

[NAPOLCOM MEMORANDUM CIRCULAR NO. 2003-007, March 06, 2003]

DIRECTING THE CHIEF, PHILIPPINE NATIONAL POLICE, REGIONAL DIRECTORS, POLICE PROVINCIAL DIRECTORS, POLICE DISTRICT DIRECTORS, CITY POLICE DIRECTORS, CHIEFS OF POLICE AND STATION COMMANDERS AND ALL PNP OFFICERS ASSIGNED IN ILLEGAL DRUGS OPERATIONS TO UNDERTAKE AN INTENSIFIED AND CONTINUOUS CAMPAIGN AGAINST ILLEGAL DRUGS

WHEREAS, Section 5, Article II of the Philippine Constitution mandates that "(T)he maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy";

WHEREAS, Republic Act 9165 otherwise known as the Comprehensive Dangerous Drug Act of 2002, states that: "It is the policy of the State to safeguard the integrity of its territory and the well being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation";

WHEREAS, towards this end, the government shall pursue an intensive unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs and projects;

WHEREAS, Her Excellency, President Gloria Macapagal-Arroyo in her message to the National Anti-Drug Summit and Kilos Laya Laban sa Droga National convention, emphasized that "(T)he presence of illegal drugs in our country has caused serious damage to our society and remains a recurring problem that we must address with the fullest strength of the law" consistent with the thrust of her administration to uplift the morals of our people;

WHEREAS, per statistics, it is shown that the number of drugs users, both regular and occasional, have increased by about 300% per annum, that is, from 20,000 in 1972 to around 3.4 million, with the notation that approximately 70% of heinous crimes are drug-related;

WHEREAS, the Philippine National Police pursuant to Presidential Letter of Instructions No. 1 dated July 4, 2001 vis-a-vis Executive Order No. 61 creating the National Drug Law Enforcement and Prevention Coordinating Center, has been designated as the "premier and overall drug law enforcement and prevention operating arm of the government nationwide";

WHEREAS, mindful of the pernicious consequence of illegal drugs which destroys precious lives, erodes the moral fiber of the people especially the young; corrupts

public servants; and induces individuals to commit dastardly acts and heinous crimes, it is urgently necessary that the PNP should now focus its initiatives on measures to control and eradicate this menace or scourge in society.

NOW, THEREFORE, the Commission, in the exercise of its administration and control functions over the PNP has resolved to direct, as it hereby directs, the PNP leadership from the Chief, PNP to the lowest officers or unit commander to immediately undertake an all-out campaign to stop and eradicate the proliferation of illegal drugs in the country: and further prescribes the following rules to govern the same:

1. To ensure a more efficient, sustained, vigorous and resolute campaign against illegal drugs, it is imperative that the "*Doctrine of Command Responsibility*" be strictly applied at all levels of commands in the PNP. For ready reference in the application of this Doctrine, quoted hereunder are Sections 1 and 2 of Executive Order No. 226 dated February 17, 1995, on the subject, "INSTITUTIONALIZATION OF THE DOCTRINE OF COMMAND RESPONSIBILITY" IN ALL GOVERNMENT OFFICES, PARTICULARLY AT ALL LEVELS OF COMMAND IN THE PHILIPPINE NATIONAL POLICE AND OTHER LAW ENFORCEMENT AGENCIES" thus:

Section 1. Neglect of Duty Under the Doctrine of Command Responsibility. Any government official or supervisor, or officer of the Philippine National Police or that of any other law enforcement agency shall be held accountable for "Neglect of Duty" under the doctrine of "command responsibility" if he has knowledge that a crime or offense shall be committed, is being committed, or has been committed by his subordinates, or by others within his area of responsibility and, despite such knowledge, he did not take preventive or corrective action either before, during or immediately after its commission.

Section 2. Presumption of Knowledge. A government official or supervisor, or PNP Commander, is presumed to have knowledge of the commission of irregularities or criminal offense in any of the following circumstances:

- a. When the irregularities or illegal acts are widespread within his area of jurisdiction;
- b. When the irregularities or illegal acts have been repeatedly or regularly committed within his area of responsibility; or
- c. When members of his immediate staff or office personnel are involved."

2. Accordingly, in the campaign against illegal drugs, any PNP officer or unit chief shall be administratively charged for Serious Neglect of Duty under the Doctrine of Command Responsibility pursuant to Executive Order No. 226 of February 17, 1995 without prejudice to criminal prosecution when proper under the Revised Penal Code and Special Laws, under any of the following circumstances:

- I. National Capital Regional Police Office (NCRPO)

a. Command Responsibility of the PNP NCRPO Regional Director

The PNP Regional Director (RD) shall have command responsibility over the NCR District Directors and the Battalion Commander (Force Commander) of the NCR Regional Mobile Force Battalion (NCR RMF Bn).

There shall be presumption of Negligence on the part of the Regional Director when two (2) or more of the Districts in his area of responsibility (AOR) have been determined to have widespread incidence of illegal drugs within a period of three (3) months. For this purpose the incidence of illegal drugs shall be considered widespread, when in a period of three (3) months, eighteen (18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of a District in his AOR by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or confiscation of dangerous drugs including any and all species of opium poppy regardless of the quantity and purity involved and/or equipment, instrument, apparatus and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals.

b. Command Responsibility of the PNP District Director

The *PNP NCR District Director* shall have command responsibility over the Chiefs of Police or Station Commanders of Numbered Stations of NCR Police Stations under his AOR.

