

**[ NPC-IAS INTERIM GUIDELINES, APRIL 2, 2001,  
April 02, 2001 ]**

**INTERIM GUIDELINES IN THE CONDUCT OF INVESTIGATION  
AND DISPOSITION OF ADMINISTRATIVE CASES AGAINST PNP  
MEMBERS BEFORE THE INTERNAL AFFAIRS SERVICE (AS  
AMENDED)**

REFERENCES:

1. Section 2, Executive Order No. 101 dated May 7, 1999
2. Title V, Republic Act 8551
3. NAPOLCOM Memorandum Circular No. 93-024

*SECTION 1. Powers and Functions of IAS. —*

- a. pro-actively conduct inspections and audits on PNP personnel units;
- b. investigate complaints and gather evidence in support of an open investigation;
- c. conduct summary hearing on PNP members facing administrative charges, and dispose of the same based on the evidence presented after due notice and hearing.
- d. submit a periodic report on the assessment, analysis, and evaluation of the character and behavior of PNP personnel and units to the Chief, PNP and the Commission;
- e. file appropriate criminal cases against PNP members before the court as evidence warrants and assists in the prosecution of the case;
- f. provide assistance to the Office of the Ombudsman in cases involving the personnel of the PNP.
- g. The IAS shall likewise provide documents or recommendation regarding the promotion of PNP members or their assignment to any key position.

*SECTION 2. Other Powers and Functions. —* The IAS shall also conduct motu proprio, automatic investigation of the following cases:

- a. incidents where a police personnel discharges a firearm;
- b. incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation.

- c. incidents where evidence was compromised, tampered with, obliterated, or lost while in the custody of a police personnel;
- d. incidents where a suspect in the custody of the police was seriously injured; and
- e. incidents where the established rules of engagement have been violated.

*SECTION 3. Definition of Terms. —*

- a. Complaint* — A written and sworn charge filed against any respondent PNP member.
- b. Answer/Counter-Affidavit* — The responsive pleading containing the respondent's defenses.
- c. Affidavit* — A sworn statement voluntarily made before a notary public or other officer authorized to administer oaths.
- d. Breach of Internal Discipline* — Any offense committed by a member of the PNP involving and affecting order and discipline within the police organization.
- e. Motu Proprio Investigation* — An investigation conducted by the IAS of its own initiative/accord.
- f. Probable Cause* — From a set of facts and circumstances, there is a reasonable ground to believe that an offense has been committed and the respondent has probably committed it.
- g. Substantial Evidence* — That amount of evidence which to the unprejudiced mind is sufficient to support a decision.
- h. Jurisdiction* — The power and authority to hear and decide a case.
- i. Venue* — The place where the investigation is to be conducted.
- j. Ex-Parte Investigation* — A proceeding conducted without the presence of either complainant or respondent PNP member.
- k. City* — Refers only to Highly Urbanized cities.

**ADMINISTRATIVE OFFENSES**

*SECTION 4. Offense Punishable.* — The following are the offenses for which a member of the PNP may be charged administratively:

- a. Neglect of Duty or Non-feasance* — is the omission or refusal, without sufficient excuse, to perform an act or duty, which it was the peace officer's legal obligation to perform; it implies a duty as well as its breach and the fact can never be found in the absence of a duty.
- b. Irregularity in the Performance of Duty* — is the improper performance of some act which could be lawfully done.

*c. Misconduct or malfeasance* — is the doing, either through ignorance, inattention or malice, of that which the officer had no legal right to do at all, as where he acts without any authority whatsoever, or exceeds, ignores or abuses his powers.

Misconduct generally means wrongful, improper or unlawful conduct, motivated by premeditated, obstinate or intentional purpose. It usually refers to transgression of some established and definite rule of action, where no discretion is left except what necessity may demand; it does not necessarily imply corruption or criminal intention but implies wrongful intention and not mere error of judgement.

*d. Incompetency* — is the manifest lack of adequate ability and fitness for the satisfactory performance of police duties. This has reference to any physical, moral or intellectual quality, the lack of which substantially incapacitates one to perform the duties of a peace officer.

*e. Oppression* — imports an act of cruelty, severity, unlawful exaction, domination, or excessive use of authority. The exercise of the unlawful powers or other means, in his will, is generally an act of oppression.

*f. Dishonesty* — is the concealment or distortion of truth in a matter or act relevant to one's office, or connected with the performance of his duties.

*g. Disloyalty to the Government* — consist of abandonment or renunciation of one's loyalty to the Government of the Philippines, or advocating the overthrow of the government.

*h. Violation of Law* — presupposes conviction in court of any crime or offense penalized under the Revised Penal Code or any special law or ordinance.

**SECTION 5. Classification of Offenses.** — For purposes of the application of penalties, administrative offenses are classified into light, less grave and grave depending upon the seriousness of the acts committed for neglect of duty, irregularity in the performance of duty and misconduct. For violation of law, the classification shall depend on the seriousness of the offense charged and the gravity of the penalty imposed by the courts rendering the judgment.

