

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
ALCO Bldg., 391 Sen. Gil J. Puyat Ave.,
Makati City

MEMORANDUM CIRCULAR NO. 98-014

**RULES AND REGULATIONS GOVERNING THE
CONDUCT OF SUMMARY DISMISSAL PROCEEDINGS
INVOLVING MEMBERS OF THE PHILIPPINE
NATIONAL POLICE BEFORE THE NATIONAL POLICE
COMMISSION AS SUMMARY DISMISSAL
AUTHORITY.**

Pursuant to Section 53 of Republic Act 8551, otherwise known as the "Philippine National Police Reform and Reorganization Act of 1998", and in implementation thereof, the following rules and regulations are hereby promulgated:

RULE I

Purpose, Scope and Definition of Terms

Section 1. Purpose - To ensure guidance and uniformity in the conduct of summary dismissal proceedings before the National Police Commission as Summary Dismissal Authority, the ensuing rules and regulations set forth the policies and specific procedures for strict compliance.

Section 2. Scope - These rules and regulations cover the powers, duties and responsibilities of the National Police Commission as Summary Dismissal Authority, as well as the right to administrative due process of both complainant and respondent in administrative proceeding under Section 53 of Republic Act No. 8551.

Section 3. Definition of Terms - The relevant terms as used under these Rules shall be understood to mean as follows:

a) **Administrative due process** - the right of a party interested or affected to notice and hearing to enable him to present his side and submit evidence in support thereof. In essence, due process pertains to the opportunity of the party impleaded to be heard.

b) **Answer** - a responsive pleading containing the respondent's affirmative and negative defenses.

- c) **Affidavit** - a written declaration or statement of facts, made voluntarily under oath or affirmation before an officer authorized to administer the same.
- d) **Complaint** - a written and sworn statement regarding a wrong, grievance or injury sustained by a person.
- e) **Complainant** - one who has initiated a complaint against a member of the PNP, either as private or nominal complainant.
- f) **Conduct Unbecoming of a Police Officer** - any behavior or action of a policeman, irrespective of rank, done in his official capacity, which, in dishonoring or disgracing himself as a police officer, 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 in the police service.
- g) **Decision** - it is the written disposition of a case signed by the members of the Commission as Summary Dismissal Authority stating clearly the findings of facts and the law applicable thereto. It shall also include a finding of the culpability or innocence of the respondent as well as the imposable penalty therefor.
- h) **Exoneration** - the finding made by the Summary Dismissal Authority that respondent is not culpable of the charge.
- i) **Findings of Fact(s)** - the determination by the Summary Dismissal Authority of an issue of fact after an evaluation of the evidence submitted in the case.
- j) **Forum Shopping** - the practice of filing several complaints arising from one and the same cause of action and involving the same parties with the different police administrative disciplinary authorities.

- k) **Heinous Crime** - 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 be limited to, the following: murder, gunrunning, illegal logging, robbery, kidnapping for ransom, white slavery, illegal recruitment, carjacking, smuggling, piracy, drug trafficking, film piracy, counterfeiting and bank frauds.

- l) **Jurisdiction** - the authority vested by law to hear and decide a case.
- m) **Material Evidence** - that evidence which is relevant and goes to the substantial matter in dispute, or has a legitimate and effective influence or bearing on the decision in the case.
- n) **Newly Discovered Evidence** - that evidence which could not have been discovered and produced during the hearing of the case despite due diligence, and if presented, would probably alter the decision.
- o) **Prima Facie Case** - that amount of evidence which would be sufficient to counterbalance the general presumption of innocence and warrant a conviction if not encountered and controlled by evidence tending to contradict it and render it improbable or to prove other facts inconsistent with it.
- p) **Quantum of Evidence** - the degree of proof required sufficient to establish a case which in administrative proceedings is substantial evidence, and in criminal proceedings is proof beyond reasonable doubt.

- q) **Reglementary Period** - the period required by law to perform a specific act. In the computation of the period of time, the first day shall be excluded and the last day included unless it be a Saturday, a Sunday or a legal holiday, in which case the period shall run until the end of the next day which is neither a Saturday, a Sunday or a legal holiday.
- r). **Recidivist** - in administrative cases, the word "recidivist" imports a broader connotation than its definition under our criminal statutes.

