

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

MEMORANDUM CIRCULAR NO. 94-021

AMENDING SEC. 1, 2 AND 5 RULE II OF NAPOLCOM
MEMORANDUM CIRCULAR NO. 92-006 DATED 6 AUGUST
1992, ENTITLED "RULES AND REGULATIONS IN THE
CONDUCT OF SUMMARY DISMISSAL PROCEEDINGS"

WHEREAS, NAPOLCOM Memorandum Circular No. 92-006 dated 06 August 1992, provides for the Rules and Regulations in the Conduct of Summary Dismissal Proceedings Against Erring PNP Members;

WHEREAS, there is a need to adopt measures designed to promote and facilitate the expedient disposition of cases against erring members of the PNP.

NOW, THEREFORE, this Commission in the exercise of its constitutionally vested power of administration and control over the PNP, has RESOLVED as it does HEREBY RESOLVE, that:

1. Section 1, Rule II, NAPOLCOM Memorandum Circular No. 92-006, dated 06 August 1992 is hereby amended to read:

Section 1. How Initiated. -- (a) Summary dismissal cases may be initiated by the Chief PNP, Regional Directors, the Director of the National Capital Regional Command (NCRC) in Metro Manila, Provincial/District Directors and Chiefs of Police through an Investigation/Official Report of the case against the PNP member concerned or upon written verified complaint of any person, supported by sworn statement/documents should there be any, forwarded to the Summary Dismissal Authority.

(b) Upon receipt of the investigation/official report of the case against the PNP concerned or of the written verified complaint of any person supported by sworn statements of witnesses and documentary evidence, if there is any, against a PNP member, the Summary Dismissal Authority or the duly designated summary hearing officer concerned shall determine whether the case/complaint falls within the purview of the next preceding section, otherwise, the same shall be referred to the proper disciplining office which has jurisdiction over the case.

(c) The Summary Dismissal Authority or the duly designated summary hearing officer shall likewise review the investigation/official report or the written verified complaint, as the case may be, to determine whether or not prima facie case exist.

Section 2. Who May Conduct Summary Dismissal Proceedings. The Chief, PNP, PNP Regional Directors and NCRC Director are the officials authorized to conduct summary dismissal proceedings. For this purpose, the Summary Dismissal Authority shall authorize and designate such number of Summary Hearing Officers to expedite disposition of cases.

RULE II

SUMMARY DISMISSAL PROCEEDINGS

Section 1. How initiated. - (a) Summary dismissal cases may be initiated by the Chief, PNP, Administrative and Operational Support Units Directors, PNP Regional Directors, the NCRC Director, Provincial/District Directors and Chiefs of Police through an Investigation/Official Report of the case against the PNP member concerned or upon written verified complaint of any person, supported by sworn statements/documents should there be any, forwarded to the Summary Dismissal Authority.

(b) Upon receipt of the investigation/official report of the case against the PNP member concerned or of the written verified complaint of any person supported by sworn statements of witnesses and documentary evidence, if there is any, against a PNP member, the Summary Dismissal Authority or the duly designated summary hearing officer concerned shall determine whether the case/complaint falls within the purview of the next proceeding section, otherwise, the same shall be referred to the proper disciplining office which has jurisdiction over the case.

(c) The Summary Dismissal Authority or the duly designated summary hearing officer shall likewise review the investigation/official report or the verified complaint, as the case may be, to determine whether or not prima facie case exist. If on the basis of such papers a prima facie case is found not to exist, the disciplining authority shall dismiss the case. If a prima facie case exists, he shall proceed with the summary dismissal investigation.

Section 2. Notification of Charges or Complaint; Order to Answer. - The respondent PNP member shall be furnished with a copy of the complaint or charges against him to include copies of affidavits and other attachments thereof, should there be any, and he shall answer said complaint within three (3) days from receipt thereof, enclosing therewith pertinent supporting documents or evidences in his

behalf. Within the next three (3) working days after receipt of respondent's answer, the summary dismissal authority shall conduct the hearing, which shall be terminated within three (3) successive working days from its commencement. Should the respondent, despite due notice, fail to answer the complaint or charges within the prescribed period, the summary dismissal authority shall immediately conduct the investigation ex-parte.

Section 3. - Causes for Summary Dismissal. - Any of the following can be a cause/reason for summary dismissal of any PNP member;

- A. When the charge is serious and the evidence of guilt is strong.

Heinous crime groups as enumerated and defined in Section 4 of Executive Order No. 3 dated 7 July 1992 wherein PNP members are involved shall always be considered serious offenses amounting to Grave Misconduct and, therefore, subject to immediate summary dismissal proceedings. Such offenses for purposes of summary dismissal investigation, shall include, but are not limited to, the following: murder, gunrunning, illegal logging, robbery, kidnapping for ransom, white slave trade, illegal recruitment, carnapping, smuggling, piracy, drug trafficking, falsification of land title and other government forms, large scale swindling, film piracy, counterfeiting, and bank frauds.

An organized/syndicated "crime group" means a group of two or more persons collaborating, confederating or mutually helping one another in the Commission of any crime.

A "heinous crime" is a grave felony as defined in the Revised Penalty Code, or an offense punishable under special law, committed in a manner that is revolting or shocking to the common sensibilities of man, whether deliberately sought or not, such as those attended by cruelty, ignominy, treachery, and similar circumstances,

- B. When the respondent is a recidivist or has been repeatedly charged and there are reasonable grounds to believe that he is guilty of the charges.

A "recidivist" refers to a member of the PNP who, having been previously penalized by any administrative body for an offense

involving the penalty of not less than three (3) months suspension or having been previously sentenced by a court for a crime involving the penalty of arresto mayor or above, has been administratively charged before the PLEB, the PNP Regional Director or the PNP Director General, of another offense and the latter, after conducting an initial investigation, has found the pending charge to be grave and there are reasonable grounds to believe that respondent is probably guilty thereof as to warrant the penalty of dismissal from the service.

"Repeatedly charged" refers to a member of the PNP who is administratively charged three (3) or more times, and the PLEB, the PNP Director or the PNP Regional Director, as the case may be, after conducting an initial investigation, has found all the charges to be grave and there are reasonable grounds to believe that respondent is probably guilty thereof as to warrant the penalty of dismissal from the service.

- C. When the respondent is guilty of Conduct Unbecoming of a Police Officer.

"Conduct unbecoming of a police officer" refers to any behavior or action of a PNP member, irrespective of rank, done in his official capacity, which, in dishonoring or otherwise disgracing himself as a PNP member, seriously compromises his character and standing as a gentleman in such a manner as to indicate his vitiated or corrupt state of moral character; it may also refer to acts or behavior of any PNP member in an unofficial or private capacity which, in dishonoring or disgracing himself personally as a gentleman, seriously compromises his position as a PNP member and exhibits himself as morally unworthy to remain as a member of the organization.

Under Sec. 42 (c) of RA No. 6975, the Summary Dismissal Authority concerned may, motu proprio, direct the conduct of summary dismissal proceedings, even in the absence of the complaining victim, if his notoriety or unbecoming conduct can be established by reliable testimonial, documentary or other relevant evidence.

Section 4. Hearing How Conducted. - Being summary in nature, direct examination of witnesses shall be dispensed with and the sworn statements of witnesses or their affidavits shall take the place of their oral testimony. Either party shall limit cross-examination to the sworn statements on hand. Cross-examination must be confined only to material and relevant matters. Prolonged arguments and other dilatory proceedings shall not be entertained. Insofar as may be compatible with the ends of justice, cross-examination shall be limited to not more than fifteen (15) minutes for each witness.

Section 5. Period to Render Decision. - Decisions in summary dismissal cases shall be rendered in writing and personally signed by the Summary Dismissal Authority within three (3) working days after the termination of the summary hearing.

Section 6. Contents of the Decision. - The decision shall contain the names of the parties, the offense charged, a brief statement of the material facts and the findings of the summary dismissal authority as well as the disposition thereof.

Section 7. Service of Decision. - The decision of the Summary Dismissal Authority shall be served either personally or by registered mail at his place of assignment or his last known address within three (3) days from rendition of said decision.

In all cases, proof of such service shall be attached to the records of the case for purposes of determining jurisdiction in case of appeal.

Section 8. Finality of Decision/Resolution. - The decision of the PNP Summary Dismissal Authorities imposing upon respondent a penalty of dismissal from the service shall be immediately executory. However, in the event that the respondent is exonerated on appeal, he shall be considered as having been under suspension during the pendency of the appeal, with entitlement to back salaries and allowances.

On the other hand, the decision of the Summary Dismissal Authorities imposing a penalty of demotion or forced resignation shall become final and executory after ten (10) days from receipt of a copy thereof by the respondent, if no proper Motion for Reconsideration is filed within said period. Only one (1) such Motion is allowed, which shall be resolved within three (3) days from the filing thereof.

Section 9. Records of Proceedings. - There shall be a summary record of proceedings, containing substantial account of each hearing certified as correct by the Summary Dismissal Hearing Officer.

