

**[PNP MEMORANDUM CIRCULAR NO. 2014-016,
May 30, 2014]**

E-SUBPOENA SYSTEM

Adopted: 30 May 2014

Date Filed: 04 June 2014

1. REFERENCES:

- a. After Activity Report re JSCC TWG Meeting on April 7, 2014;
- b. Memorandum from TADIDM dated September 5, 2013 with subject "Proposed e-Subpoena System" which was approved by the Chief, PNP on September 23, 2013;
- c. PNP MC Number 2008-0801-003 dated August 1, 2008 entitled Uniform Guidelines in the service of Subpoena and other Legal Processes issued by the courts, tribunals, administrative and quasi-judicial bodies;
- d. NAPOLCOM MC No. 2007-001;
- e. Section 91 and 92 of RA 9165; and
- f. Section 26 of RA 6975 as amended.

2. RATIONALE:

The Philippine National Police receives various types of subpoena from different court tribunals, administrative and quasi-judicial bodies nationwide which require PNP personnel to attend and testify at the hearing or trial of a criminal or administrative case. Most of the time, these subpoenas do not reach concerned PNP personnel on time causing delay or cancellation in court proceedings.

Further, various courts have difficulty in monitoring the compliances and actions taken by the police personnel regarding specific instructions to the detriment of the case. On the part of the PNP, it could hardly monitor the attendance of its personnel in court hearings, which resulted in dismissal of the cases.

During the Justice Sector Coordinating Council (JSCC) Meeting in July 2013 at the Supreme Court, it was revealed that one of the primary reasons of the dismissal of criminal cases is the non-appearance of the police-witness/ apprehending officer during the trial. These occurrences clearly run counter to the desire of the Chief, PNP to increase crime conviction rate.

In order to preclude the dismissal of cases due to non-appearance of concerned police officers, the e-Subpoena System, which is a web-based information system that facilitates issuances, expedites the transmittal of the subpoena from the court to the concerned police officers and monitors their compliance, was conceptualized.

The utilization of this System will reduce various administrative costs and will promote timely delivery of subpoenas, reduce the use of paper, provide immediate

response, give faster and better feedback for the Court's appreciation for possible rescheduling of court hearings in case of cancellation.

3. PURPOSE:

This PNP Memorandum Circular (MC) provides the policy guidelines on the actions to be undertaken by the police to ensure the delivery of subpoena to concerned personnel and monitor their faithful compliance with the court orders.

4. DEFINITION OF TERMS:

For purposes of uniformity, the following terms will be operationally defined and used:

- a. **Bench Warrant** - a process issued by the court for the arrest of persons to compel their attendance in court, to answer a charge of contempt or for failure of a witness to comply with a subpoena which had been duly served.
- b. **Court Administrator** - is the person from the court who is primarily responsible in overseeing and supervising the encoding of all subpoena to the database.
- c. **Legal Processes** - is the means used by a court, tribunal or investigating body to compel obedience of its mandate.
- d. **e-Subpoena** - is a web based system that will facilitate the expeditious and timely delivery of subpoena issued by the courts to concerned PNP personnel, who are named in the subpoena pertaining to a criminal case.
- e. **PNP System Administrator** - refers to the personnel of the Information and Technology Division of the DIDM who is responsible in the provision of usernames and passwords for the system and the day to day maintenance and upkeep of the System.
- f. **Service** - the execution of processes or writ to the person against whom it is directed.
- g. **Court Process Section (CPS), CMD** - refers to the section in the Case Monitoring Division of the DIDM which is responsible in monitoring the subpoenas being entered in the System and taking appropriate action on forwarded subpoenas in cases where the unit assignment of the recipient of subpoena cannot be ascertained. In the Police Regional Offices (PROs), National Support Units (NSUs), District Police Offices (DPOs) of the National Capital Region Police Office (NCRPO), Police Provincial Offices (PPOs), City Police Offices (CPOs) and Police Stations (PSs), the CPS shall be under the Investigation Section/Branch as the case maybe.
- h. **Court Process Officer** - PNP personnel who shall be responsible for the service of subpoena and other legal processes issued by the courts, tribunals, administrative and quasi-judicial bodies to ensure timely delivery of such processes to the personnel concerned. There shall be two Court Process Officers in all Police Offices/Units: the Subpoena Court Process Officer (SCPO) and the Warrant Court Process Officer (WCPO).
- i. **Subpoena Court Process Officer (SCPO)** - shall be responsible for the service of subpoena and timely delivery of such to personnel concerned. The SCPO shall also ensure that subpoenas are

