

**[LTO MEMORANDUM CIRCULAR NO. 544-2004,
September 15, 2004]**

**GUIDELINES IN THE ADJUDICATION OF APPREHENSION CASES
IN ALL LTO OFFICES**

Rule I

Declaration of Policy and Jurisdiction

SECTION 1: Declaration of Policy

It is a declared policy of the Land Transportation Office to protect the interest of the government, the transacting public, and the transportation industry.

SECTION 2: Jurisdiction

These rules are promulgated pursuant to the pertinent provisions of Republic Act 4136 as amended, Executive Order 125-A, Executive Order 266, Memorandum Circular 89-105, Department Order 93-693 and Memorandum Circular 515.

Rule II

Title and Construction

SECTION 1: Title

These rules shall be known as the Guidelines in the Adjudication of Apprehension Cases in all LTO offices.

SECTION 2: Construction

These rules shall be liberally construed to promote public interest and to assist the parties in obtaining just, speedy, and inexpensive determination of every case or proceeding in the Traffic Adjudication Service (TAS), Central Office or LTO regional/district offices.

SECTION 3: Nature of Proceeding

Proceedings in the Traffic Adjudication Service, Central Office, or LTO regional/district offices shall be summary in nature. The technicalities obtaining in regular courts shall not be strictly applied provided that due process shall always be observed. The provisions of the Rules of Court shall be supplementary in character.

Rule III Parties

SECTION 1: Complainant

The Apprehending Officer or the person issuing the Temporary Operators Permit (TOP) or Apprehension Report charging another for violation of land transportation laws, rules and regulations, or related issuances or any person filing the same shall be called the complainant.

SECTION 2: Respondent

The person against whom the complaint for violation of land transportation laws, rules, and regulations or related issuances is filed by the issuance of Temporary Operators Permit (TOP) or apprehension report shall be called the respondent.

SECTION 3: Intervenor

Any person who claims an adverse right or interest to any apprehension case or confiscated item as a result of a violation of land transportation laws, rules, and regulations or other related issuances, other than the driver and/or operator shall be called the intervenor.

Rule IV Classification of Apprehension Cases

SECTION 1: Litigable Apprehension Cases

Refers to violations cited in the Temporary Operator's Permit (TOP) or apprehension report which are contested by the respondent, and the determination of which cannot be resolved without a hearing in which all the parties, namely, the complainant, the respondent and or the intervenor, or their respective authorized representatives or counsels, shall be allowed to present their evidences, under oath. Said hearing shall be conducted by the Traffic Adjudication Service (TAS) Central Office, or in the case of the regional offices, by the regional directors, or their authorized representatives, respectively.

These proceedings shall be considered as administrative in nature, and partakes of the quasi judicial functions of the above-mentioned officials of LTO.

SECTION 2: Non-litigable Apprehension Cases

Non-litigable apprehension cases refer to apprehensions which are admitted by the violator. In all non-litigable apprehension cases, the adjudication officer shall compute the proper fines and penalties based on the citations in the TOP and the schedule of fines and penalties authorized by the Office.

SECTION 3: Classifications of Non-Litigable Offenses

- a) Cases which are readily admitted by the respondent during office hours, under oath before the Hearing Officer;
- b) Cases which can be determined or resolved by the mere presentation of original and authenticated documents or certified true copies of the original and authenticated documents or certified true copies of the same provided that the presentation is made under oath, during office hours, before the Hearing Officer;
- c) Notations in the same TOP or Apprehension Report which are intended to describe any violation already mentioned therein;
- d) Cases which are covered, included, absorbed, interrelated, component part or mere duplication of any other violation already mentioned in the same TOP or Apprehension Report, the determination of which needs no further proceeding.

Rule V

Commencement of Action, Contents of Top or Apprehension Report, Grounds for Dismissal of an Apprehension Case, Duties of TAS Central Office, Administrative/Records Officer or Responsible Personnel of the Regional/District Offices and Assignment
/Raffle of Cases and Service of Summons

SECTION 1: Commencement of Action

An action in an apprehension case is deemed commenced upon receipt of a copy of the Top or Apprehension Report by the TAS or the regional/district office, and upon appearance of the respondent or his duly authorized representative or counsel before the designated hearing officer.