RULE III

APPEALS

Section 1. Grounds for Appeal. - Should the Motion for Reconsideration be denied, an appeal may be filed by the respondent with the appropriate NAPOLCOM Appellate Board on any of the following grounds:

- a. That new and material evidence has been discovered which appellant could not, with reasonable diligence, have discovered and produced at the hearing, and which if presented would probably change the decision;
- b. That errors of law or irregularities have been committed during the investigation prejudicial to the substantial rights of the appellant;
- c. That the findings of fact of the disciplinary body are not supported by substantial evidence; or
- d. That the penalty imposed by the disciplinary body is not commensurate to the offense committed.

Section 2. Perfection of an Appeal. - An appeal shall be perfected by the respondent-appellant by filing and serving upon the PNP Summary Dismissal Authority a Notice of Appeal within ten (10) days from receipt of the decision/resolution subject of the appeal. Within three (3) working days from receipt of the Notice of Appeal, the PNP Summary Dismissal Authority concerned shall forward the entire original records of the case, duly numbered and initialed, and the exhibits properly marked, to include the summary record of proceedings to the NAPOLCOM appellate board concerned.

In no instance shall the records of the case hand carried to the RAB/NAB by any of the parties to the case.

Section 3. Period Within Which to Decide Appealed Cases; Finality of RAB/NAB Decision.

The NAPOLCOM appellate board concerned shall decide the appealed cases within sixty (60) days from receipt of the entire records of the case from the PNP summary dismissal

authority. However, failure of the NAPOLCOM Regional Appellate Board (RAB) to act on the appeal within said period renders the decision final and executory without prejudice to the filing of an appeal by the respondent appellant with the Secretary of the Department of the Interior and Local Government. The decision rendered by the NAPOLCOM National Appellate Board (NAB) disposing an appeal case shall be final and executory unless a timely Motion for Reconsideration is filed within ten (10) days from receipt thereof, in which case, it shall become final and executory upon receipt by the respondent-appellant of the resolution of the aforesaid Board denying, modifying or affirming the decision.

Section 4. Service of Decision. - Decisions, resolutions and orders promulgated by the RAB/NAB shall be referred to the proper FNP authorities for implementation and service to the parties affected.

Failure and/or refusal to serve and/or implement the aforesaid legal processes within three (3) days upon receipt thereof shall be a ground for disciplinary punishment for Less Grave Neglect of Duty under Sec. 2(B), of Napolcom MC 93-024, of the officer directed to serve the same.

RULE IV

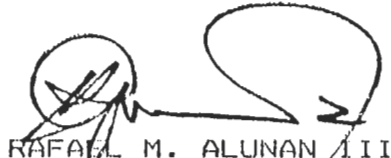
FINAL PROVISIONS

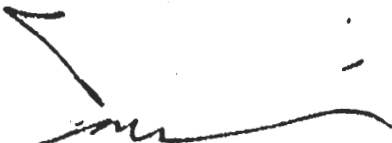
Section 1. Repealing Clause. - Memorandum Circular No. 92-006 series of 1992 and amended Circular No. 94-021 series of 1994 and all rules and regulations and other issuances, or portions thereof, inconsistent with this Memorandum Circular are hereby repealed or modified accordingly.

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 October 1994, at Makati, Metro Manila, Philippines.

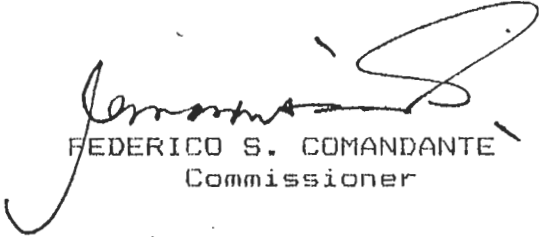

RAFAEL M. ALUNAN III
Secretary, DILG &
Chairman, NAPOLCOM



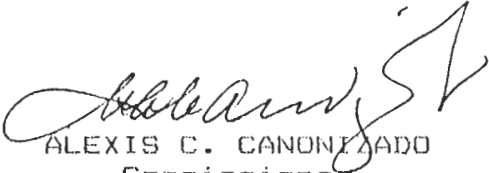
GUILKERMO P. ENRIQUEZ, JR.
Commissioner
Vice-Chairman & Executive Officer



EDGAR ONLA TORRES
Commissioner




FEDERICO S. COMANDANTE
Commissioner



ALEXIS C. CANONIZADO
Commissioner

Attested by:



REYNALDO J.D. CUADERNO
Deputy Executive Director IV

fn: mc92-006
LAS/RLC/appr
9-27-94