



MEMORANDUM CIRCULAR NO. 96-010

RULES AND REGULATIONS IN THE DISPOSITION OF ADMINISTRATIVE CASES INVOLVING PNP MEMBERS BEFORE THE PNP DISCIPLINARY AUTHORITIES

Pursuant to Sections 41 and 42 of Republic Act 6975, and in implementation thereof, the following rules and regulations are hereby promulgated:

A. GENERAL PROVISIONS

SECTION I. PURPOSE AND SCOPE

1.01. Purpose

To ensure guidance and uniformity in the conduct of summary hearings, the ensuing rules and regulations set forth the policies and specific procedures for strict compliance.

1.02. Scope

These rules and regulations cover the power, duties and responsibilities of the PNP Disciplinary Authorities as well as the right to administrative due process of both complainant/s and respondent/s in every administrative proceeding under Section 41 and Section 42 of Republic Act No. 6975.

SECTION II. DEFINITION OF TERMS

1.03. Complaint

Complaint is a written and sworn charge filed against respondent PNP member.

1.04. Answer

Answer means the responsive pleading containing the respondent's defense.

1.05. Affidavit

Affidavit refers to a sworn statement voluntarily made before a notary public or other officer authorized to administer oaths.

1.06. Breach of Internal Discipline

Breach of internal discipline refers to any offense committed by a member of the PNP involving and affecting order and discipline within the police organization.

1.07. Command/Unit Inspector

Command/Unit Inspector refers to the officer in charge of the PNP Inspectorate Service in the different Commands/National Support Units.

1.08. Complainant

- a. Private Complainant - any person, natural or juridical, who suffered injury, harm or disturbance through an act or omission attributable to a respondent PNP member
- b. Nominal Complainant - Any PNP officer who is required to institute and file charges by reason of his office or position.

1.09. Recidivist

When used in reference to administrative cases, the word "recidivist" imparts a broader connotation than its verbal meaning under our criminal statutes.

A "recidivist" refers to a policeman who, while facing administrative investigation before any of the PNP Disciplinary Authorities or whose case is pending decision thereat, shall have been previously penalized by any administrative body for an administrative offense involving the penalty of not less than three (3) months suspension or demotion in rank or previously sentenced by a court for a crime involving the penalty of arresto mayor or higher. It is not necessarily that the crime committed by the policeman concerned be embraced under the same Title of the Revised Penal Code as the term "Recidivist" is defined therein.

1.10. Repeatedly Charged

"Repeatedly Charged" refers to a policeman who is administratively or criminally charged three (3) times or more separate causes of action, the decision on all of which cases need not have become final and executory and the PNP Disciplinary Authority, after conducting a pre-charge investigation, has found all the charges to be grave and there is reasonable ground to believe that respondent is probably guilty thereof as to warrant the penalty of dismissal from the service.

1.11. Conduct Unbecoming of a Police Officer

"Conduct Unbecoming of a Police Officer" refers to any behavior or action of a policeman, irrespective of rank, done in his official capacity, which, in dishonoring or disgracing himself as a policeman, 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 an act or behavior of a policeman in an unofficial or private capacity which, in dishonoring or disgracing himself as a gentleman, seriously compromises his position as a member of the PNP and exhibits himself as morally unworthy to remain as a member of the police organization.

1.12. Heinous Crime

"Heinous Crime" refers to a grave felony as defined in the Revised Penal 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.

Heinous crimes and those committed by organized/syndicated crime groups as enumerated and defined in Section 4 of Executive Order No. 3 dated July 7, 1992, wherein PNP members are involved shall always be considered serious offenses. Such offenses, for purposes of summary proceedings shall include, but 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.

B. PNP DISCIPLINARY AUTHORITIES

SECTION I. JURISDICTION

2.01. Breach of Internal Discipline

Complaint on any breach of internal discipline under Section 41 of RA 6975 shall be brought before any of the following PNP Authorities vested with the corresponding administrative disciplinary authority:

a. Chief of Police	Equivalent Supervisors Officer-In-Charge of Police Station; District Commander; PNP Mobile Force	<u>Penalty</u> Admonition or reprimand; restriction to specified limits; withholding of privileges; forfeiture of any salary or suspension; or any combination thereof, for a period not exceeding fifteen (15) days.
b. Provincial Director	Commander, Regional Mobile Force Battalion; Commander, Regional Unit of Administrative and Operational National Support Units; Director, Police District Command	Admonition or reprimand restriction to specified limits; withholding of privileges; forfeiture of salary or suspension; or any combination of the foregoing: Provided, that in all cases, the total period shall not exceed thirty (30) days.