SECTION 2: Contents of Temporary Operator's Permit or Apprehension Report

- a) Name and address of the respondent;
- b) The violation/s charged against the respondent;
- c) The motor vehicle plate number and license number of the driver;
- d) The name and address/office of the apprehending officer where he may be served with summons;
- e) Signature of the apprehending officer;
- f) Other information/s necessary to clarify the violation/s charged against the respondent.

SECTION 3: Grounds for Dismissal of an Apprehension Case

The TAS Director, Central Office or Regional Director upon consideration of the contents of the Temporary Operators Permit (T.O.P.) or Apprehension Report may dismiss a violation on the following grounds:

- a) When the respondent is able to present original and authentic pertinent documents controverting the violations cited;
- b) Lack of jurisdiction;
- c) Failure or refusal of the apprehending officer or designated prosecutor to prosecute traffic/moving violations;
- d) Willful refusal of the apprehending officer or designated prosecutor to perform lawful order/s of the TAS Director, CO or Regional Director or duly designated hearing officer.

In case mentioned under items c and d, a report shall be made to the Assistant Secretary for appropriate disciplinary action.

If it appears on record that there is a previous violation which has remained unsettled after a reasonable lapse of time, the violator/respondent must be made to pay the corresponding prescribed penalty for such violation. The apprehension case, in this instance shall not be dismissed merely because the first (white) copy of the TOP can no longer be produced or it is stated that the driver who committed the violation is no longer employed by the operator/owner of vehicle. Further, in no case shall a violation be dismissed if the respondent is unable to comply with the 24-hour contestability period provided for under the implementing rules for smoke-belching violations.

SECTION 4: Duties of TAS, C.O. Administrative/Records Officer or Responsible Personnel of the Regional/District Office

The TAS C.O. Administrative/Records Officer shall perform the following functions:

- a) To act as custodian of records of apprehension cases;
- b) To assist in the preparation of decisions, resolutions or orders relative to apprehension cases submitted to the office for adjudication;
- c) To ensure that the records of all apprehension cases are intact including all the pertinent documents;
- d) To maintain a logbook for apprehension cases received, pending and resolved, for monitoring and retrieval purposes.

Similar functions shall likewise be performed by the duly designated personnel of the regional/district Offices.

SECTION 5: Assignment/Raffle of Cases

The administrative/record officer in the TAS C.O. shall conduct a raffle of apprehension cases before assigning the same to the hearing officers who shall immediately resolve an admitted and non litigable case or set for hearing a contested litigable case.

The same procedure shall be observed by the duly designated personnel of the regional/district offices.

SECTION 6: Service of Summons

Upon receipt of notice to contest a litigable apprehension case duly filed by the respondent or intervenor or authorized representative or counsel, the TAS C.O. Director or the Regional Director or the designated hearing officer shall set the case for hearing. Summons shall be prepared by the TAS C.O. administrative/records officer/stenographer. In the regional offices, the said function shall be performed by the duly designated personnel. The date of the hearing must not be less than three (3) days from receipt of notice to the parties.

The summons together with copies of the following documents shall be served to the apprehending officer, respondent and intervenor;

- a) Notice to contest an apprehension case or to intervene thereto prepared by the respondent or intervenor or their counsel, stating therein the legal and factual grounds for contesting the apprehension.
- b) Copy of TOP and/or Apprehension Report, if any; and
- c) Other pertinent document.

Service of summons shall be made to the parties in person or by leaving a copy thereof to a competent person of suitable age and discretion who appears to be in-charge of the residence or office of the addressee. If the addressee or his representative refuses to receive the summon, the same shall be considered effected by tendering or leaving a copy thereof in the residence or office on record of the addressee. Thereafter, the server shall execute an affidavit of service within two (2) days from service thereof. If personal service is impractical, summons may be served by registered mail.

The TAS C.O. Director or the Regional Director may in proper cases require any party in an apprehension case to file an answer, memorandum or any responsive pleading.

Rule VI

Requirement of Hearing, Compulsory Appearance of Respondent and Procedure in Contested Cases

SECTION 1: Requirement of Hearing

No decision, order or resolution shall be considered valid without a hearing conducted in accordance with these rules. In admitted apprehension cases, subject to the pertinent provisions of MC No. 515 all the fines for the violation mentioned in the TOP or Apprehension report must be paid and the accessory penalties must be complied with or served by the respondent. In contested cases, no violation/s mentioned in the TOP shall be dismissed without the approval by the TAS C.O. Director or the Regional Director. The submission of the minutes of the hearing, investigation report and other pertinent document/s by the duly designated hearing officer is mandatory.