A "recidivist" refers to a police officer who having been previously penalized by an administrative body for an administrative offense involving the penalty of three (3) months suspension or higher or previously sentenced by a court for a crime involving the penalty of arresto mayor or higher, is again charged with a serious offense the imposable penalty of which is three (3) months suspension or more before the Commission, the PLEB or any of the PNP Disciplinary Authorities and the evidence of guilt is strong.

- s) **Relevant Evidence** - such evidence having any value in reason as tending to prove any matter provable in an action. Evidence is relevant when it tends to prove or disprove the issue or issues outlined in the pleading of the parties.
- t) **Repeatedly Charged** - a police officer who is administratively or criminally charged three (3) times or more for separate causes of action, the decision on all of which cases need not have become final and executory, and the Commission, after conducting the appropriate investigation, has found at least one of the charges to be grave and the evidence of guilt therein is strong.

In such a situation the pendency of other charges against the same police officer shall be considered by the Commission in determining a possible pattern or propensity towards misdemeanor.

- u) **Service** - the execution of a writ or process.
- v) **Subpoena** - is a process directed to a person requiring him to attend and to testify at the hearing before the Commission as Summary Dismissal Authority or any of its designated Summary Hearing Officer, Board or Committee.
- w) **Subpoena Duces Tecum** - is a process that requires a person to bring with him any book, document, or thing under his control at the scheduled hearing before the Commission or any of its designated Summary Hearing Officer, Board or Committee.
- x) **Substantial Evidence** - is more than a mere scintilla, It is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Mere uncorroborated hearsay or rumor does not constitute substantial evidence.
- y) **Summary Hearing Officer** - a Napolcom senior official designated and authorized by the Commission to conduct the formal hearing, and to submit his report of investigation and recommendation.
- z) **Summary Proceeding** - is an abbreviated administrative proceeding conducted consistent with due process to determine the culpability or innocence of the respondent.
- aa) **Summons** - a written order informing the respondent that he is charged of an offense and directing him to file his Answer and other responsive pleadings.

RULE II

Organization, Jurisdiction and Nature of Proceedings

Section 1. Organization. - Effective upon the approval of this Memorandum Circular, the Commission is hereby constituted as Summary Dismissal Authority vesting in it the powers set forth in Section 53 of R.A. No. 8551.

Section 2. Jurisdiction. - The Commission shall have authority to conduct summary dismissal proceedings against any member of the PNP in any of the following cases:

- a) When the charge is serious and the evidence of guilt is strong;
- 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 a serious offense involving conduct unbecoming of a police officer; and,
- d) Absence without official leave for a continuous period of thirty (30) days or more.

Section 3. Authority Over Presidential Appointees. - Senior Superintendents and higher ranking officers of the PNP 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 Commission shall not decide the case but shall submit the entire records together with the corresponding report of investigation and recommendation to the Office of the President for final disposition.

The Presidential Clearance shall be secured by the Commission after the filing of the formal complaint and prior to the commencement of the formal hearing.

Section 4. Designation of Summary Hearing Officer. - As Summary Dismissal Authority, the Commission may designate any of its senior officials, preferably a lawyer of known probity, integrity and competence, as Summary Hearing Officer.

In the interest of justice, a board or committee may be constituted for such purpose.

Section 5. Nature of Proceedings. - The hearings shall be summary in nature and shall not be governed by the technical rules of procedures but consistent with the rudiments of administrative due process.

Section 6. Conduct of Pre-Charge Investigation. - The Inspection, Monitoring and Investigation Service, which is mandated to investigate police anomalies and irregularities shall, upon receipt of a letter-complaint, official report or any paper or document denouncing a police officer for alleged breach of official conduct, which on the face thereof falls within the jurisdiction of the Commission as Summary Dismissal Authority, forthwith conduct pre-charge investigation.

Both the complainant and the respondent and their witnesses, if any, shall be summoned to appear and submit their respective affidavit/s and counter-affidavit/s. Failure or refusal of the respondent to appear despite due notice shall be sufficient ground to proceed with the investigation ex-parte.

The conduct of pre-charge investigation in the regional offices shall be the responsibility of the Napolcom regional director thereat.

RULE III

Procedure

Section 1. Complaint. - All proceedings must be commenced by a complaint in writing and under oath, by the aggrieved party or his duly authorized representative or guardian against any member of the PNP, accompanied by sworn statements of witnesses and other evidence in support thereof. Three (3) copies of the complaint shall be filed with the Commission.

