the law upon which it is based.

l. Service – the execution of the processes or writ to the person against whom it is directed.

m. Service by Mail – another way of serving the Decisions, Resolutions, Certificate of Finality and Implementing Orders through registered mail at his last known address appearing in his 201/Personal file.

n. Special Orders – An order issued by the DPRM or its equivalent offices in the PROs and NSUs affirming the service of notice and other legal processes.

o. Subpoena – is a process directed to a person requiring him to attend and to testify at the hearing or investigation of an administrative case.

p. Summary Dismissal Proceeding – an expeditious administrative proceeding conducted consistent with due process to determine the culpability or innocence of respondent for the gross neglect of duty/misconduct he allegedly committed.

q. Summary Hearing Proceeding – administrative investigation which shall be conducted without necessarily adhering strictly to the technical rules of procedure and evidence applicable to judicial proceedings.

r. Summons – is a written notice informing the respondent that he is charged with an offense and directing him to file his answer.

s. 201 File – file that contains important personal file/record of a PNP personnel that kept by the Administrative Officer.

V. GUIDELINES/PROCEDURES

The following shall be observed in the service of Notices and other Legal Processes and the issuance of corresponding Special Orders for their proofs of service:

1) All CPO as defined under NAPOLCOM Memorandum Circular No. 2008-0801-003 entitled “Uniform Guidelines in the Service of Subpoena and other Legal Processes” shall ensure the proper service of notices, and

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other legal processes in all administrative cases, as follows:

a) All notices and summons to the respondent shall be personally delivered to him at his official station or residence. If for any reason, the respondent cannot be located thereat, the notices and summons shall be served at his last known address as appearing in his personal file with the Administrative Officer. However, if service by the disciplinary authority, IAS or Appellate Body cannot be accomplished under the foregoing modes, the notices and summons directed to the respondent shall be endorsed to his Chief of Police or equivalent supervisor who shall have the duty to serve the same to him personally within five (5) days from receipt. If, for whatever justifiable reason, the respondent cannot be served personally, service may be made by leaving a copy of the notice and summons at the respondent's official station, which shall be received by the designated Court Process Officer, or in his absence, the Administrative Officer or any responsible Officer who, in turn, has the obligation to serve the same to the respondent/PNP member named in the notices or other legal processes. (Sections 2 and 3, Rule 18 of (NMC) No. 2007-001)

b) Service of Subpoenas and Interlocutory Orders shall be served personally in the manner provided for under Rule 18 of NMC No. 2007-001. Provided, however, that if the complainant and/or respondent is represented by counsel, service of orders to the counsel shall be deemed service to his client. (Section 2, Rule 19 of NMC No. 2007-001)

c) Service of Decisions/Resolutions/Certificate of Finality/Implementing Orders shall be docketed after its release by the disciplinary authority, IAS or Appellate Body and copies thereof shall be served upon the parties personally or by registered mail. (Section 3, Rule 19 of NMC No. 2007-001)

2) The PNP personnel being personally served with the notice or other legal processes should be required to sign the proof of service form and indicate the time and date of receipt.

3) The CPO serving the notice by personal service should check the propriety of the accomplished proof of service such that it should be signed by the person named with time and date of receipt as it is material in the determination of timeliness in the filing of subsequent actions such as motion for reconsideration or appeal.

4) In the service of Decisions/Resolutions/Certificate of Finality/Implementing Orders by registered mail to the last known address of PNP personnel concerned, the CPO should ensure that a registered mail receipt or any proof of mailing should be attached to the proof of service.

5) All Units that have been directed/requested to serve notices and other legal processes to all personnel under their jurisdiction should likewise ensure the propriety of the service prior to the return of the accomplished proof of service to the requesting unit.

6) The CPO must keep and file all records of accomplished proof of service and should observe proper hand over or chain of custody in case that he/she is reassigned, transferred, retired, or for any other cause of leaving the position as CPO.

7) The CPO shall submit the accomplished proof of service to DLOD, DPRM or its equivalent Offices in PROs and NSUs for the subsequent issuance of orders. The Record Custodians of the said Offices shall keep and file all accomplished proof of service and ensure that the same be reflected in the respondent's 201 file and in the PAIS Record of the DPRM or equivalent offices in PROs and NSUs.

8) To ensure the credibility and usefulness of the legal processes mentioned above, the original copies of the proof of service and other relevant documents shall be submitted to the RMD, DPRM. Further, the CPO or unit concerned shall maintain in their station duplicate copies for record purposes.

9) For the purpose of uniformity, prescribed format of Proof of Service and Special Orders shall be used, as

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follows:

a) Form 1 – Proof of Service as Summons/es/ Notice/s /Decision/Resolution/Certificate of Finality/Special Orders (Annex “A”); and

b) Form 2 – Special Order on Proof of Service of Summons/es/ Notice/s /Decision/Resolution/Certificate of Finality (Annex “B”)

10) All Disciplinary Authorities (DA) shall ensure strict observance and implementation of this Circular.

VI. PENAL CLAUSE

Non-compliance with this Circular constitutes Serious Neglect of Duty pursuant to NAPOLCOM Memorandum Circular No. 2007-001.

VII. EFFECTIVITY

This Circular takes effect fifteen (15) days from the date of filing with a copy thereof at the University of the Philippines Law Center pursuant to Sections 3 and 4 of Chapter 2, Book VII of Executive Order No. 292, otherwise known as the Administrative Code of 1987.

(SGD.) ATTY. RAUL M. BACALZO, PH.D.
Police Director General
Chief, PNP

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