

Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
Makati, Metro Manila

MEMORANDUM CIRCULAR NO. 92-013

PRESCRIBING THE GUIDELINES, RULES AND REGULATIONS
IN THE CONDUCT OF ARREST, DETENTION AND INVESTI-
GATION BY PNP AUTHORITIES

WHEREAS, it is a declared state policy enunciated under Section 11, Article II of the New Constitution to value the dignity of every human person and guarantee full respect for human rights;

WHEREAS, Section 12, Article III thereof, enumerates the rights of a person under investigation for the commission of an offense as well as prohibits certain acts that violate his human dignity to insure the full protection of said rights; and

WHEREAS, in consonance with the above constitutional mandate, Republic Act No. 7438 specifically defines the rights of a person arrested, detained or under custodial investigation to be safeguarded prescribes the duties of arresting, investigating and detaining authorities and provides the corresponding penalties for their violations.

NOW, THEREFORE, pursuant to the above-stated constitutional and statutory provisions, the following rules and regulations governing the conduct of arrest, investigation and detention of crime suspects by PNP personnel are hereby promulgated.

RULE I

RIGHTS OF PERSONS ARRESTED, DETAINED OR UNDER CUSTODIAL
INVESTIGATION

Section 1. Any person arrested, detained or under custodial investigation for the commission of an offense shall at all times be assisted by counsel and shall have the right to be informed of his right to remain silent and to have a competent and independent counsel, preferably of his own choice.

Section 2. Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel, otherwise such waiver shall be null and void and of no effect.

Section 3. Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him, otherwise such extrajudicial confession shall be inadmissible as evidence in any proceeding.

Section 4. Any person arrested or detained or under custodial investigation shall be allowed visits by or conference with any member of his immediate family, or any medical doctor or priest or religious

minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-government organization duly accredited by the Commission on Human Rights or by any international non-government organization duly accredited by the Office of the President. The person's immediate family shall include his or her spouse, fiance or fiancee, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

Section 5. No torture, force, violence, threat, intimidation, or any other means which vitiates the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

RULE II

DUTIES OF ARRESTING, DETAINING, AND INVESTIGATING OFFICERS

Section 1. Any public officer or employee, or anyone acting under his order or in his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to counsel. If such person cannot afford the services of counsel of his own choice, he must be provided by the investigating officer with a competent and independent counsel. Said counsel shall at all times be allowed to confer with the person arrested, detained or under custodial investigation.

Section 2. The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed or thumbmarked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person otherwise such investigation report shall be null and void and of no effect whatsoever.

Section 3. In the absence of any lawyer, no custodial investigation shall be conducted and the suspected person can only be detained by the investigating officer in accordance with the provisions of Article 125 of the Revised Penal Code.

Section 4. As used in this Circular "custodial investigation" shall include the practice of issuing an "invitation" to a person who is investigated in connection with an offense he is suspected to have committed without prejudice to the liability of the "inviting" officer for any violation of law.

RULE III

PENALTIES

Section 1. Any PNP member who violates any provision of this Circular shall be liable for Irregularity in the Performance of Duty, for which he may be charged administratively in accordance with NAPOLCOM Memorandum Circulars No. 91-002, No. 91-007, No. 91-008 and No. 92-006.

Section 2. Arresting public officer or employee, or any investigating officer who fails to inform any person arrested, detained or under custodial investigation of his right to remain silent and to have competent and independent counsel preferably of his own choice, may likewise be charged criminally for violation of Sec 4(a) of R. A. No. 7438, which provides a penalty of a fine of Six Thousand Pesos (₱6,000) or a penalty of imprisonment of not less than eight (8) years but not more than ten (10) years or both.

The same penalties shall be imposed upon a public officer or employee, or anyone acting upon orders of such investigating officer or in his place, who fails to provide a competent and independent counsel to a person arrested, detained or under custodial investigation for the commission of an offense, if the latter cannot afford the services of his own counsel, as provided for under Section 4(a), Republic Act No. 7438.

Section 2. Any person who obstructs, prevents or prohibits any lawyer, any member of the immediate family of a person arrested, detained or under custodial investigation, or any medical doctor or priest or religious minister chosen by him or by any of his immediate family or by his counsel from visiting and conferring privately with him, or from examining and treating him, or from ministering to his spiritual needs, at any hour of the day or in urgent cases, of the night shall suffer the penalty of imprisonment of not less than four (4) years nor more than six (6) years, and a fine of Four Thousand Pesos (P4,000), as provided for under Section 4(b) of Republic Act No. 7438.

Section 3. The provisions of the above Section notwithstanding, any security officer with custodial responsibility over any detainee or prisoner may undertake such reasonable measures as may be necessary to secure his safety and prevent his escape.

RULE IV

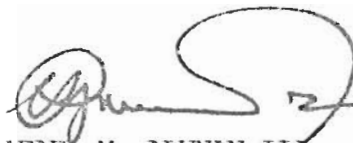
FINAL PROVISIONS

Section 1. Repealing Clause. All rules and regulations and other issuances, or portions thereof, inconsistent with this Memorandum Circular are hereby repealed or modified accordingly.

Section 2. Separability Clause. In the event that any of the provisions of this Circular is declared illegal, the validity of the other provisions shall not be affected by such declaration.

Section 3. Effectivity. This Memorandum Circular shall take effect upon approval.

APPROVED, this 26th day of November, 1992, at Makati, Metro Manila.



RAFAEL M. ALUNAN III
Secretary, DIIG and Chairman, NAPOICOM



GUILLERMO P. ENRIQUEZ, JR.
Commissioner




EDGAR DULA TORRES
Commissioner



FEDERICO S. COMANDANTE
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Attested by:



RYNALDO J.D. CUADERNO
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