The Inspection, Monitoring and Investigation Service and the regional offices of the Commission may, *motu proprio*, initiate the filing of a complaint against a PNP member after conducting the appropriate pre-charge investigation.

Section 2. Formal Requirements of a Complaint. - The complaint shall be written in clear, simple and concise language as to apprise the police officer of the nature and cause of the charge(s) against him to enable him to intelligently prepare his answer and other responsive pleadings.

The complaint shall contain the following:

- a) Full name and address of the complainant;
- b) Full name, rank and station or assignment of the respondent; and,
- c) A narration of the relevant and material facts which show the acts or omissions constituting the offense allegedly committed by the police officer.

Section 3. Action on the Complaint. - Within three (3) days from receipt of the complaint which is sufficient in form and substance, the Commission shall evaluate the same to determine if it falls under its jurisdiction and whether, based on the complaint and supporting documents submitted in support thereto, a prima facie case exists as to warrant the conduct of formal hearing.

If it finds that the complaint falls within its jurisdiction and there exists a prima facie case, the Commission as Summary Dismissal Authority may itself conduct the formal hearing thereof, or may designate a Summary Hearing Officer to conduct the formal reception of evidence.

However, if on the basis of such papers a prima facie case is found not to exist, the Commission shall dismiss the case.

Section 4. Summons and Order to Answer. - After a finding of prima facie case, the Commission shall cause the issuance of Summons, attaching therewith a copy of the complaint and other supporting documents, upon the respondent requiring him to file his answer or other responding pleadings within three (3) days from receipt thereof.

Only one (1) motion for extension of time to file answer is allowed.

Section 5. Answer. - The answer shall be in writing and must contain material facts, which may either be a specific denial or affirmation of the allegations in the complaint and shall be accompanied by documentary or other evidence, if there be any, in support of the defense, copy furnished the complainant. Failure to file an answer shall be considered as a general denial of the charge.

Section 6. Hearing Proper. - Within five (5) days after receipt of respondent's answer, the Commission or its designated Summary Hearing Officer, Board or Committee shall conduct a formal hearing, which shall be terminated within five (5) successive working days from its commencement. The order of hearing shall be as follows:

- a) The complainant shall adduce evidence with proper identification and marking of his exhibits;
- b) The respondent shall then present evidence in support of his defense with proper identification and marking of his exhibits;

- c) the proceedings being summary in nature, direct examination of witnesses shall be dispensed with, and the sworn statements/affidavits of witnesses, after proper identification and affirmation on the truth of the contents thereof, shall take the place of their oral testimony;
- d) Clarificatory examination, if requested by either party, shall be confined strictly to material and relevant matters and, insofar as may be compatible with the ends of justice, shall be limited to not more than fifteen (15) minutes for each witness.

When the formal reception of evidence is conducted by a Summary Hearing Officer, Board or Committee, the Officer, Board or Committee shall submit to the Commission a report of investigation containing the corresponding recommendation, within ten (10) days after the termination of the proceedings. Despite the termination of the formal hearing conducted by the Summary Hearing Officer, Board or Committee, the Commission, in the interest of justice, and if it believes that there are matters to be clarified, may set a hearing to propound clarificatory questions to the parties or their witnesses, during which the parties shall be afforded an opportunity to be present but without the right to examine or cross-examine. If the parties so desire, they may submit questions to the Commission which the latter may propound to the parties or witnesses concerned.

Section 7. Period For Rendition of Decision. - The Commission shall decide the case within ten (10) days after termination of hearing or submission of the report of investigation by the designated Summary Hearing Officer, Board or Committee.

Section 8. Contents of the Decision. - The decision shall contain the name of the parties, the finding of fact(s) by the Commission as established during the hearing, the conclusions of law upon which they are based, the disposition thereof by mentioning the offense to which respondent was exonerated or found culpable, and the appropriate penalty to be imposed, signed by a majority of the members of the Commission.

Section 9. Service of Decision. - Decisions of the Commission shall be served either personally or by registered mail at respondent's place of assignment or at his last known address within three (3) days from rendition thereof. Complainant shall be sent a copy of the decision for his information.

In all cases, proof of such service shall be attached to the records of the case for information and ready reference.

