

[MEMORANDUM CIRCULAR NO. 2018-027, July 12, 2018]

GUIDELINES AND PROCEDURES IN THE MANAGEMENT AND SUPERVISION OF ALL PNP CUSTODIAL FACILITIES AND PERSONS UNDER PNP CUSTODY

Adopted: 28 June 2018

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1. REFERENCES:

- a. Republic Act (R.A.) No. 10353, the Anti-Enforced Disappearance Act of 2012;
- b. Republic Act (R.A.) No. 9745, the Anti-Torture Act of 2009;
- c. UN Convention Against Torture;
- d. PNP Guidebook on Human Rights-Based Policing;
- e. LOI 55/07 "PAMANA" (PNP Human Rights Development Program);
- f. PNP P.A.T.R.O.L. Plan 2030;
- g. Directorate for Comptrollership Fiscal Directive No. 2017-09;
- h. Memorandum from the C, PNP dated August 1, 2015 with subject, "Use of the Term Custodial Facility Instead of Detention Facility";
- i. Memorandum from the Directorate for Investigation and Detective Management (DIDM) dated May 16, 2017 with subject, "Reiteration of the Policies and Guidelines in the Inventory and Investigation of Custodial Facilities";
- j. Memorandum from OIC, Human Rights Affairs Office dated May 4, 2017, with subject, "Reiteration re: Nationwide Inventory and Inspection of PNP Custodial Facilities"
- k. PNP Memorandum Circular No. 42-2016 with subject, "Duties and Responsibilities of Police Human Rights Officers in the Conduct of Inspection of Custodial Facilities";
- l. Memorandum from C, HRAO dated February 11, 2014 with subject, "Addendum to the Submission of Inventory of Detention Facilities";
- m. Memorandum from DIDM dated May 16, 2013 with subject, "Salient Provisions of RA 10353 and its IRR, and Duties of PNP Personnel in Relation thereto";
- n. Memorandum from Chief, PNP dated November 4, 2008 re: Inspection of Custodial Facilities; and
- o. 3-Day DIDM Policy Workshop dated December 6-8, 2017 at DIDM Conference Room, 4th Floor, National Headquarters, Camp Crame, Quezon City.

2. RATIONALE:

This PNP Memorandum Circular (MC) provides the comprehensive guidelines and procedures in the management and supervision of PNP Custodial Facilities and persons under PNP custody (PUPCs) in all Philippine National Police (PNP) units.

3. SITUATION:

For the past months, series of incidents and concerns were mounting in the eyes of the public in relation to the current situation in all custodial facilities of the PNP and persons under police custody. The PNP was once again in the headlines for cases involving its personnel violating the rights of a person under their custody. As a corresponding effect, other related concerns sprouted and intensified by the public including issues on torture, police brutality, congested custodial facilities, poor ventilation and shortage on basic necessities of persons under custody.

In response, this MC was formulated to ensure that the abovementioned incidents will not happen again. The guidelines shall include identification of accountable persons to focus on the necessities of persons under police custody, the maintenance of the custodial facilities, and to ensure that the condition of all PNP custodial facilities is humane and in accordance with the requirements of the Human Rights Affairs Office (HRAO), and that the accepted and agreed International Human Rights, which the PNP is a part of, are being followed.

HRAO identified all violations and other lacking requirements on the ideal condition of custodial facilities that are present in most of our police offices/units nationwide. These reports were properly filed but the necessary actions to take are not met due to the limitations on the part of HRAO. One example relating to this is their findings that most of custodial facilities/centers are improperly ventilated, congested; and persons under custody are lacking in their basic needs particularly on food. Since the capacity of HRAO is limited on reporting and endorsing the concerns to the respective offices, the releasing of all budgetary requirements needed to address the aforementioned concerns were not granted.

Another point taken into consideration is the designation of police personnel who oversee the custodial facilities/centers. Identifying such responsibility will prevent adverse incidents involving police personnel participating in doing unlawful acts. At present, all designated police personnel who monitor the facilities/center are called "jailers" who are sometimes the desk officer holding a concurrent function as a "jailer" or any personnel designated from different sections like Admin, Operations, among others. However, these "jailers" do not have clear responsibilities and proper trainings relative to their assigned tasks. Further, these police officers should not be called as "jailers" as jailers' duties fall under the responsibilities of the Bureau of Jail Management and Penology (BJMP).

4. PURPOSE:

To set guidelines and procedures for PNP custodial officers in ensuring that persons under PNP custody are humanely taken care of according to the standards of the International Human Rights adopted by the Philippines and recognized by the PNP.

