

[DOJ, October 11, 1993]

RULES AND REGULATIONS ON THE REPORTING AND INVESTIGATION OF CHILD ABUSE CASES

Pursuant to Section 32 of Republic Act No 7610 ("An Act Providing For Stronger Deterrence and Special Protection Against Child Abuse, Exploitation And Discrimination, Providing Penalties For Its Violation And For Other Purposes"), the following Rules and Regulations are hereby promulgated concerning the reporting and investigation of child abuse cases:

SECTION 1. Objectives. - These Rules and Regulations seek to encourage the reporting of cases of physical or psychological injury, sexual abuse or exploitation, or negligent treatment of children and to ensure the early and effective investigation of cases of child abuse towards the prosecution of the offender consistent with the need to promote the best interest of the child victim.

SECTION 2. Definition of Terms. - As used in these Rules, unless the context requires otherwise

a) **Child** shall refer to a person below eighteen (18) years of age or one over said age and who, upon evaluation of a qualified physician, psychologist or psychiatrist, is found to be incapable of taking care of himself fully because of a physical or mental disability or condition or of protecting himself from abuse;

b) **Child abuse** refers to the infliction of physical or psychological injury, cruelty to, or neglect, sexual abuse or exploitation of a child;

c) **Cruelty** refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute cruelty provided it is reasonable in manner and moderate in degree and does not constitute physical or psychological injury as defined herein;

d) **Physical injury** includes but is not limited to lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm suffered by a child;

e) "Psychological injury" means harm to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors, which may be demonstrated by a change in behavior, emotional response or cognition;

f) **Neglect** means failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child;

g) **Sexual abuse** includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children;

h) **Lascivious conduct** means the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks, or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person;

i) **Exploitation** means the hiring, employment, persuasion, inducement, or coercion of a child to perform in obscene exhibitions and indecent shows, whether live or in video or film, or to pose or act as a model in obscene publications or pornographic materials, or to sell or distribute said materials; and

j) **Department** shall refer to a duly authorized officer or social worker of the Department of Social Welfare and Development or similar agency of a local government unit.

SECTION 3. Reporting. - A person who learns of facts or circumstances that give rise to the belief that a child has suffered abuse may report the same, either orally or in writing, to the Department, to the police or other law enforcement agency or to a Barangay Council for the Protection of Children.

SECTION 4. Mandatory Reporting. - The head of any public or private hospital, medical clinic and similar institution, as well as the attending physician and nurse, shall report, either orally or in writing, to the Department the examination and/or treatment of a child who appears to have suffered abuse within forty-eight (48) hours from knowledge of the same.

SECTION 5. Duty of Government Workers to Report. - It shall be the duty of all teachers and administrators in public schools, probation officers, government lawyers, law enforcement officers, barangay officials, corrections officers and other government officials and employees whose work involves dealing with children to report all incidents of possible child abuse to the Department.

SECTION 6. Failure to Report. - Failure of the individuals mentioned in Section 4 above and the administrator or head of the hospital, clinic or similar institution concerned to report a possible case of child abuse shall be punishable with a fine of not more than two thousand pesos (P2,000.00).

SECTION 7. Immunity for Reporting. - A person who, acting in good faith, shall report a case of child abuse shall be free from any civil or administrative liability arising therefrom. There shall be a presumption that any such person acted in good faith.

SECTION 8. Investigation. - Not later than forty-eight (48) hours after receipt of a report on a possible incident of child abuse, the Department shall immediately proceed to the home or establishment where the alleged child victim is found and interview said child to determine whether an abuse was committed, the identity of

the perpetrator and the need of removing the child from his home or the establishment where he may be found or placing him under protective custody pursuant to Section 9 of these Rules.

Whenever practicable, the Department shall conduct the interview jointly with the police and/or a barangay official.

To minimize the number of interviews of the child victim, his statement shall be transcribed or recorded on voice or video tape.

SECTION 9. Protective Custody. - If the investigation discloses sexual abuse, serious physical injury or life-threatening neglect of the child, the duly authorized officer or social worker of the Department shall immediately remove the child from his home or the establishment where he was found and place him under protective custody to ensure his safety.

SECTION 10. Immunity of Officer Taking the Child Under Protective Custody. - The duly authorized officer or social worker of the Department and the assisting police officer or barangay official, if any, who shall take a child under protective custody shall be exempt from any civil, criminal and administrative liability therefor.

SECTION 11. Notification of Police. - The Department shall inform the police or other law enforcement agency whenever a child victim is placed under protective custody.

SECTION 12. Physical Examination; Interview. - The Department shall refer the child who is placed under protective custody to a government medical or health officer for a physical/mental examination and/or medical treatment. Thereafter, the Department shall determine the rehabilitation or treatment program which the child may require and to gather data relevant to the filing of criminal charges against the abuser.

SECTION 13. Involuntary Commitment. - The Department shall file a petition for the involuntary commitment of the child victim under the provisions of Presidential Decree No. 603, as amended, if the investigation confirms the commission of child abuse.

SECTION 14. Suspension or Deprivation of Parental Authority. - The Department shall ask the Court to suspend the parental authority of the parent or lawful guardian who abused the child victim, Provided, that in cases of sexual abuse, the Department shall ask for the permanent deprivation of parental authority of the offending parent or lawful guardian.

SECTION 15. Transfer of Parental Authority. - The Department shall, in case of suspension or deprivation of parental authority and if the child victim cannot be placed under the care of a next of kin, ask the proper Court to transfer said authority over the child victim to the Department or to the head of a duly accredited children's home, orphanage or similar institution.

SECTION 16. Who May File a Complaint. — A complaint against a person who abused a child may be filed by the —