

DIRECTING THE PHILIPPINE NATIONAL POLICE TO UNDERTAKE AN INTENSIFIED AND UNRELENTING CAMPAIGN AND OPERATION AGAINST CARNAPPING

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WHEREAS, Her Excellency President GLORIA MACAPAGAL-ARROYO, in her State of the Nation Address (SONA) on July 22, 2002 before the Joint Session of Congress, declared war on all criminal syndicates targeting particularly carnapping with the equivocal declaration that "Criminal Syndicates will be treated as what they are, direct threat to national security";

WHEREAS, on the same occasion, the President announced her policy on the principle of Command Responsibility with the statement that "You have seen political will in the harsh interpretation of command responsibility with regard to illegal gambling. That draconian application was a dress rehearsal for enforcing command responsibility in the even more difficult challenges of kidnapping, drug-dealing and smuggling";

WHEREAS, the continuing assault on the rights of citizenry, occasioned by the unabated commission of crimes with impunity, particularly in the commercial and urban destruction of properties but has severely affected development and prosperity, and at the same time, has undermined the people's faith in the government and the latter's ability to maintain peace and order in the country.

WHEREAS, the Philippine National Police, being the premier law enforcement agency of the government, is mandated, among others, to "Enforce all laws and ordinances relative to the protection of lives and properties" and to "Maintain peace and order and take all necessary steps to ensure public safety";

NOW, THEREFORE, the Commission, in the exercise of its administration and control functions over the Philippine National Police has resolved to direct, as it hereby directs, the PNP leadership from the Chief PNP to the lowest officer or unit commander, to undertake an intensified and relentless campaign and operation against carnapping and accordingly prescribes the following rules and policies:

- Police presence or police visibility is an accepted deterrent to the commission of crime. A uniformed police officer patrolling his beat gives peace of mind to every individual for his or her freedom of movement and to engage in commerce. To a malefactor, such presence of a police officer discourages him to perpetrate his criminal and evil design.

Henceforth, there is an urgent need to increase police visibility by intensified foot and mobile patrols along thickly populated areas and busy commercial districts. When necessary, control points shall be established.

- Parallel to increased police visibility is the need to improve intelligence and counter-intelligence capabilities. It is desired always that law enforcement officers must be way ahead or one step ahead over the criminal elements in gathering information, monitoring their every movement and their activities.

In this regard, there is a need to create and maintain a database for every specific crime, such as carnapping.

Moreover, there should be published and printed at conspicuous places the name, picture and other personal circumstances of notorious individuals involved in illegal activities.

- Community support and involvement must be developed, cultivated and encouraged. The community must be made aware of positive strategies of the law enforcement agencies in the campaign against syndicated crimes.

For this reason, information and educational campaign must be initiated including the organization of community-based and anti-crime fronts, movements or associations.

- To ensure a more efficient, sustained, vigorous and resolute campaign against carnapping, it is imperative that the, "Doctrine of Command Responsibility" be strictly applied at all levels of command in the PNP. For ready reference in the application of this Doctrine, quoted hereunder are Sections 1 and 2 of Executive Order No. 226 dated February 17, 1995, on the subject, "INSTITUTIONALIZATION OF THE DOCTRINE OF COMMAND RESPONSIBILITY IN ALL LEVELS OF COMMAND IN THE PHILIPPINE NATIONAL POLICE AND OTHER LAW ENFORCEMENT AGENCIES" thus:

"Section 1. Neglect of Duty Under the Doctrine of Command Responsibility. Any government official or supervisor or officer of the Philippine National Police or that any other law under the doctrine of "Command Responsibility" if he has knowledge that a crime or offense shall be committed, is being committed or has been committed by his subordinates or by others within his area of responsibility and despite such knowledge, he did not take preventive or corrective action either before, during or immediately after its commission.

Section 2. Presumption of Knowledge. A government official or supervisor, or PNP Commander, is presumed to have knowledge of the commission of irregularities or criminal offense in any of the following circumstances:

- a. When the irregularities or illegal acts are widespread within his area of jurisdiction;
- b. When the irregularities or illegal acts have been repeatedly or regularly committed within his area of responsibility; and
- c. When members of his immediate staff or office personnel are involved."

- Accordingly, in the campaign against Carnapping, the principle of command responsibility shall be observed not only when there is failure on the part of the commander or chief of office to act under the circumstances enumerated under E.O. No. 226 but for failure to perform his mandated tasks herein enumerated, to wit:

- a. Command Responsibility of the PNP Regional Director of the National Capital Region Police Office.

The Regional Director (RD) of the National Capital Regional Police Office (NCRPO) shall have command responsibility over the District Directors and the Commanders of the Regional Mobile Group in his jurisdiction.

There shall be a presumption of negligence on the part of the Regional Director when two (2) or more of the Districts in his AOR have been determined to have eighteen (18) or more unsolved incidents of carnapping each per quarter.

- b. Command Responsibility of the PNP NCR District Director

The District Director shall have command responsibility over the Chiefs of Police or Station Commanders of Numbered Stations of NCR Police Stations under his area of responsibility.

