

[NPC MEMORANDUM CIRCULAR NO. 96-010, July 31, 1996]

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

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

1.05 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 — 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 — 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 policemen concerned be embraced under the same Title of the Revised Penal Code as the term Recidivist is defined therein.

1.10 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 — 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 — 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:

	Equivalent Supervisors	Penalty
a) Chief of Police	Officer-in-Charge of Police Station; District Commander; PNP Mobile Force	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.
c) Regional Director including the Director of the NCRC, ARMM CRECOM & CARAGA ADM REGION	Director of PNP Administrative and Operational Support Unit	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.

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, 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 3.02 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 willful 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 the 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: