

[NAPOLCOM RESOLUTION NO. 2011-077, April 04, 2011]

RESOLUTION STATING THE POSITION OF NAPOLCOM ON THE INTERPRETATION OF THE LAST PARAGRAPH OF SECTION 25 OF R.A. NO. 8551 AND AMENDING THE LAST PARAGRAPH OF SECTION 27 OF THE IMPLEMENTING RULES AND REGULATIONS (IRR) OF R.A. NO. 8551

WHEREAS, in a request for Opinion to the DOJ, dated October 14, 2010, the PNP sought advice on the proper interpretation of the last paragraph of Section 25 of R.A. 8551, which reads:

"Attrition by Attainment of Maximum tenure in Position. The maximum tenure of PNP members holding key positions is hereby prescribed as follows:

x x x

Except for the Chief, PNP, no PNP member who has less than one (1) year of service before reaching the compulsory retirement age shall be promoted to a higher rank or appointed to any other position."

WHEREAS, the PNP in its query, took the position that the one (1) year bar rule applies only to promotions but not to placements, designations and assignments and that a PNP officer who has less than one year before his or her compulsory retirement may not be promoted to a higher rank, but may still be assigned to a position as long as such position does not call for a higher rank;

WHEREAS, in DOJ Opinion No. 7, series 2011, the Department of Justice stressed that "Section 25 clearly states that the one year bar rule applies only to promotion and appointment, not to designation and assignment". It, thus agreed that the PNP's" observation – that only promotion to a higher rank can be considered as appointments, while designations and assignments are merely covered by General or Special Orders – is legally correct and should be considered in the interpretation of Section 25 of RA 8551 and Section 27 of its IRR." It further opined that "appointments are with regard to rank and not to specific positions, that positions are merely designated after the appointment to a particular rank is made, and that such designation does not carry a corresponding appointment"

WHEREAS, the DOJ further states that "**appointment** is the selection by the appointing authority vested with the power of an individual who is to exercise the functions of a given office. Once completed, the appointment results in security of tenure for the person chosen unless, due to the nature of his office, he is