In essence, the implementation of a policy for the management and supervision of PNP custodial facilities and persons in custody under the DIDM is geared towards efficient police service, specifically to:

- a. Standardize guidelines and procedures; and

- b. Ensure that the PNP is compliant with the Human Rights requirements.

5. DEFINITION OF TERMS:

- a. **Authorized Visitor** - shall be the PUPC's immediate family member, lawyer, spiritual adviser, government authorities, and anyone whose request for visit has been granted by the Chief, PNP.
- b. **Contraband** - refers to property that is illegal to possess or transport. It may be goods that are illegal to import or export and are attempted to be smuggled into a country.
- c. **Custodial Facilities** - formerly known as "detention facilities," are facilities within PNP premises that are used to hold arrested persons under custodial investigation.
- d. **Chief, Custodial Facility** - shall be the head of offices, units or stations.
- e. **Custodial Supervisor** - shall be the head of the investigation unit or section.
- f. **Persons under PNP Custody (PUPC)** - formerly known as "detainees," are persons who are being held by the PNP in its custodial facilities who were arrested for an offense or previous violation of law.
- g. **PNP Custodial Officer** - formerly known as "jailer," who is responsible for the overall status of a person in custody.
- h. **Human Rights Affairs Office** - is the office responsible for the integration of PNP efforts and develop systematic, holistic implementation of human rights programs and activities; reviewing, formulation and recommendation of human rights policies and programs including administrative and legal measures on human rights; monitoring investigation and legal/judicial processes related to human rights violations; undertaking information campaign on PNP human rights initiatives; and establishing links with concerned agencies involved in handling HRV cases vs PNP personnel.
- i. **Investigator on Case (IOC)** - refers to any police officer who is duly designated or assigned to conduct the inquiry of the crime by following a systematic set of procedures and methodologies for the purpose of identifying witnesses, gathering and recovering evidence, arresting the perpetrators and filing of criminal cases. It is the person in charge of investigation for a specific case.

6. GUIDELINES:

- a. The head of the PNP office/unit/station with custodial facility shall be the chief of the custodial facility;
- b. The chief of investigation section/office in all PNP Units shall act as the overall custodial supervisor of all PUPCs. The same shall designate responsible Custodial Officers from their respective Investigation Office/Unit/ Station to further supervise PUPCs and who shall ensure that said persons are all in good condition;
- c. All Heads of Offices or Stations shall account the PUPCs daily and maintain a

monitoring system of PUPCs that shall be updated regularly;

d. All Heads of Offices or Stations shall ensure that their respective custodial facilities are in compliance with the appropriate specifications in coordination with the HRAO. They must ensure that all custodial facilities are properly maintained and that the necessities of persons under PNP custodial facilities are met. They shall coordinate with their respective Local Government Units for its support in the maintenance of their respective custodial facilities;

e. All Heads of Offices/Stations maintaining PNP custodial facilities shall course their request to DIDM for the issuance of the subsistence allowance of PUPCs. In like manner, the DIDM shall ensure that subsistence allowance for persons under PNP custody is properly allocated in accordance with DC policies and procedures;

f. All Heads of Offices and designated Responsible Custodial Officers shall conduct regular inspection of their respective Custodial Facilities to assure proper management of said facility and prevent/eradicate the presence of all kinds of contrabands;

g. All PNP personnel chosen to man the PNP Custodial Facilities must:

1) Be detailed for duty on rotation basis but only designated personnel on duty shall have the custody of the key;

2) Undergo a regular seminar/workshop on Human Rights and other trainings relevant to jail management; and

3) Undergo a regular extensive background and lifestyle check.

h. The PNP Custodial Facilities are only used as temporary custodial facilities for persons under custodial investigation;

i. There shall be a separate custodial facility for men and women. Female PUPCs shall be confined in a facility separate from those used for males. However, in case of area limitations, Custodial Officers and Personnel shall endeavor to provide the best arrangement they can make for such PUPCs in keeping with this rule;

j. Authorized visitors may be allowed access only at designated visitors area during the following visiting schedules: on Tuesdays to Fridays: 1:00 PM - 5:00 PM and on Saturdays and Sundays: 8:00 AM to 12:00 NN and 1:00 PM to 5:00 PM;

k. PUPCs manifesting signs and symptoms of mental illness must be referred to a PNP Health Service (PNP-HS) psychiatrist for evaluation and treatment;

I. PUPCs with disability (PWD) and Senior Citizens should be closely monitored to protect them against maltreatment and any form of abuse by other PUPCs, personnel and visitors;

m. Pregnant PUPCs must be referred to a PNP-HS physician or nurse for pre- natal examination and regular checkups. In case of active labor, pregnant inmates shall be transferred to the nearest government hospital;