<p>c. Regional Director, including the Director of the NCRC, ARMM, CRECOM & CARAGA ADM. REGION</p>	<p>Director of PNP Administrative and Operational Support Unit</p>	<p>Admonition or reprimand; restriction to specified limits; withholding of privileges; suspension or forfeiture of salary or any combination of the foregoing: Provided, that, in all cases, the total period shall not exceed sixty (60) days. Dismissal from the service, demotion in rank and forced resignation may also be imposed.</p>
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2.02 Summary Dismissal Cases

Under Section 42, R.A. 6975, the following are the Summary Dismissal Authorities:

- a. The Chief, PNP
- b. The Regional Directors, including the Directors of NCRC, ARMM, CRECOM and the CARAGA Administrative Region.

Any of the following can be a cause for summary dismissal of any PNP member:

- a. When the charge is serious and the evidence of guilt is strong. This includes the following:
 1. Heinous crimes.
 2. Crimes committed by organized/syndicated groups wherein PNP members are involved.
 3. All serious offenses punishable under the Revised Penal Code and Special Laws.
- 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.
- c. When the respondent is guilty of Conduct Unbecoming of a Police Officer.

2.03. Presidential Appointees

Senior Superintendents and higher ranking officers whose appointments are vested in the President of the Philippines shall be investigated in accordance with these rules with prior clearance from the President; however, the Disciplinary Authority concerned shall not decide their cases, but shall submit the entire records, together with the corresponding Report of Investigation, to the Office of the President, through the NAPOLCOM, for evaluation and final disposition.

C. COMPLAINT

SECTION I. HOW INITIATED

3.01. **Complaint may be initiated by:**

- a. The Chief, PNP, the Administrative and Operational Support Unit Directors, the PNP Regional Directors, the Provincial/District Directors and Chiefs of Police through a complaint sheet supported by an Investigation/Official Report showing the acts or omissions allegedly committed by the PNP member concerned; or
- b. Upon sworn and verified complaint of any person, accompanied by sworn statements of witnesses and other evidence in support of the complaint.

SECTION II. NATURE AND CONTENTS OF THE COMPLAINT

2.02. The complaint shall be written in clear, simple and concise language as to apprise the PNP member concerned of the nature and cause of the charge/s against him to enable him to intelligently prepare his answer or any responsive pleading.

The complaint shall contain the following:

- a. Full name and address of the complainant.
- b. Full name, rank and station/assignment of the respondent.
- c. A narration of the relevant and material facts which show the acts or omissions constituting the offense allegedly committed by the PNP member concerned.

The complainant shall attach to the complaint the other documentary evidence in support thereof, if any.

SECTION III. PROHIBITION AGAINST MULTIPLE COMPLAINTS AND FORUM-SHOPPING

3.03. To avoid multiplicity of suits for the same cause of action, the complainant shall certify under oath in his pleading/complaint or document attached therewith, to the truth of the following facts and undertakings:

- a. That he has not filed or commenced any other action or proceeding involving the same issue with any other administrative disciplinary authority or forum;
- b. That to the best of his knowledge, no such action or proceeding is pending before any of said fora;

- c. That if there is any such action or proceeding which is either pending or may have been terminated, he must state the status thereof; and
- d. That if he should thereafter learn that a similar action or proceeding has been filed or is pending before any other administrative disciplinary authority, he undertakes to report that fact within five (5) days therefrom to the Disciplinary Authority wherein the original complaint or pleading has been filed. Any willfull and deliberate forum-shopping by the complainant to ensure favorable action as well as the inclusion of a false certification in connection thereof, shall be a basis to dismiss the complaint.