There shall be a presumption of negligence on the part of the District Director when two (2) or more Police Stations in his AOR have been determined to have widespread incidence of illegal drugs within a period of three (3) months, eighteen (18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of the municipality or city within the AOR of the District Director by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or confiscation of dangerous drugs including any and all species of opium poppy regardless of the quantity and purity involved and/or equipment, instrument, apparatus and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals.

c. Command Responsibility of the Chief of Police of NCR City/Municipal Police Stations or Commander of Numbered Station.

The Chief of Police of the City/Municipality or Station Commander of NCRPO shall exercise command responsibility over the commanders of the Sub-Stations/Police Community Precincts in his area of responsibility.

There shall be presumption of negligence on the part of the Chief of Police or Station Commander when two (2) or more Sub-Stations or Police Community Precincts within his AOR have been determined to have a widespread incidence of illegal drugs within a period of three (3) months. For this purpose, the incidence of illegal drugs shall be considered widespread when, in a period of three (3) months, eighteen

(18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of the municipality or city within the jurisdiction of the Police Community Precinct or Sub-Station which is under the AOR of the Chief of Police by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or confiscation of dangerous drugs including any and all species of opium poppy regardless of the quantity and purity involved and/or equipment, instrument, apparatus and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals.

II. Regional Offices

a. Command Responsibility of the other PNP Regional Directors.

The PNP Regional Director (RD) shall have command responsibility over the Provincial, District Directors, City Directors and the Commanders of the Regional Mobile Force Battalion Groups in his AOR.

There shall be presumption of negligence on the part of the Regional Director when two (2) or more of the provinces in his AOR has been determined to have widespread incidence of illegal drugs within a period of three (3) months. For this purpose, the incidence of illegal drugs shall be considered widespread when, in a period of three (3) months, eighteen (18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of the region within the AOR of the Regional Director by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or opium poppy regardless of the quantity and purity involved and/or equipment, instrument, apparatus and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals.

b. Command Responsibility of the PNP Provincial Directors and City Police Directors of Highly Urbanized Cities.

The PNP Provincial or City Director shall exercise command responsibility over the Chiefs of Police or Station Commander of Police Stations under his AOR.

There shall be presumption of negligence on the part of the Provincial Director or City Police Director when two (2) or more Police Stations or Sub-Stations within his AOR have been determined to have widespread incidence of illegal drugs within a period of three (3) months. For this purpose, the incidence of illegal drugs shall be considered widespread when, in a period of three (3) months, eighteen (18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of municipality or city within the jurisdiction of the Police Stations which is within the AOR of the Provincial Director/City Chief of Police by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or confiscation of dangerous drugs including any and all species of opium poppy regardless, of the quantity and purity involved and/or equipment, instrument, apparatus

and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals.

c. Command Responsibility of the Chiefs of Police of Component City/Municipal Police Stations.

The Chief of Police of Component City/Municipal Police Station shall have command responsibility over the Commanders of the Police Sub-Stations or Police Community Precincts in his AOR.

There shall be presumption of negligence on the part of the Chief of Police of the Police Station when at least two (2) or more sub-stations within his AOR had been determined to have widespread incidence of illegal drugs. For this purpose, the incidence of illegal drugs shall be considered widespread when, in a period of three (3) months, eighteen (18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of municipality or component city as the case may be within the jurisdiction of the Police Sub-Stations or Police Community precincts which is within the AOR of the Chief of Police by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or confiscation of dangerous drugs and/or controlled precursors and essential chemicals.

Provided that, in case of Municipal Police Station which has no Sub-Station or Police Community Precinct in his AOR the Chief of Police of said Police Station shall be presumed negligent when in a period of three (3) months, nine (9) or more separate buy bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of municipality or component city as the case may be within the jurisdiction of the Police Sub-Stations or Police Community Precincts which is within the AOR of the Chief of Police by a PNP unit not organic to the region or any authorized law enforcement agency resulted in the arrest of violators of RA 6425 as amended by RA 9165 and/or confiscation of Dangerous Drugs including any and all species of opium poppy regardless of the quantity and purity involved and/or equipment, instrument, apparatus and other paraphernalia for dangerous drugs and/or controlled precursors and essential chemicals.

d. Command Responsibility of the PNP Police Community Precincts/Sub-Station Commanders

The Sub-Station Commander or Police Community Precinct Commander shall exercise command responsibility over Sub-Station or Police Community Precinct members.

There shall be presumption of negligence on the part of the Sub-Station Commanders or Police Community Precinct Commanders if his AOR has been determined to have widespread incidence of illegal drugs. For this purpose, the incidence of illegal drugs shall be considered widespread when, in a period of three (3) months, eighteen (18) or more separate buy-bust operations, saturation drives and/or raid of drug den, dive or resort conducted in any part of town or city as the case maybe within the AOR of the Sub-Station Commanders or Police Community Precinct