Section 10. Finality of Decision. - A decision of the Commission imposing upon the respondent a penalty of dismissal from the police service shall be immediately executory, notwithstanding the filing of a motion for reconsideration.

A penalty of demotion in rank, forced resignation or suspension shall become final and executory after seven (7) regular working days from respondent's receipt of a copy of the decision if no motion for reconsideration is filed.

Section 11. Motion for Reconsideration. - Either party may file a motion for reconsideration of the decision rendered by the Commission within ten (10) days from receipt thereof.

Only one (1) motion for reconsideration is allowed which shall be resolved within ten (10) days from the filing thereof.

Section 12. Prohibition Against Multiple Complaints and Forum Shopping. - When an administrative complaint is filed against a police officer before an administrative disciplinary authority or body, no other administrative case involving the same cause of action shall be filed with any other disciplinary authority or body.

For this purpose, the complainant shall certify under oath in the pleading, or in a sworn certification annexed thereto and simultaneously filed therewith, to the truth of the following facts and undertakings:

- a) That he has not heretofore commenced any other action or proceeding involving the same issues in other disciplinary forum;
- b) That to the best of his knowledge, no such action or proceeding is pending in other police administrative disciplinary machinery or authority;
- 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 police disciplinary authority, he must undertake to report that fact within five (5) days therefrom to the disciplinary authority where the original complaint or pleading has been filed.

Any willful and deliberate forum shopping by the complainant to ensure a favorable action or advantage over the respondent, as well as the inclusion of a false certification in connection thereof, shall be a sufficient basis to dismiss the complaint.

Section 13. Preventive Suspension. - The Commission may, at any time during the formal hearing, place the respondent on preventive suspension under the following circumstances.

- a) That the charge is serious; or,
- b) Although the charge is not serious, there is evidence to show that the respondent is exerting efforts to harass, intimidate, coerce, or unduly influence complainant or any of his witnesses into withdrawing his complaint or retracting his sworn statement or that of his witnesses against the respondent.

The period of preventive suspension shall not exceed ninety (90) days. Upon the expiration thereof, the suspended police officer shall automatically be reinstated without prejudice to the continuation of the proceedings against him. While under preventive suspension, respondent shall not receive his salary and other benefits. However, in case of exoneration, respondent shall be reinstated with full payment of back salaries and such emoluments which he failed to receive during such suspension.

Section 14. Lifting of Preventive Suspension. - The preventive suspension issued by the Commission may be lifted on any of the following grounds:

- a. In the exigency of the service as recommended by respondent's superior or immediate supervisor/chief of police;
- b. When the prosecution or complainant has rested his case;
- c. Other reasons or justifications which respondent may submit for the consideration of the Commission.

Section 15. Effect of Failure or Refusal of Complainant to Prosecute. - The failure or refusal of the complainant to appear and to prosecute the case during the hearing, despite due notice, shall be a sufficient ground to drop the complaint where the culpability of the respondent could not be established or proven without the testimony of the complainant.

The Commission shall endeavor to pursue the hearing by securing the attendance of complainant and vital witnesses to avoid miscarriage of justice.

Section 16. Effect of Failure or Refusal of Respondent to Appear. - If the respondent, despite due notice, fails or refuses to appear during the scheduled hearing, he is deemed to have waived his right to be present, and to submit evidence in his favor. The scheduled hearing shall proceed ex-parte.

Section 17. Postponement. - Postponement of hearing shall be discouraged. It shall be allowed only in case of illness on the part of either the complainant or respondent which shall be supported by a duly sworn medical certificate.

Only one (1) motion for postponement shall be allowed regardless of the grounds invoked.


Section 18. Records of Proceedings. - There shall be a record of proceedings, containing a substantial account of each hearing, certified to as correct by the Summary Hearing Officer, Board or Committee.

Rule IV Final Provisions

Section 1. - Separability Clause. - In the event that any of the provisions of this Circular is declared illegal, the validity of the other provisions shall not be affected by such declaration.

Section 2. - Effectivity. - This Circular shall take effect after its publication in three (3) newspapers of general circulation.

APPROVED, this 30th day of October 1998, at Makati City, Philippines.


RONALDO V. PUNO
Undersecretary, DILG and
Acting Chairman, NAPOLCOM
ai


LEO S. MAGAHUM
Commissioner
Vice-Chairman & Executive Officer
for