

**[ADMINISTRATIVE ORDER NO. 458, December
29, 1982]**

**SUSPENDING ASSISTANT PROVINCIAL FISCAL DAVID
TUBONGBANUA FROM OFFICE**

This is an administrative complaint initiated by Mr. Florancio Cambronero against Assistant Provincial Fiscal David Tubongbanua of Iloilo for gross misconduct, oppression, threat and acts unbecoming of a government prosecutor.

In the morning of March 30, 1981, complainant was at the Iloilo Provincial Capitol, Iloilo City, in connection with an attempted rape case in which his daughter was the offended party. When the case was first called, respondent approached complainant who was then standing outside the courtroom together with his wife and daughter. From this point on, complainant's and respondent's version of the case differ.

Per complainant's account, respondent asked him to have the case settled amicably in consideration of the amount of P2,000.00. When he manifested unwillingness to consider any settlement, respondent remarked: "Caron sipa-on ta, gago Ca, indi ikaw mag pati sa akon" (Soon I might kick you. You are an idiot. You refuse to obey me"). Thereafter, respondent hurled threats at complainant and attempted to kick the latter, but was prevented from doing so by complainant's wife and Atty. William Villa of the Citizens Legal Assistance Office. Later on, respondent said) "Con seguohon mo ang caso, indi mo man ma pa sulod sa prisohan and acusado." (If you go on with the case, you would not be able to send the accused to jail anyway").

Complainant's story was substantially corroborated by his wife and one Anacleto Franco.

In reply, respondent fiscal gave his side of the incident as follows:

When she attempted rape case was called for arraignment in the morning of January 19, 1981, respondent separately discussed with complainant and the accused the possibility of amicably settling the same. Both replied that they would think the matter over. Complainant, however, was told to see respondent before the scheduled hearing on February 20, 1981, so they can prepare for trial in the event no settlement is arrived at. The date of the hearing came, but complainant made no appearance, fortunately, the trial was reset. On the March 30, 1981 hearing, respondent confronted complainant, asking him why he did not comply with his instructions. The complainant just stared at him (respondent) without saying a word. Since respondent knew that the corroborative eyewitness was no longer available, he reminded complainant about the proposed settlement. Complainant, however, insisted on going on with the trial, so respondent's temper began to rise. Respondent told the complainant that it was not advisable to proceed with the trial, since the corroborative eyewitness was no longer available. Complainant was adamant and still insisted upon going to trial, so, respondent lost his temper. He then told complainant that even if the accused were to be convicted, "the accused