D. PRE-CHARGE INVESTIGATION

SECTION I. PROCEDURE

4.01. Within three (3) days from the receipt of the complaint, the Command/Unit Inspector, upon directive from the Disciplinary Authority concerned, shall conduct a preliminary inquiry/pre-charge investigation wherein both the complainant and the respondent and their witnesses, if any, shall be summoned to appear. Except for serious and valid reasons, failure on the part of the respondent to appear despite due notice, shall be a basis for the inquiry/investigation to proceed ex-parte. After the inquiry, the Command/Unit Inspector shall submit to the Disciplinary Authority concerned his Report of Investigation, together with his recommendation for either of the following actions:

- a. To dismiss the complaint for lack of jurisdiction and, thereafter, to refer the same to other disciplinary authority which has jurisdiction over the case.
- b. To dismiss the complaint for lack of probable cause, or.
- c. To order the formal investigation of the case after finding that probable cause exists against the respondent PNP member.

SECTION II. PREVENTIVE SUSPENSION

4.02. Grounds for Preventive Suspension

Based on finding of the existence of probable cause and upon recommendation of the Command/Unit Inspector, the proper Disciplinary Authority may preventively suspend the respondent PNP member pending formal investigation, under the following circumstances:

- a. That the administrative charge is serious.
- b. That although the charge is not serious, there is sufficient evidence to show that the respondent is harassing the complainant and/or his witnesses.

When the administrative case against the respondent PNP member under preventive suspension is not decided within the period of ninety (90) days from the date of his preventive suspension, he shall be automatically reinstated into the service.

SECTION III. - LIFTING OF PREVENTIVE SUSPENSION

4.03. Preventive Suspension may be lifted on any of the following grounds:

- a. For exigency of the service and upon recommendation of the immediate superior of the respondent PNP member.
- b. After the prosecution has rested its case.
- c. Failure to resolve the case within ninety (90) days.

E. SUMMARY HEARING

SECTION I. NOTIFICATION OF CHARGES/COMPLAINT ORDER TO ANSWER

5.01. After it has been determined from the results of the pre-charge investigation that the complaint is a proper subject of summary hearing, the respondent PNP member shall be furnished with a copy of the complaint or charges filed against him to include copies of affidavits of witnesses and other documents submitted by the complainant should there be any, and he shall be directed to submit an answer within five (5) days from receipt of the complaint, attaching therewith pertinent documents or evidence in support of his defense.

SECTION II. HEARING PROPER

5.02. If the respondent fails/refuses to file his answer within the period allowed under these Rules, he shall be deemed to have entered a plea of general denial of the charge.

5.03. Within five (5) working days after receipt of respondent's answer or expiration of the period to answer, the Disciplinary Authority concerned or his duly designated Summary

Hearing Officer, Board or Committee, shall conduct the hearing on the case which shall be terminated within five (5) successive working days from its commencement. Should the respondent, despite due notice, fail to appear during the scheduled hearing, such failure shall be considered as a waiver of his right to testify and the Summary Hearing Officer shall conduct the hearing ex-parte. However, the proceedings being fact-finding, it is incumbent upon the Summary Hearing Officer concerned to propound questions, interrogate witnesses and examine material and relevant evidence in order to establish the truth on the issues raised and to arrive at a fair, just and adequate conclusion.

5.04. Failure of the complainant to appear during the scheduled hearing despite due notice, shall be a sufficient ground to dismiss the complaint for failure to prosecute where the culpability of the respondent cannot be established without the testimony of the complainant. If the culpability of the respondent can be proved by evidence other than the testimony of the complainant, his non-appearance shall not be a ground to terminate the proceedings.

5.05. 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 subject to cross-examination. 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.

5.06. The parties/witnesses shall be summoned to appear on the dates set for the summary hearings. Postponement of hearing shall not be allowed, except for meritorious grounds.

SECTION II - PERIOD TO RENDER DECISION

5.07. The Disciplinary Authority concerned shall render his Decision in writing and personally signed by him within ten (10) days after termination of the summary hearing.

SECTION III - CONTENTS OF THE DECISION

5.08. The decision shall contain the names of the parties, the offense charged, a brief statement of the material and relevant facts, the findings and conclusion, the applicable laws, rules and regulations obtaining in the case and the disposition thereof.

SECTION IV - SERVICE OF DECISION

5.09. The decision of the Disciplinary Authority shall be served either personally or by registered mail at respondent's place of assignment or at his last known address within three (3) days from rendition thereof.

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 V - FINALITY OF DECISION

5.10. A decision of the Disciplinary Authority 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 preventive suspension during the pendency of the appeal and shall be reinstated in the service with entitlement to back salaries and allowances.