acknowledged in the e-Subpoena System. For PSs, the SCPO shall preferably be a Non-Uniformed Personnel (NUP) or a Police Officer with a rank of at least PO3. For PROs, NSUs, OPOs, PPOs and CPOs, the SCPO shall be a Police Commissioned Officer (PCO).

- j. **Proof of Service** - is a written statement under oath made by the SCPO that shall set forth the manner, place and date of service. It shall specify the papers which had been served with the process and the name of the person who received the same.
- k. **Key Responsible Officers** - include the Subpoena Court Process Officer (SCPOs) of all Police Offices/ Units; Chiefs of Investigation of PROs, NSUs, DPOs, PPOs, CPOs and PSs; and Chiefs of Police and Station Commanders.
- l. **Subpoena Ad Testificandum** - a process directed to persons requiring them to attend and to testify at the hearing or the trial of an action, or at any investigation.
- m. **Subpoena Duces Tecum** -a process directed to persons requiring them to appear before a court and bring with him any books, documents or other things under their control.

5. GUIDELINES:

a. Policy

The implementation of the e-Subpoena shall be guided by the following policies and principles:

- a.1 The service of subpoena is part and parcel of due process; hence, it is imperative that PNP personnel, who may be given the obligation to fulfill this function, must see to it that they are served and complied with efficiency at the soonest possible time.
- a.2 The PNP shall contribute to the maintenance of the rule of law by seeing to it that those who are required by the courts, administrative, and quasijudicial bodies to appear, whether as a witness or not, are informed and notified accordingly.
- a.3 All police offices, from the lowest Police Station up to the Police Regional Office, as well as the National Support Units, both administrative and operational, and the different Directorial Staffs in the National Headquarters shall have a Subpoena Court Process Officer (SCPO) and a separate Warrant Court Process Officer. In the National Headquarters, the Case Monitoring Division (CMD) of the DIDM shall be designated as the central repository of subpoena and other legal processes issued by the courts, tribunals, administrative, and other quasi-judicial bodies. The Chief of the Court Process Section of the Case Monitoring Division (CMD) of DIDM shall be designated as the CPO of NHQ PNP. The Information Technology Management Service (ITMS) shall provide IT personnel to be detailed at the CPS Section, CMD for the day to day maintenance and upkeep of the system.
- a.4 The timely service of subpoena and other legal processes issued by the courts, tribunals, administrative, and other quasi-judicial bodies shall be the responsibility of Key Responsible Officers.
- a.5 The failure of the SCPO to perform an obligation as herein provided

shall not be a sole liability but, as may be warranted by evidence, affect the immediate superior officer as well.

- a.6 The police officer/s named in the subpoena and other legal processes issued by the court, tribunal, administrative, and other quasi-judicial bodies shall comply in good faith with the directives therein. Failure to appear and/or testify as directed is tantamount to Serious Neglect of Duty pursuant to NAPOLCOM MC No. 2007-001.
- a.7 Any PNP personnel who, in the performance of duties becomes a prosecution witness, shall not be allowed to transfer to any other unit outside of the jurisdiction of the present unit during the pendency of the case/s.
- a.8 In case the transfer cannot be avoided due to exigency of the service, the SCPO shall inform the court, tribunal, administrative, and other quasi-judicial bodies, as the case may be, of the police witness' transfer with the corresponding request for the transmittal of all court processes to the new unit assignment of the police witness/es.
- a.9 Personnel who handle or are witnesses in several cases shall inform the SCPO of any conflict in their scheduled appearances/hearings. Consequently, the SCPO shall notify the tribunal, administrative, and other quasi-judicial bodies concerned of such conflict in order to avoid failure on the part of the concerned personnel to attend and testify in any of said cases.