There shall be a presumption of negligence on the part of the District Director when two (2) or more Police Stations within his AOR have been determined to have six (6) or more unsolved incidents of carnapping each per quarter.

c. Command Responsibility of the Chief of Police of NCR City/Municipal Police Station or Commander of Numbered Station.

The Chief of Police of the City/Municipality or Station Commander of NCRPO shall exercise command responsibility over the commanders of the Sub-Stations/PCPs in his area of responsibility.

There shall be a presumption of negligence on the part of the Chief of Police or Station Commander when two (2) or more of his Sub-station/Police Community Precinct within his AOR have been determined to have three (3) or more unsolved incidents of carnapping each per quarter.

d. Command Responsibility of the Police Community Precinct or Sub-Station Commander

The Police Community Precinct or Sub-Station Commander shall exercise command responsibility over Police Community Precinct or Sub-Station members. There shall be a presumption of negligence on the part of the Police Community Precinct or Sub-Station Commander when his AOR has been determined to have three (3) or more unsolved incidents of carnapping per quarter.

e. Command Responsibility of the other PNP Regional Directors.

Police Regional Directors shall have command responsibility over the Provincial/City Directors and the Commanders of the Regional Mobile Groups in their respective jurisdiction.

There shall be a presumption of negligence on the part of the Regional Director when two (2) or more provinces or Highly Urbanized Cities in his AOR have been determined to have twelve (12) or more unsolved incidents of carnapping each per quarter.

f. Command Responsibility of the PNP Provincial Director and City Director of Highly Urbanized City

The PNP Provincial Director or City Director shall exercise command responsibility over the Chiefs of Police or Station Commanders of Police Stations in his area of responsibility.

There shall be a presumption of negligence on the part of the Provincial or City Director when two (2) or more Police Stations within his AOR have been determined to have four (4) or more unsolved incidents of carnapping each per quarter.

g. Command Responsibility of the Chief of Police of a Component City or Municipal Police Station

The Chief of Police of the City or Police Stations shall exercise command responsibility over commanders of the Sub-Stations or Police Community Precincts in his area of responsibility.

There shall be a presumption of negligence on the part of the Chief of Police of a Police Station when his AOR has been determined to have three (3) or more unsolved incidents of carnapping each per quarter.

h. Command Responsibility of the Police Community Precinct (PCP)/Sub-Station Commander

The Police Community Precinct or Sub-Station Commander shall have command responsibility over Police Community Precinct or Sub-Station members.

There shall be presumption of negligence on the part of the Police Community Precinct Commander or Sub-Station Commander when his AOR has been determined to have two (2) or more unsolved incidents of carnapping per quarter.

- For purposes of this Memorandum Circular, the term carnapping shall be understood to mean the taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence

against or intimidation of persons, or by using force upon things.

Corrolarily, motor vehicle shall be understood to mean as any vehicle propelled by any power other than muscular power using the public highways, but excepting road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles, which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle, shall be classified as separate motor vehicle with no power rating.
[1]

GENERAL PROVISION

- If any of the above officers fail to exercise command responsibility in the manner and standard set forth herein he/she shall be relieved from his/her assignment, together with his counterpart from the Traffic Management Group. Forthwith, a pre-charge investigation will be conducted which shall be terminated within ten (10) days. Upon finding of a probable cause, subject police officer shall be placed under preventive suspension pending formal investigation by the PNP in accordance with NAPOLCOM Memorandum Circular No. 96-010 or by the NAPOLCOM under Memorandum Circular 98-014.

- The PNP personnel who shall be charged either as principal, accomplice or an accessory in the crime of carnapping shall be administrative charged in accordance with the applicable provision of RA 6975, as amended by RA 8551 and be meted the penalty of dismissal from the service if evidence so warrants without prejudice to his/her criminal prosecution under the Revised Penal Code and/or Special Laws.

- The PNP personnel who shall be instrument in the apprehension of carnappers shall receive an appropriate recognition from his/her superior which will be duly noted, considered and appreciated in his or her application for promotion.

- Henceforth, as a matter of policy the Commission, before recommending or approving any promotion of a PNP officer, both in rank and assignment, shall assess and evaluate the performance of said recommendee in the campaign against carnapping.

- All other NAPOLCOM issuances or portions thereof which are contrary to, or inconsistent herewith, are hereby modified or repealed accordingly.

This Memorandum Circular shall take effect fifteen (15) days from date of publication in a newspaper of general circulation and a copy of the same filed with the UP Law Center in consonance with the Administrative Code of 1987.

Adopted: 06 March 2003

(SGD.) JOSE D. LINA, JR.
Chairperson

(SGD.) LINDA L. MALENAB-HORNILLA
Commissioner
Officer-In-Charge

(SGD.) HERMOGENES E. EBDANE, JR.
Commissioner

(SGD.) CELIA V. SANIDAD-LEONES
Commissioner

Attested by:

(SGD.) ADELMALYN A. MUNIEZA
Acting Chief, Secretariat

[1] Sec. 2 RA 6539 or the Anti-Carnapping Act of 1972

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