On the other hand, a decision of the Disciplinary Authority imposing a penalty of demotion in rank or forced resignation shall become final and executory after ten (10) days from receipt of a copy thereof by the respondent, if no 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 VI - RECORDS OF PROCEEDINGS

5.11. There shall be a record of proceedings, containing a substantial account of each hearing certified to as correct by the Summary Hearing Officer.

SECTION VII - MOTION FOR RECONSIDERATION

5.12. Either party may file a motion for reconsideration on the adverse Decision rendered by the Disciplinary Authority within ten (10) days from receipt of a copy of the Decision. Only one (1) motion for reconsideration is allowed which shall be resolved within five days from the filing thereof.

F. APPEALS

SECTION I - GROUND FOR APPEAL

6.01. Should the Motion for Reconsideration be denied, or if no such motion is filed, the respondent may file an appeal with the appropriate NAPOLCOM Appellate Board on 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 hearing prejudicial to the substantial rights of the appellant;
- c. That the findings of fact of the Disciplinary Authority are not supported by substantial evidence; or
- d. That the penalty imposed is not commensurate to the offense committed.

SECTION II - PERFECTION OF APPEAL

6.02. An appeal shall be perfected by the respondent by filing and serving upon the Disciplinary 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 deciding Disciplinary Authority concerned shall forward the entire 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.

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

SECTION III - PERIOD TO DECIDE APPEAL

6.03. The NAPOLCOM Appellate Board concerned shall decide the appeal within sixty (60) days after receipt of the entire records of the case from the deciding Disciplinary Authority. However, failure of the NAPOLCOM Regional Appellate Board (RAB) to decide the appeal within said period renders the decision final and executory without prejudice to the filing of an appeal by the respondent with the Secretary of the Interior and Local Government. The decision rendered by the NAPOLCOM National Appellate Board (NAB) disposing an appealed 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 Board on the motion for reconsideration.

SECTION IV - SERVICE OF DECISION

6.04. Decisions, resolutions or orders promulgated by the RAB/NAB shall be referred to the proper PNP Authorities for implementation by personal service or by registered mail 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 considered as an administrative offense subject to disciplinary punishment for serious Neglect of Duty/Insubordination.

**G. JURISDICTION OF THE NAPOLCOM
APPELLATE BOARDS**

SECTION I - NAPOLCOM NATIONAL APPELLATE BOARDS

7.01. The NAPOLCOM National Appellate Boards shall have jurisdiction over appeals from the decision of the Chief, PNP under Sec. 81 and Sec. 42 of RA 6975, if the penalty imposed is dismissal from the service, forced resignation or demotion in rank.

7.02. The NAPOLCOM Regional Appellate Boards shall have jurisdiction over the decisions of the Mayor, regardless of penalty and over decisions of the PNP Regional Directors and equivalent supervisors under Section 41 and Section 42 of RA 6975 as well as those of the PLEBS, if the penalty imposed is dismissal from the service, forced resignation or demotion in rank.

SECTION II - DROPPING FROM THE ROLLS

Dropping from the rolls when resorted to by the Summary Dismissal Authority as a mode of separating/terminating the service of a PNP member shall be appealable to the Commission within ten (10) days from receipt of the order/resolution dropping him from the rolls.

H. FINAL PROVISIONS

SECTION I - REPEALING CLAUSE

8.01. Memorandum Circular No. 92-006 series of 1992 as amended by Circular No. 94-021 and Circular No. 94-022 series of 1994 and all rules and regulations and other issuances, or portions thereof, inconsistent with this Memorandum Circular are deemed superseded or modified accordingly.


SECTION II - SEPARABILITY CLAUSE


8.02. In the event that any of the provisions of this Circular is declared legally unenforceable, the validity of the other provisions shall not be affected by such declaration.

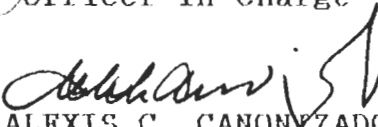
SECTION III - EFFECTIVITY

8.03. This Memorandum Circular shall take effect upon approval.


APPROVED, this 31st day of July, 1996, at Makati City, Philippines.


ROBERT Z. BARBERS
Secretary, DILG and
Chairman, NAPOLCOM


EDGAR DUSA TORRES
Commissioner
Officer-In-Charge


ALEXIS C. CANONIZADO
Commissioner

Attested by:


REYNALDO JD CUADERNO
Deputy Executive Director IV