b. General

The PNP shall use its Database particularly its website identified as "esubpoena.pnp.gov.ph" in serving subpoenas to police officers appearing or named as witnesses in criminal cases through the e-Subpoena System.

- b.1 The Courts will electronically issue, through the e-Subpoena System, various subpoenas to particular PNP offices. It shall be the primary responsibility of the SCPO in every Police Office/Unit to inform concerned PNP personnel, make them acknowledge the issued subpoena, and ensure their attendance in court.
- b.2 The PNP System Administrator shall assign the usernames and passwords which are unique for each police station nationwide that will be given access to the e-Subpoena database. As far as practicable, the username, once assigned to a police station shall not be subject to change. Any change in the password, which will be provided by concerned police station would be allowed only when there is change in the station's SCPO who is designated to monitor issued subpoenas to police officers through the e-Subpoena System. The Head of Office/Unit shall be responsible for the proper use of the username and password assigned to them.
- b.3 Upon receiving the subpoena from the Court, the SCPO shall locate concerned PNP personnel and direct them to report to the station/office to receive the subpoena either through their email account or in printed copy. As such, Police personnel shall acknowledge that they have received the subpoena by signing in the logbook provided by the SCPO as proof of their receipt.

- b.4 In case PNP personnel cannot personally receive the subpoena due to exigency of service, they may issue a Letter of Authorization addressed to the SCPO authorizing their colleague to receive the subpoena on their behalf. The said Letter of Authorization shall serve as the proof of service of subpoena to the concerned PNP personnel.
- b.5 Apart from personal delivery of the subpoena, it may be sent through electronic mail upon the request of concerned personnel. However, police personnel concerned shall acknowledge that they have received the subpoena by signing in the logbook of the SCPO as proof of receipt.
- b.6 The SCPO shall maintain a logbook which records all subpoenas received by PNP personnel assigned in the station/office indicating the name of police personnel, date of receipt, schedule of hearing/appearance, name of presiding judge, court venue and reason/justification in case of absence.
- b.7 In cases where the police personnel failed to appear in court without reasonable excuse, the SCPO shall immediately inform the Chief of Police/Head of Office recommending further the conduct of a Pre-Charge Evaluation and Investigation against subject police personnel.
- b.8 The SCPO, through the Investigator-on-Case, shall likewise direct the police witnesses assigned in other NSUs to report to the station/office to receive the subpoena by signing in the logbook as a proof of his receipt. These police personnel are those who participated in the conduct of operation and those responsible in the case build-up and preparation on the filing of case in the court.
- b.9 The police stations, through the SCPO and/or PNP National Headquarters through the DIDM, shall give feedback on the availability or non availability of the police officer concerned within three working days from receipt thereof. Otherwise, any feedback regarding the concerned police officer shall be disclosed during the scheduled hearing of the case as indicated in the Subpoena Form.

c. Procedural

- c.1 The court through the Office of the Court Administrator shall designate its court personnel which will be tasked to send subpoenas through the e-Subpoena System by accessing into the Database of the PNP.
- c.2 The assigned court personnel shall enter the details regarding a subpoena to be issued to police offices in the Database of the PNP using the computer-generated form known as e-Subpoena Form, which was prepared for the purpose. The e-Subpoena Form is sent by the assigned court personnel at least five days before the scheduled hearing of the case, or within one day from the order of the court for the service of subpoena duces tecum or subpoena ad testificandum.
- c.3 In the event that the server or the website of the PNP is down and access into the Database cannot be done, the service of the subpoena shall be coursed through the email address of the police