The offense of Dishonesty, Disloyalty to the Government, Oppression and Incompetence shall always be considered grave or serious offenses.

## **PROCEDURE**

**SECTION 6. Complaint, How Initiated.** — A complaint may be initiated against a PNP member through a written verified complaint of any juridical or natural person accompanied by sworn statements of witnesses and other documents in support thereof including an affidavit of non-forum shopping.

It may also be initiated *motu proprio* by the national, regional/district/city, provincial IAS or as may be directed by the Inspector General.

All complaints whether initiated *motu proprio* by the IAS or by private individuals shall be prosecuted in the name of the Complaints, Investigation and Prosecution Office/Division of the national or regional IAS.

*SECTION 6-A. Complaints Filed Against Certain Senior Police Officers.* — Administrative complaints filed against PNP officers with the rank of Police Senior Superintendent and above shall be referred to the Office of the Inspector General for appropriate disposition.

*SECTION 7. Venue.* — A complaint involving offenses cognizable by the Internal Affairs Service shall be filed in the national, regional, city/provincial IAS office where the offense was committed.

*SECTION 7-A. Transfer for Venue.* — A request for a transfer of the venue of an administrative case from one province to another within the same region shall be approved by the IAS regional office of that region. A request for transfer of the venue outside of the region shall be referred to the national IAS office for approval.

*SECTION 8. Pre-Charge Investigation.* —

a. Within three (3) days from receipt of the complaint or after the submission of the after-mission-report in cases of motu proprio investigation, the National, Regional, Provincial/District, City IAS as the case may be, shall issue the notice of complaint attaching therewith copies of the complaint, sworn statements and other supporting documents to the respondent PNP member directing him to submit his counter-affidavit and other documents in support of his defense within five (5) days from receipt of said notice.

b. Within five (5) days from receipt of the counter-affidavit, the IAS office concerned shall immediately set the case for the conduct of a pre-charge investigation, where both parties shall be notified, to determine if a probable cause exists to warrant the conduct of a formal investigation, which shall in no case exceed five (5) working days; provided that in the case of the Provincial/District/City IAS, after the conduct of the same, it shall submit its Pre-Charge Investigation Report to the Regional IAS containing its findings and recommendations for automatic review;

c. After the automatic review, if the Regional IAS finds the existence of probable cause against the respondent PNP member, it shall within three (3) working days, issue summons requiring the respondent to submit his answer to the complaint within five (5) days from receipt of said summons. Thereafter, with or without said answer, the Regional IAS shall schedule the case for formal investigation where all the parties shall be duly notified. In cases taken cognizance of and directly filed with the National and Regional IAS, the same procedure shall apply; Provided, however, that the Inspector General may, in the interest of justice, direct the Regional IAS Office to forward the records of any case to the National IAS for investigation and summary hearing.

*SECTION 9. Effect of Failure to Submit Answer/Counter-Affidavit.* — Failure of the respondent to submit an answer in the pre-charge and formal investigation within the prescribed period shall be considered as a general denial of the charges filed against him, whereupon, the investigation shall proceed ex-parte.

*SECTION 10. Preventive Suspension.* — Based on the findings of the existence of probable cause, the National and Regional IAS may preventively suspend the respondent PNP member under any of the following circumstances:

- a. Where the administrative charge is serious;
- b. Where the respondent is harassing the complainant and/or any of his witnesses, provided however, that the preventive suspension shall not exceed ninety (90) days otherwise, he shall be automatically reinstated into the service;
- c. For causes provided under Section 39, RA 8551;
- d. For such causes analogous to the above.

Such orders for preventive suspension shall be coursed thru the PNP office concerned for implementation.

*SECTION 11. Lifting of Preventive Suspension.* — The preventive suspension of the respondent shall be lifted only on the following grounds:

- a. In the exigency of the service as certified to by the respondent's immediate superior;
- b. After the complainant has rested his case; and
- c. Failure to resolve the case within the period of ninety (90) days.

### **FORMAL HEARING**

*SECTION 12. Nature of Proceedings.* — Proceedings before the IAS shall be summary in nature and shall be conducted by duly designated summary hearing offices of the national or regional IAS office which shall be terminated within fifteen (15) working days from the date of initial hearing.

*SECTION 13. Preliminary Conference.* — After the submission of respondent's answer or after the lapse of the reglementary period for the respondent to submit his answer, the National or Regional IAS shall set the case for preliminary conference. The said preliminary conference shall be devoted solely for the following purposes:

- a. 1. Identification and Simplification of the issues;
- 2. Admissions and stipulation of facts;
- 3. Marking of documentary evidence, if any;
- b. After the preliminary conference, the case shall be deemed submitted for resolution on the basis of the evidence on record and such additional evidences presented during the preliminary conference.

The parties shall submit a position paper/memorandum within ten (10) days from the date of the termination of the preliminary conference attaching therewith the affidavits of their respective witnesses and all their documentary evidence. With or without said position paper/memorandum, the case shall be resolved on the basis of the records of the Preliminary Conference and other documents on record after the